

**IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

KISLING, NESTICO & REDICK, LLC, et al.,

Defendant.

Case No.: 2016-09-3928

Judge: James Brogan

**NOTICE OF FILING DEPOSITION OF
MATHEW W. JOHNSON**

Now come Defendant, Sam N. Ghoubrial, M.D., by and through undersigned counsel,
and hereby give notice that the following deposition transcript has been filed with the Court:

- 1.) Deposition transcript of Mathew W. Johnson, taken on July 6, 2018.

Respectfully Submitted,

By: /s/ Bradley J. Barmen

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2018, a true and correct copy of the foregoing has been electronically filed using the CM/ECF System, and that notice of this filing will be sent to all of the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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1 STATE OF OHIO,)
 COUNTY OF SUMMIT.) SS:
 2
 3 IN THE COURT OF COMMON PLEAS
 4 MEMBER WILLIAMS, et al.,)
 Plaintiffs,)
 5 vs.) JUDGE PAUL GALLAGHER
 6 KISLING, NESTICO &) CASE NO. CV-2016-09-3928
 REDICK, LLC, et al.,)
 8 Defendants.)

9
 10 THE VIDEOTAPED DEPOSITION OF MATTHEW W. JOHNSON
 FRIDAY, JULY 6, 2018
 11

12
 13 The videotaped deposition of MATTHEW W.
 14 JOHNSON, called by the Defendants for examination
 15 pursuant to the Ohio Rules of Civil Procedure,
 16 taken before me, the undersigned, Sarah R. Drown,
 17 Registered Professional Reporter and Notary Public
 18 within and for the State of Ohio, taken at the
 19 offices of Kisling, Nestico & Redick, LLC, 3412
 20 West Market Street, Fairlawn, Ohio, commencing at
 21 10:52 a.m., the day and date above set forth.

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13 ALSO PRESENT:

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Ivan Bercian, Videographer

15

Rob A. Nestico, Esq.

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John J. Reagan, Esq.

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Robert Redick, Esq.

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1 THE VIDEOGRAPHER: Good morning.
2 We're on the record. This is the recorded
3 deposition of Matthew Johnson in the matter of
4 Member Williams, et al. versus Kisling, Nestico
5 & Redick, LLC, et al.

6 This deposition is taking place at 3412
7 West Market Street, Akron, Ohio, on July 6,
8 2018, at approximately 10:52 a.m.

9 My name is Ivan Bercian. I'm the
10 videographer with U.S. Legal Support. Video
11 and audio recording will be taking place unless
12 all counsel have agreed to go off the record.

13 Would all present please identify
14 themselves, beginning with the witness.

15 THE WITNESS: Matthew W.
16 Johnson.

17 MR. PATTAKOS: Attorney for
18 plaintiffs, Peter Pattakos.

19 MR. MANNION: Tom Mannion,
20 attorney for KNR.

21 MR. POPSON: Jim Popson,
22 attorney for defendants.

23 MR. NESTICO: Rob Nestico.

24 MR. BEST: David Best for
25 defendants.

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1 MR. REDICK: Robert Redick.

2 MR. REAGAN: John Reagan,
3 representative of KNR.

4 MR. GOETZ: Dan Goetz on
5 behalf of Mr. Redick.

6 THE VIDEOGRAPHER: The certified
7 court reporter is Sarah Drown.

8 Would you please swear the witness.

9 MATTHEW W. JOHNSON

10 of lawful age, called by the Defendants for
11 examination pursuant to the Ohio Rules of Civil
12 Procedure, having been first duly sworn, as
13 hereinafter certified, was examined and testified
14 as follows:

15 EXAMINATION OF MATTHEW W. JOHNSON

16 BY MR. MANNION:

17 Q Mr. Johnson, would you prefer I address you as
18 Matt, Matthew, Mr. Johnson? How do you feel
19 most comfortable?

20 A However you feel.

21 Q Okay. What's your understanding of why you're
22 here today?

23 A To testify on behalf of all of the parties
24 involved.

25 Q What do you mean "all of the parties involved"?

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1 A Well, I mean the people that are trying to
2 recover all of their fees and stuff like that
3 from the loan agreement that we agreed to.

4 Q Okay. You're going to have to speak up a
5 little bit. Okay?

6 A Oh, I'm sorry.

7 Q That's okay. Fees and whatever you said. Fees
8 and what else?

9 A Yeah, the fees and the costs.

10 Q Fees and costs?

11 A Uh-huh.

12 Q From loans that were taken with Liberty
13 Capital?

14 A Yes, sir.

15 Q You took a loan with Liberty Capital?

16 A Yes, sir.

17 Q How much was that?

18 A I don't remember.

19 Q You don't remember that at all?

20 A I don't remember. It was in 2012.

21 Q Okay. Have you ever paid that loan back?

22 A Yes.

23 Q When did you pay that back?

24 A I don't remember when I paid it back.

25 Q Did you pay it out of a settlement or with your

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1 own money? How did you pay it?

2 A I paid payments out of my own money.

3 Q When did those start?

4 A When did I start paying it?

5 Q Yes.

6 A Almost right away.

7 Q While you were still represented by KNR?

8 A Yes, sir.

9 Q Do you have proof of any of those payments?

10 A I tried to get proof of those payments from --
11 I think Paul Steele was my attorney. And then
12 my attorney tried to get all of the paperwork
13 when I had him take over the case.

14 Q You mean your new lawyer?

15 A Jack Morrison.

16 Q Okay. Was he able to obtain those?

17 A I don't remember. I don't have any clue.

18 Q Well, you asked your new lawyer, Mr. Morrison,
19 to obtain proof from Liberty of what payments
20 you made?

21 A Not specifically that, but all of my paperwork
22 from KNR.

23 Q Okay. Have you ever followed up to see whether
24 KNR or Mr. Morrison obtained any documentation
25 regarding your payments to Liberty Capital?

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1 A I trust my lawyers, so I don't -- I don't worry
2 about stuff like that.

3 Q How much in total did you repay Liberty?

4 A I don't remember. It was six years ago.

5 Q How did you pay them? In cash, check?

6 A Yes, I'd bring cash.

7 Q To who?

8 A Paul Steele.

9 Q You would bring cash to Paul Steele?

10 A Uh-huh.

11 Q And he was supposed to send that on to Liberty?

12 A I actually -- I can't -- I couldn't find them,
13 I tried to, but I had a couple of handwritten
14 receipts.

15 Q Do you have those now?

16 A No. I said I tried to find them.

17 Q So other than your word, do we have any actual
18 written documentation that you repaid the loan
19 to Liberty?

20 A Unless it's floating around, I don't believe
21 so.

22 Q Do you have anything in your bank statements
23 where you show withdrawals on those days to
24 make the payments?

25 A I never -- I didn't check them, to be honest.

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1 Q Well, did you take out money out of the bank by
2 ATM or withdrawal or some method to repay
3 those, or how would you get the money?

4 A I mean I would have, yes, sir.

5 Q How many times do you think you brought money
6 in to give to Paul to repay Liberty?

7 A I can't recall off the top of my head.

8 Q More than 10?

9 A No.

10 Q More than two?

11 A Yes.

12 Q Five?

13 A I don't know.

14 Q Where between two and 10? Can you estimate?

15 A It was six years ago. I'm not going to try to
16 guess and be false.

17 Q You understand you're making a claim for fees
18 and costs, interest, whatever it is that you
19 paid to Liberty that you're claiming the
20 defendants caused you to incur, correct?

21 A Yes, sir.

22 Q How are we supposed to know how much those
23 costs and fees were?

24 A I don't know.

25 Q Okay. How much money would you typically hand

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1 to Paul to pay Liberty at any one time?

2 A \$100 or more.

3 Q Was it every month or every other month?

4 A It was -- it was when I can. I was so -- I
5 don't want to have that burden on my shoulders,
6 so I tried to pay it off as quickly as I could.

7 Q Now, you were told that if there was no
8 recovery in your lawsuit, you didn't have to
9 repay that loan, correct?

10 A Yes.

11 Q So why were you paying it before there was any
12 recovery?

13 A It's a high interest loan.

14 Q Okay. So you wanted to get the interest down?

15 A Yeah. I wanted to -- at the time I was working
16 on my credit. I didn't want it to affect my
17 credit history.

18 Q Do you have any notes, diaries, anything that
19 would help us know how much you paid back and
20 when?

21 A No. I don't -- when I involve myself with
22 attorneys, I should be able to trust them to,
23 you know, do what they're saying they're going
24 to do and not have to worry about things like
25 that.

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1 Q But that really wasn't my question. I said:
2 Do you have any documentation anywhere to show
3 that you made these payments?

4 A I tried to find -- I tried to find them. I
5 didn't think -- if I kept that documentation,
6 I've moved twice since then.

7 Q Okay.

8 A I tried to find them when I first got notified.

9 Q As you -- I'm sorry. I didn't mean to cut you
10 off. Go ahead.

11 A That's fine.

12 Q As you sit here today, do you have any
13 documentation that you repaid Liberty Capital
14 any money towards the loan?

15 A I don't have any documentation in my
16 possession.

17 Q Okay. Do you know whether your lawyer has any
18 such documents in his possession?

19 A I am actually 100 percent not sure.

20 Q Okay. And you can't tell us today how much you
21 repaid to Liberty Capital?

22 A No, sir. I don't remember. It was so long
23 ago.

24 Q And you don't remember how many fees and costs
25 and interests Liberty Capital charged you?

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1 A I remember the interest was like an
2 astronomical amount, like 50 percent or
3 something like that. That's all I do remember.

4 Q I didn't ask really about the interest rate,
5 though.

6 So what I'm asking --

7 A Oh, how much do I think I paid in interest
8 fees?

9 Q How much do you think they charged you in
10 interest and fees?

11 A I can't really answer that.

12 Q Do you know whether you ever completely paid
13 off the loan plus interest, fees, and costs?

14 A I remember having a conversation with Paul
15 that -- and he pretty much in his words said --
16 excuse me -- that we're good. So I was like
17 cool, I got that taken care of.

18 Q And that was before you went to Mr. Morrison?

19 A Yes, sir.

20 Q Do you know why there would have been
21 notification to either the loan company that
22 Mr. Morrison was involved or to Mr. Morrison
23 that the loan company had a lien on your
24 settlement proceeds?

25 A Say it one more time.

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1 Q Sure.

2 Do you know if KNR or any of the
3 employees at KNR or attorneys at KNR told
4 Mr. Morrison about the loan you received from
5 Liberty Capital?

6 A No. I can't say for sure. Because I've known
7 Jack for years, so once I had him take over the
8 case, because I feel like -- I felt like, I
9 mean, no disrespect, but I felt like KNR was
10 dropping the ball. I trust Jack with my life.
11 I've known him for 18 years.

12 Q How did you meet him?

13 A Through employment.

14 Q Explain.

15 A Former employment.

16 Q Well, explain. What do you mean?

17 A I don't need to elaborate.

18 Q Well, I just asked you to.

19 A Just former employment.

20 Q No, describe what you mean.

21 MR. PATTAKOS: Please answer
22 the question, Matt. Go ahead.

23 A I used to work for Jeff Lorenzo.

24 Q Okay. Who is?

25 A A club owner.

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1 Q Of?

2 A A club.

3 Q Of what club?

4 A Many clubs.

5 Q Okay. Well, what clubs did you work for?

6 A What clubs did I work for. I worked for the
7 Platinum Horse, Hush Cabaret, Lux, Zar. Most
8 of the clubs that he owned.

9 Q And somehow you met Mr. Morrison through there?

10 A He's Mr. Lorenzo's attorney as well.

11 Q In what capacity, though, did you meet
12 Mr. Morrison as part of your job?

13 A Just by being friendly and "Hey, how are you?"
14 type, you know.

15 Q Okay. Were you a witness in any of those cases
16 or anything?

17 A No.

18 Q Okay. What years did you work for those
19 various clubs?

20 A Oh, man. From 2000 all the way up until last
21 year.

22 Q Okay.

23 A When I decided I'm too old for that business.

24 Q What did you do?

25 A I was a bouncer.

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1 Q Anything else you ever did for them?

2 A No.

3 Q A DJ or anything like that?

4 A Yeah. DJ'd and bounced, yeah.

5 Q That was a dual position?

6 A Yeah. Not at the same time of course, but
7 different shifts.

8 Q Right. Okay. As either a DJ or a bouncer,
9 sometimes would some of the women split their
10 tips with you?

11 A Split their tips with me?

12 Q Yeah.

13 A No.

14 Q No.

15 Would you get paid as a DJ? For example,
16 if people wanted certain songs, would they
17 throw you a 5 or a 10 or something like that?

18 A That happens in clubs, yeah.

19 Q Yeah. What about as a bouncer, ever tipped
20 there?

21 A No.

22 Q Any of that money that was given to you as a
23 DJ, ever report any of that to the IRS as
24 income?

25 A Yes.

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1 MR. PATTAKOS: Objection.

2 Q You did?

3 A Yeah. I had to.

4 Q Okay. Did you bring your tax returns with you
5 today?

6 A No.

7 Q I'm sorry. Was something funny?

8 A No. I just -- I don't understand why that
9 question --

10 MR. PATTAKOS: It is funny,
11 Tom. I object.

12 A It's irrelevant.

13 MR. PATTAKOS: It's
14 ridiculous. It's harassment.

15 MR. MANNION: Stop.

16 MR. PATTAKOS: It is insane.

17 MR. MANNION: Stop it.

18 MR. PATTAKOS: We're going to
19 file a motion for a --

20 MR. MANNION: Stop it.

21 MR. PATTAKOS: -- protective
22 order.

23 MR. MANNION: Stop it.

24 MR. PATTAKOS: You should stop
25 it, Tom.

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1 Q Do you find it funny?

2 MR. PATTAKOS: He should.

3 A I don't --

4 MR. MANNION: Stop it.

5 A It's not that funny.

6 MR. PATTAKOS: I would like
7 you to stop it, Tom.

8 MR. MANNION: Peter, please.

9 I was very patient last time. I'm not going to
10 have you give speaking objections.

11 MR. PATTAKOS: I was very
12 patient last time, Tom.

13 MR. MANNION: Okay. That's
14 enough.

15 Q Go ahead.

16 You were laughing about that. Was there
17 something funny about that?

18 A It was just -- I mean --

19 MR. PATTAKOS: Don't answer
20 that question.

21 Tom, move on.

22 MR. MANNION: You're
23 instructing him not to answer why he was
24 laughing?

25 MR. PATTAKOS: Yes, I am. Go

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1 on.

2 MR. MANNION: Okay.

3 MR. PATTAKOS: Ask a question.

4 You can file a motion on that if you want.

5 MR. MANNION: We'll move on.

6 Q Have you filed -- when's the last time you
7 filed taxes?

8 A Last year.

9 Q Okay. What was your gross income?

10 A I don't remember.

11 Q You don't even have an estimate?

12 A I don't worry about that.

13 Q More than 50,000 a year?

14 A No.

15 Q More than 30,000 a year?

16 MR. PATTAKOS: His taxes are
17 not relevant to this case in any way. We are
18 not going to go down this road. I'm going to
19 instruct him not to answer any questions about
20 this. Move on.

21 Q Did you earn more than 30,000 last year?

22 MR. PATTAKOS: Take it up with
23 the Court, please, Tom. Please. Take it up
24 with the Court.

25 Q Are you refusing to answer, sir?

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1 MR. PATTAKOS: I am --

2 A I do what my lawyer --

3 MR. PATTAKOS: -- instructing

4 him not --

5 A -- tells me to.

6 MR. PATTAKOS: -- to answer,

7 Tom.

8 MR. MANNION: Stop. Stop.

9 MR. PATTAKOS: Matt, I'm

10 instructing you not to answer any of these

11 questions.

12 Move on. Let's get to the merits of this

13 case.

14 Q How much did you earn in 2016?

15 MR. PATTAKOS: Don't answer

16 the question.

17 Q How much did you earn in 2015?

18 MR. PATTAKOS: Don't answer

19 the question.

20 Q How much did you earn in 2014?

21 MR. PATTAKOS: Repeat. Repeat

22 objection.

23 Tom, move on.

24 Q On advice of counsel, you refuse to answer any

25 of those questions, sir?

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1 A (Indicating.)

2 Q You need to say "yes" or "no," please.

3 A Yes.

4 Q Okay. Do you how much it costs to maintain a
5 class action litigation such as this?

6 A No, sir.

7 Q Do you know how much it costs to give notice to
8 prospective members?

9 A No, sir.

10 Q Do you have the financial wherewithal to do
11 that?

12 A No, sir.

13 Q Do you know if your counsel does or not?

14 A No, sir. I don't worry about people's
15 financials.

16 Q Okay.

17 A I don't -- I'm not greedy.

18 Q Do you think that you have a duty to the other
19 potential members of the class that you
20 represent to make sure your attorneys have the
21 financial wherewithal to maintain this lawsuit?

22 A No. My duty is to just represent them.
23 Financials I don't think have anything to do
24 with my job.

25 Q Okay.

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1 A Or my part or whatever you want to say.

2 Q So how do you view your role?

3 A Stressful.

4 Q Okay. I'm asking, though, what's your
5 actual -- what are your duties as the class
6 representative?

7 A What are my duties?

8 Q Sure.

9 A My duties as a class representative are to, I
10 don't know really how to word it, but to, you
11 know, to retrieve our fees and interests that
12 we incurred through Liberty Capital loans.

13 Q And how are you supposed to do that?

14 A Well, I guess by being here today and being
15 deposed and going from there.

16 Q And as the class representative and being
17 involved in a deposition, any other duties that
18 you think that you have as this lawsuit moves
19 forward?

20 A No. Just to stay in the loop. Know what's
21 going on. I call Peter maybe once -- once a
22 week, once every two weeks and see if there's
23 anything that he needs me to do or new
24 developments, and I guess that's ...

25 Q Okay. So what's your current understanding of

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1 the case, as far as what's going on in the case
2 right now?

3 A I think that my attorneys are, like, trying to
4 get the discovery together and move on from
5 there.

6 Q Do you know if there's any information they've
7 requested that they haven't received yet?

8 A I do not know that.

9 Q Do you know if there's any information that the
10 defendants have requested of you that your
11 attorney hasn't provided yet?

12 A I do not know that.

13 Q Do you know what motions are pending right now?

14 A No, sir.

15 Q What's the judge's name?

16 A The judge's name?

17 Q Yes.

18 A Brogan.

19 Q Okay. What's his background?

20 A I'm not trying to laugh. I just -- I don't
21 know.

22 MR. PATTAKOS: You can laugh,
23 Matt.

24 THE WITNESS: I don't --

25 MR. PATTAKOS: You can laugh.

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1 THE WITNESS: I don't want to
2 laugh. I don't want to be rude.

3 MR. MANNION: Mr. Pattakos,
4 please stop the comments.

5 MR. PATTAKOS: You can be
6 natural.

7 MR. MANNION: Please stop the
8 comments.

9 MR. PATTAKOS: Tom, it's all
10 proportional, sir, and you understand that.
11 Thank you.

12 MR. MANNION: Tell me when
13 you're done.

14 MR. PATTAKOS: Go on, Tom.

15 Q How did you find -- well, let me ask you this:
16 Who are your current attorneys that represent
17 you?

18 A Peter, Mr. Cohen.

19 Q And what law firms?

20 A Peter's law firm.

21 Q Do you know the name of it?

22 A No.

23 Q What about Mr. Cohen, do you know the name of
24 his law firm?

25 A No.

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1 Q Any other lawyers that represent you now other
2 than Mr. Cohen and Mr. Pattakos?

3 A On this case?

4 Q Yes.

5 A No, sir.

6 Q Do you have any other cases pending right now?

7 A No.

8 Q Okay. I just wondered because you said "on
9 this case."

10 A Oh, I just -- like, Jack's my main attorney,
11 that's why I --

12 Q Okay. Does Jack represent you on anything
13 right now?

14 A No. I'm a good boy.

15 Q And who initially did you retain to represent
16 you in the class action?

17 A Peter.

18 Q Was he with a different firm at that time?

19 A I don't know his personal business, sir.

20 Q Have you ever heard of the Chandra Law Firm?

21 A No, sir.

22 Q Do you know whether you ever had a contract
23 with the Chandra Law Firm?

24 A No, sir.

25 Q Do you have a contract with Mr. Pattakos?

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1 A I signed my paperwork.

2 Q Do you have a contract with Mr. Cohen?

3 A I don't know if he's on the paperwork or not.

4 Q Okay. When did you sign this paperwork, do you
5 remember?

6 A Oh, man. A couple years ago.

7 Q Before the complaint was filed, I take it?

8 A I don't know the exact date.

9 Q Okay. How did you find Mr. Pattakos?

10 A Through my attorney, Jack Morrison.

11 Q Okay. Explain.

12 A What do you want me to explain?

13 Q Why did you go looking for Mr. Pattakos or some
14 lawyer?

15 MR. PATTAKOS: This is -- this
16 is bordering on attorney-client privileged
17 information.

18 Q I asked why you did it. Why did you seek out a
19 lawyer? Or did the lawyer seek out you?

20 A I mean, if I seek -- if I seeked him out, I
21 seeked him out on the advice of Jack Morrison
22 and I trust his opinion.

23 Q Okay.

24 A And I trust if he tells me this is the guy,
25 then this is the guy.

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1 Q When is the first time that you thought there
2 was some type of -- I'm going to strike that.

3 What is the understanding of your claim,
4 as to why you and other class members are
5 entitled to recover fees, costs, and interest
6 that were paid to Liberty Capital?

7 A Because, to my understanding, Mr. Nestico had
8 an ownership interest in Liberty Capital loans.

9 Q Okay. Now, do you know if that impacted any of
10 the interest rates or anything?

11 A How would that impact the interest rate?

12 Q I'm asking you. Do you know if it did?

13 A No.

14 Q You were fully aware of the interest rate when
15 you signed it, correct?

16 A Yes, sir.

17 Q And you needed that money at the time?

18 A I didn't really need the money at the time.

19 Q You really didn't need the money?

20 A No.

21 Q Why did you take the loan?

22 A Why not?

23 Q So you just took a loan and you have no memory
24 of why you did it?

25 A No. You're talking six years ago, sir.

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1 Q You can't recall why you took the loan?

2 A No, sir.

3 Q Who was the attorney at KNR who represented you
4 at the time you signed the --

5 A Paul Steele.

6 Q -- loan documents? I'm sorry?

7 A Paul Steele.

8 Q And are you saying that Paul Steele gave you
9 advice about the loan?

10 A I'm not sure if it was Paul Steele that
11 originally gave me the advice about the loan or
12 the gentleman that came to my house with the
13 pamphlet and everything.

14 Q Okay. Do you recall any lawyer from KNR
15 recommending that you use Liberty Capital or
16 giving you advice about the loan?

17 A Yes.

18 Q Who?

19 A I don't remember the gentleman's name, but it
20 was not Paul Steele.

21 Q Okay. But it was a lawyer?

22 A I don't even know if he was actually an
23 attorney or like a clerk or whatever they would
24 be called. Somebody that, like, comes out
25 right directly to you or whatever.

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1 Q And you're talking about the very first contact
2 you ever had with KNR?

3 A Yes, sir.

4 Q Okay. Which would have been in February of
5 2012?

6 A Yes, sir.

7 Q But your loan wasn't until many months later,
8 correct?

9 A A couple months, yeah.

10 Q Like July?

11 A Yeah.

12 Q Okay. So about five months later?

13 A If that's how many months it is.

14 Q So what led you to go five months without
15 taking the loan and then all of a sudden you
16 took a \$250 loan or whatever the amount was?

17 A Because I didn't need the money.

18 Q You didn't need any money through those first
19 five months?

20 A No.

21 Q You were laid off at the time and getting
22 unemployment when you first signed up with KNR?

23 A I don't remember.

24 Q You have no clue?

25 A I don't remember.

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1 Q Do you ever remember being on unemployment?

2 A Uh-huh.

3 Q I'm sorry?

4 A Yes.

5 Q Okay. When was that?

6 A I was unemployment a couple times because I was
7 a union carpenter. So you work, you get laid
8 off.

9 Q What dates were you on unemployment
10 approximately?

11 A I don't remember.

12 Q Where did you work at the time you came to see
13 KNR?

14 A I don't remember that either. You're talking
15 2012.

16 Q Okay.

17 A If we would have got together here in 2012, I
18 would have been able to tell you everything
19 word for word.

20 Q So you have no memory of where you worked in
21 2012?

22 A No, sir.

23 Q You have no memory of how much you actually
24 borrowed from Liberty Capital?

25 A I don't remember.

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1 Q You have no memory of any specific advice or
2 recommendations given to you by Paul Steele?

3 A Not word for word.

4 Q Okay. What do you remember Paul Steele telling
5 you?

6 A You just asked me the same question twice.

7 Q No. You said you don't remember what he said
8 word for word, so what do you remember
9 generally?

10 A Oh. About, like, the whole loan or whatever?

11 Q What Paul Steele told you.

12 A I don't remember Paul Steele ever telling me
13 anything about the loan.

14 Q Okay.

15 A Like I said, I think it was like a clerk or
16 something like that or -- I don't even know if
17 the guy that came to my house was even an
18 attorney or not. I don't remember.

19 Q You didn't ask him?

20 A No. He's from KNR, so I assume he's something.

21 Q Okay. He did not represent himself as an
22 attorney, did he?

23 A I don't think he did, no.

24 Q And do you recall his first name?

25 A I don't.

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1 Q Does Mike ring a bell?

2 A (Indicating.)

3 Q No?

4 A I'm not going to say yes if I'm -- I don't want
5 to lie, so --

6 Q Well, I'm --

7 A -- I don't remember.

8 Q -- asking does it ring a bell. If not, no.

9 A No.

10 Q What's he look like? Do you recall what he
11 looked like?

12 A I can't remember where I worked in 2012. I
13 can't remember what he looked like, you know
14 what I mean?

15 Q When did your memory of where you worked in
16 2012 vanish?

17 A It's not that it vanished, I'd rather not
18 remember than tell you a lie.

19 Q No, you have to give me your best memory.

20 A I mean, I've always bounced no matter where
21 I've worked, so I remember doing that. But I'm
22 pretty sure in 2012 I was laid off most of the
23 time from my regular employment job.

24 Q Okay. And if -- when you were laid off, would
25 you have been receiving unemployment?

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1 A Most likely. If it didn't run out.

2 Q Do you remember how much you used to get in
3 unemployment?

4 A No, I don't remember.

5 Q Do you know from what employer it was coming
6 from?

7 A No, I don't.

8 Q Well, what do you remember -- this gentleman
9 who came out to see you, what do you remember
10 him telling you about the loan?

11 A I don't remember him telling -- what he told me
12 about the loan.

13 Q Do you have any memory of anybody at KNR,
14 whether it's a lawyer, a paralegal, or anybody
15 else who you believe is associated with KNR, do
16 you have any memory of anything they told you
17 about a loan with Liberty Capital?

18 A The only thing that sticks out about the loan
19 that anybody told me was the interest rate
20 because it was astronomical. And that's the
21 only thing I remember. I need to pay this off
22 as fast as possible because of the interest
23 rate.

24 Q Okay. And did they tell you that before or
25 after you signed?

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1 A Before.

2 Q And the owner of Liberty Capital, who you dealt
3 with, would have told you that? He would have
4 told you the interest rate?

5 A I never talked to that guy.

6 Q You never talked to him?

7 A No.

8 Q Okay. Did you have some written communications
9 with him?

10 A I never dealt with him at all.

11 Q Ever?

12 A Never.

13 Q Okay.

14 A If I did, I don't remember.

15 Q So other than being told you should pay it off
16 as quick as possible because of the interest,
17 do you remember anything else that anybody at
18 KNR told you first of all, before you took the
19 loan?

20 A No, sir.

21 Q And do you recall any information KNR told you
22 after you took the loan other than perhaps pay
23 it off quick?

24 A No.

25 Q And you don't have any memory of dealing with

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1 anybody who worked directly with Liberty
2 Capital?

3 A No, sir.

4 Q So what are you claiming that KNR did wrong as
5 it relates to the loan and Liberty Capital?

6 A Well, I know that there's a law against
7 attorneys having any kind of ownership in a
8 loan company like that.

9 Q Okay. What law is that?

10 A I don't know what the law is exactly. My
11 attorney advised me of that law.

12 Q When did you learn of that law?

13 A After talking to Peter.

14 Q Okay. Well, why were you talking to Peter if
15 you didn't know it was against the law
16 beforehand?

17 A It was after everything was brought to my
18 attention of what was going on.

19 Q Well, when you went to go see Peter, you didn't
20 know there was a law against attorneys having a
21 financial interest in the lending company,
22 fair?

23 A Fair.

24 Q Okay. So why is it that you sought out counsel
25 with Mr. Pattakos? What did you think KNR had

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1 done wrong?

2 A What is wrong is what I just said. There's a
3 law against -- that's not okay.

4 Q But if you didn't know about that law before
5 you sought Mr. Pattakos's, why is it --

6 A That's what attorneys are for.

7 Q I understand that.

8 A Well, then if you understand that, why are you
9 asking me that question again?

10 Q Sir, the way a deposition works is I ask the
11 questions and you give the answers. Now, if
12 you don't --

13 A I just gave --

14 Q -- understand the question --

15 A I just gave you the answer.

16 Q If you don't understand a question, you can let
17 me know that and you can ask me to rephrase.
18 Okay?

19 But the question to you is: If you
20 didn't know that it was against the law for an
21 attorney to have a financial interest in a
22 lending company at the time you went to see
23 Mr. Pattakos, then what did you believe KNR had
24 done wrong before you went to see him?

25 A Exactly that.

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1 Q Well, if you didn't know about the law, then
2 what did you think they did wrong?

3 A There was red flags the whole time that I was
4 dealing with KNR.

5 Q Okay. What do you mean?

6 A The -- everything.

7 Q Explain one of them.

8 A The chiropractor, the neurologist, the -- what
9 do you call that -- pain management. They're
10 all tied together. I'm not stupid.

11 Q You told KNR --

12 A And the loan company was the icing on the cake.

13 Q You told KNR that you liked the chiropractor,
14 right?

15 A I already knew him.

16 Q Okay. So what was wrong with the chiropractor?

17 A I didn't say there was anything wrong with it.
18 There's wrong with the ethical part of it.

19 Q Okay. How did you get to the chiropractor?

20 A In a car.

21 Q How were you referred to this chiropractor?

22 A My attorney.

23 Q Who?

24 A Paul Steele.

25 Q Okay. But you already knew the chiropractor?

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1 A I knew who he was.

2 Q Okay. How did you know who he was?

3 A Because I -- I -- information, you know, you --
4 I don't know. Just knowing who people are in
5 the area.

6 Q Okay. When this accident first happened, KNR
7 was not involved the first few weeks, true?

8 A Correct.

9 Q And, in fact, you went to your primary care
10 physician?

11 A Yes.

12 Q Who was that?

13 A At the time?

14 Q Yes.

15 A It was Dr. Wages.

16 Q And you had seen Dr. Wages for other things in
17 the past, correct?

18 A Yes.

19 Q So you went to Dr. Wages on your own, not from
20 any attorney, true?

21 A Correct.

22 Q And Dr. Wages then referred you to several
23 other medical providers?

24 A No.

25 Q He didn't?

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1 A Uh-uh.

2 Q Okay. Would you agree that Dr. Wages referred
3 you to physical therapy at Summa?

4 A If he did, I don't remember.

5 Q Did something happen between 2015 and today
6 that has impacted your memory? Any accident --

7 A What happened --

8 Q -- or anything?

9 A -- in 2015?

10 Q What's that?

11 A What happened in 2015?

12 Q I'm just asking you: Is there something that
13 happened from 2015 until today that has
14 impacted your memory?

15 A No, it's just I'm a human being. I don't -- I
16 mean, I don't know. Maybe we should get a CAT
17 scan.

18 Q Do you think this matter's funny?

19 A Do you -- no. Do you remember everything in --

20 MR. PATTAKOS: Tom --

21 A -- your life --

22 MR. PATTAKOS: -- please be
23 professional.

24 A -- from six years ago?

25 Q Do you think you have a duty as a class

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1 representative to be able to describe the
2 actions of KNR as it related to you and the
3 loans?

4 A Yeah, I agree with that.

5 Q Do you think you have a duty to know how much
6 money you paid to Liberty Capital?

7 A If I can remember, yeah.

8 Q And do you know how much any other client of
9 KNR paid to Liberty Capital?

10 A I don't know anything about anybody else's
11 business.

12 Q How would I -- for example, Member Williams,
13 did she have a loan with Liberty Capital?

14 A Who?

15 Q Do you know Member Williams?

16 A No.

17 Q You've never heard of that name?

18 A How would I know them?

19 Q You've never heard of that name?

20 A I know they're on the class action lawsuit,
21 but ...

22 Q Okay. You haven't talked to her?

23 A I stay in my own lane.

24 Q Okay.

25 A I don't worry about other people's business.

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1 Q What's your lane?

2 A Huh?

3 Q What lane is that? What's your lane?

4 MR. PATTAKOS: Objection.

5 A I mean --

6 MR. PATTAKOS: It's a figure

7 of speech, Tom.

8 A You can --

9 MR. PATTAKOS: Please move on.

10 MR. MANNION: Please stop,

11 Peter.

12 A I stick to myself. I don't worry about other

13 peoples' lives. I don't worry about their

14 business, I don't worry about their financial

15 situation.

16 Q Okay. Well, do you know if she's a prospective

17 member of the class you represent?

18 A I don't know what she does.

19 Q If I --

20 A All's I know -- all's I know about is myself.

21 So let's keep this about me, not anybody else.

22 Q If I wanted to -- well, this isn't just about

23 you. You're here as a representative --

24 A I understand that --

25 Q -- of a whole --

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1 A -- but I can't --

2 Q -- potential class --

3 A I can't --

4 Q -- correct?

5 A I can't answer questions about other people. I
6 don't know these people.

7 Q One of the rules, and we've been doing pretty
8 good but right there we didn't, is you have to
9 wait until my question's done before you
10 answer. Okay? That way it's easier for the
11 court reporter and we can be on the same page.

12 A I'm sorry.

13 Q That's okay. It will probably happen again
14 both ways. That's -- sometimes that happens.

15 So let me ask you this: If I wanted to
16 know whether Member Williams ever took a loan
17 with Liberty Capital, how would I find out, do
18 you know?

19 A You could probably consult my attorney.

20 Q Ask Member Williams?

21 A Or -- yeah, if they can remember.

22 Q How would you find out how much Member Williams
23 paid to Liberty Capital, if at all?

24 A I don't know that answer.

25 Q We would have to ask her?

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1 A I guess so.

2 Q Do you know why Member Williams, if she did,
3 why she took a loan with Liberty Capital?

4 A I don't know her situation. I don't know.

5 Q It might be different than yours?

6 A I think they're all different. You never know.

7 Q And you would have to ask each person who took
8 a loan what the circumstances were behind them
9 taking that loan, fair?

10 A I don't think there has to be any specific
11 circumstances as to why somebody takes a loan,
12 does there?

13 Q Well, somebody might need the money, somebody
14 might have it recommended, somebody might have
15 it not recommended, somebody might not need it
16 at all like you and just do it.

17 Do you know what the potential reasons
18 for taking the loans are?

19 A No, sir, I don't.

20 Q If I wanted to know any specific potential
21 class member's reason for taking the loan, I
22 would have to ask that potential class member?

23 A Or that potential class member's attorney.

24 Q Okay. And they would have to get that
25 information from that class member, fair?

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1 A I would assume so.

2 Q I mean ultimately somebody has to ask that
3 class member, "Why did you take the loan?"
4 right?

5 A Right.

6 Q Do you know anything that KNR said to any other
7 prospective class member about Liberty Capital?

8 A No.

9 Q Do you have any proof that anybody at KNR told
10 any specific potential class member "Hey, you
11 should take a loan with Liberty Capital"?

12 A Do I -- I don't -- like I said before, I don't
13 know anybody else's business.

14 Q Okay. And describe for me again, because maybe
15 I missed it, what was the reason you took out
16 the loan?

17 A There was no reason.

18 Q You just took it?

19 A The guy said something about a loan. I'm like
20 okay.

21 Q What guy said something about a loan?

22 A The guy that showed up at my house.

23 Q He said that in February and you said okay and
24 then got it in July?

25 A No, I don't think it was in February. I think

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1 it was discussed later.

2 Q When was it discussed?

3 A I don't remember.

4 Q Tell me exactly what you remember about any
5 discussions you've had at all with KNR about
6 Liberty other than that you said it's high
7 interest, so pay it back quick. Anything else
8 you remember about it?

9 A Nope. Or no. No, sir.

10 Q And so you just took it at a high interest rate
11 for no reason?

12 A I don't know that there's -- I'm sure there was
13 a reason, but I don't know what that reason is
14 at this time.

15 Q Okay. So before you said it was for no reason,
16 now you're saying there was a reason, you just
17 don't recall the reason?

18 A Sure.

19 Q No, I'm asking.

20 A Okay.

21 Q Was my statement true?

22 A Sure. If it makes you feel better.

23 Q No, I need to know your answer. You're under
24 oath, sir. You understand that, right?

25 A Yeah. That's why I'm not going to answer

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1 anything that I don't know, that I don't

2 remember the answer to --

3 Q Okay. But you --

4 A -- because I'm not going to be a liar or be
5 called a liar.

6 Q And I'm not saying that.

7 A So move on.

8 Q I asked you a question earlier about why you
9 took the loan, and you said you had no reason
10 to take it and you didn't really need the
11 money. Now are you sticking to that testimony
12 or are you saying you don't really remember why
13 you took it?

14 A It's the same answer. I don't need it. I
15 don't know why I took it.

16 Q Okay. So you did not need it at the time?

17 A I don't ever need money.

18 Q Really?

19 A No.

20 Q I mean, don't you get bills?

21 A I'm not greedy. I pay -- I get -- as long as I
22 get enough money to pay my bills, I don't care.

23 Q Don't you recall many times telling KNR that
24 you needed money because your rent was past
25 due, your truck payments were past due, things

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1 of that nature?

2 A I might have to try to speed up the process.

3 Q Okay. Did you take the \$250 out because of
4 that?

5 A No. I mean, I'm sure I paid a bill with it or
6 something like that, but I don't necessarily
7 need money.

8 Q Okay. Do you recall what you did with the
9 \$250?

10 A I just said I probably paid a bill or something
11 with it.

12 Q Do you recall what bill?

13 A No, sir.

14 Q Okay. Did you need that money to pay a bill
15 that was overdue?

16 A I don't know.

17 Q You may have, you may not have?

18 A I may have. It's a possibility.

19 Q Why knowing what the interest rate was and how
20 much you might have to pay did you take out the
21 loan if you really didn't need the money?

22 A I don't know.

23 Q Did you talk to anybody at KNR about that
24 issue?

25 A I don't remember.

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1 Q Do you recall Paul Steele advising against the
2 loan?

3 A I don't remember that either.

4 Q Do you remember him advising for the loan?

5 A I don't remember.

6 Q Do you recall that the documents you signed
7 specifically stated that KNR was taking no
8 position on whether you should take the loan or
9 not?

10 A I'm not going to remember that either.

11 Q Anything else you remember, and we'll look at
12 some of the documents later to see if that
13 refreshes your recollection, but anything else
14 you remember at this time about your
15 conversations, written correspondence, any type
16 of communications you had with anybody at KNR
17 regarding the Liberty Capital loan?

18 A No.

19 Q And if I wanted to know what type of
20 communications Liberty Capital and KNR had, do
21 you know whether those two had any
22 communications about your case?

23 A If -- do I know if --

24 Q Do you know of any communications between
25 Liberty Capital and KNR about your loan?

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1 A No.

2 Q If I wanted to find out any other prospective
3 class members' communications with KNR, I'd
4 have to ask either KNR, the attorney that was
5 involved, or that class member what was said,
6 fair?

7 A I would assume so.

8 Can I go to the bathroom real quick?

9 Q Yeah. We can take a break.

10 THE VIDEOGRAPHER: Off the record.

11 The time is now 11:32.

12 - - - - -

13 (Recess taken.)

14 - - - - -

15 THE VIDEOGRAPHER: We're back on

16 the record. The time is now 11:40.

17 BY MR. MANNION:

18 Q Is that mine?

19 A I don't know. You didn't offer me one, I know
20 that.

21 Q I'm sorry?

22 A You didn't offer me one, I know that.

23 Q Well, you came in and sat right down. I see
24 you have a glass a water. Is there anything
25 else you need right now?

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1 A No.

2 Q Okay. You know, one of the things I didn't go
3 over other than the not talking over --

4 MR. PATTAKOS: Are we on the
5 record?

6 MR. MANNION: I thought he
7 said we are.

8 MR. PATTAKOS: Oh. Okay.

9 Q I'll start over.

10 We talked about waiting for me to finish
11 my question before you answer, but there's some
12 other background rules at the deposition. One
13 of them is that you have to say "yes" or "no,"
14 as opposed to nods of the head, so that the
15 court reporter can take it down.

16 And I told you already if there's, you
17 know, any question you don't understand, you
18 can ask me to rephrase it and I will.

19 If you need a break, especially with
20 diabetes, please let me know. If there's a
21 question pending, you have to answer that first
22 and then --

23 A Okay.

24 Q -- you can take the break, unless it has to do
25 with a privileged issue, but otherwise you have

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1 to answer that first.

2 Any questions you have about how this
3 procedure's going to move forward?

4 A Let's just get it over with.

5 Q Okay. Are you on any prescription medications
6 today?

7 A Yes, sir.

8 Q Okay. When did you take those?

9 A About 7:30 this morning.

10 Q Okay. What are those?

11 A For my diabetes I take metformin.

12 Q Does that impact your memory or concentration
13 at all?

14 A No.

15 Q Okay. Any others?

16 A It impacts my ...

17 Q Ability to use the --

18 A Yeah.

19 Q Makes you use the restroom more?

20 A Yeah.

21 Q Okay.

22 A It just makes me pee all day.

23 Q Any other prescriptions that you took?

24 A Just my -- for my blood pressure, Amlodipine
25 and Hyzaar. Nothing that impacts memory or

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1 makes me drowsy or anything.

2 Q Any supplements that you take?

3 A Oh, no.

4 Q Any other medications you took today?

5 A No.

6 Q Any other medications that you're prescribed
7 currently but you didn't take today?

8 A I didn't -- I forgot to take my Claritin.

9 Q Okay. Are you under the influence right now of
10 any nonprescribed medications?

11 A No.

12 Q Under the --

13 A I know you have to ask, but it's --

14 Q Yeah.

15 A -- no.

16 Q Are you under the influence of any illegal
17 drugs?

18 A No, sir.

19 Q Do you use illegal drugs?

20 A No, sir.

21 Q Okay. When did you stop using illegal drugs?

22 MR. PATTAKOS: Objection. Go
23 on. Tom, move on. We object.

24 Q Go ahead.

25 MR. PATTAKOS: He's not going

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1 to answer talking about illegal drugs. It has
2 nothing to do with this case. Go ahead and
3 file a motion to compel on that, and if the
4 Court says you can ask questions about drug
5 use, then we can come back. Okay?

6 Q Do you agree as a representative of a class
7 that you should not be using illegal drugs when
8 you represent the class?

9 A I do agree with that and that's why I don't.

10 Q Okay. Is that when you stopped, when you
11 became the class representative?

12 MR. PATTAKOS: Objection.

13 A No.

14 MR. PATTAKOS: Move on. Move
15 on, Tom.

16 THE WITNESS: Well, the
17 answer's no, so it doesn't matter.

18 MR. PATTAKOS: Well, it does
19 matter.

20 Go on. This is harassment.

21 Q Do you still smoke marijuana?

22 MR. PATTAKOS: Objection.

23 A No.

24 MR. PATTAKOS: Don't answer.

25 A No.

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1 MR. PATTAKOS: Objection.

2 Don't answer.

3 Q When did you stop?

4 MR. PATTAKOS: Objection.

5 Don't answer.

6 Tom, move on.

7 Q Do you refuse to answer that question?

8 MR. PATTAKOS: Yes, he does.

9 A Yes.

10 MR. MANNION: Well, he needs

11 to tell me that.

12 A My attorney told me not to answer it.

13 Q Okay. When you did smoke marijuana, for what
14 purpose did you do it?

15 MR. PATTAKOS: Objection.

16 Don't answer. Matt, don't answer.

17 Q Do you refuse to --

18 MR. PATTAKOS: Tom --

19 Q -- answer?

20 A Yes.

21 MR. PATTAKOS: -- move on.

22 Q Okay. Do you have any criminal convictions
23 involving dishonesty?

24 A I don't think so.

25 Q Okay. What about whether or not it involves

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1 honesty, any criminal convictions in the past

2 10 years?

3 A Yes, sir.

4 Q Okay. What are those?

5 MR. PATTAKOS: Go ahead.

6 A Trafficking.

7 Q Anything else?

8 MR. BEST: What did he
9 say?

10 MR. MANNION: Trafficking.

11 Q Anything else?

12 A I don't remember all of the charges.

13 Q Anything other than from that incident?

14 A Like, does an accident count?

15 Q Not if -- I don't care about traffic.

16 A Oh.

17 Q I'm just talking about actual criminal.

18 A I don't think so. You're making me question
19 myself.

20 Q Nope. I'm just asking you.

21 A I don't think so.

22 Q So tell me about the trafficking charge. What
23 happened?

24 A That's irrelevant to this.

25 MR. PATTAKOS: Yeah. Tom,

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1 we're not going to get into this.

2 A I'm not going to answer that.

3 MR. PATTAKOS: It's public
4 record. You can have access to the public
5 record. If you want to ask him questions about
6 this background, then you can get an order from
7 the Court.

8 Q When were you arrested and for what reason?

9 MR. PATTAKOS: Go ahead. You
10 can answer that question.

11 A August 12, 2015.

12 Q And tell me the circumstances under which you
13 were arrested.

14 MR. PATTAKOS: No. No.
15 That's all public record. I'm going to
16 instruct him not to answer. We're not getting
17 into that.

18 MR. MANNION: Public record
19 is not a valid reason to instruct a witness not
20 to answer --

21 MR. PATTAKOS: Well, but given
22 its --

23 MR. MANNION: -- a question.

24 MR. PATTAKOS: -- complete
25 irrelevance to this case, you can get -- it's

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1 admissible, the fact of the conviction. That
2 is it. That is simply all that is admissible
3 in this case, Tom, the fact that he was
4 convicted for drug trafficking. The
5 circumstances are irrelevant. You don't get to
6 stand up there in court and talk about and
7 relitigate his criminal case. Are you
8 disputing that?

9 MR. MANNION: Are you done?

10 MR. PATTAKOS: I'm objecting
11 and I'm instructing my witness not to answer
12 the question. If you want to try to explain to
13 me that you have a legitimate basis for asking
14 these abusive questions, I'm all ears,
15 otherwise we can move on. Okay?

16 MR. MANNION: This has --
17 discoverability and relevancy at trial are two
18 different things, as you know. And we are
19 asking him these questions because not only are
20 they discoverable as to his own credibility,
21 but perhaps as to his adequacy as a class
22 representative.

23 And there's multiple other reasons. I
24 don't need to describe them all here. If you
25 want to object, you object. If you want to

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1 instruct him not to answer, you instruct him
2 not to answer.

3 Q So you're not going to tell me the
4 circumstances under which you were arrested,
5 sir?

6 MR. PATTAKOS: He is not. I'm
7 going to instruct him not to answer.

8 Q You need to tell me that.

9 A No, sir.

10 Q Okay. Who represented you in that criminal
11 case?

12 A Jack Morrison.

13 Q Did you eventually give a plea in that case?

14 A Yeah.

15 Q What did you plea guilty to?

16 A Or yes.

17 - - - - -

18 (Court reporter clarification.)

19 - - - - -

20 A Yes. I'm sorry.

21 What was that again?

22 Q What did you plea to, if at all, in that case?

23 A Like what did it plea down to?

24 Q Yeah.

25 A To be honest, I don't remember.

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1 Q And what drug were you --

2 A Exactly.

3 Q What drug were you trafficking?

4 A Just weed. Marijuana.

5 Q Marijuana?

6 You need to say yes.

7 A Yes.

8 Q Okay.

9 MR. PATTAKOS: It's legal in,
10 like, five states, Tom. Did you know that?

11 Q And you knew it was not legal in Ohio at the
12 time, correct, sir?

13 MR. PATTAKOS: Don't answer
14 that. Move on.

15 Q Isn't that true, sir?

16 MR. PATTAKOS: Tom, move on.
17 Don't answer that question, Matt.

18 It's irrelevant, not reasonably
19 calculated to lead to the discovery of
20 admissible evidence. It's harassment, it's
21 inappropriate, it's unprofessional. Move on.

22 Q And, sir, was Ohio one of the five states your
23 lawyer referred to as having marijuana
24 legalized --

25 MR. PATTAKOS: Don't answer --

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1 Q -- at the time you --

2 MR. PATTAKOS: -- the
3 question.

4 Q -- were trafficking?

5 MR. PATTAKOS: Don't answer
6 the question, Matthew.

7 Q Do you refuse to answer?

8 A Yes, sir.

9 Q Okay. And was there a minor involved in this
10 incident?

11 MR. PATTAKOS: Objection.
12 Don't answer the question. Same
13 objection.

14 Q Okay. Who was it that you were contributing --
15 that you were trying to influence with these
16 drugs, if anybody?

17 MR. PATTAKOS: Objection.
18 Don't answer the question.

19 Q Do you know?

20 MR. PATTAKOS: Objection.
21 Move on, Tom.

22 Q Do you know, sir?

23 MR. PATTAKOS: Again
24 objection.

25 Don't answer the question.

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1 Q Who else was with you at the time you were
2 arrested?

3 MR. PATTAKOS: Objection.
4 Move on.

5 Q Who was with you when you were arrested?

6 MR. PATTAKOS: Again I'm
7 instructing the witness not to answer the
8 question or anything along these lines of
9 questions, Tom. Cool it and get a Court order.
10 Can't wait. I can't wait to see your motion on
11 this.

12 Q Sir, who was with you at the time you were
13 arrested?

14 MR. PATTAKOS: Keep digging,
15 Tom.

16 Q Do you refuse to answer?

17 MR. PATTAKOS: Yes, he does.

18 A I was alone when I was arrested.

19 Q Okay.

20 MR. PATTAKOS: Matt, please.

21 Q You were alone when you were arrested?

22 A Yeah.

23 Q Okay. Do you know why you were charged with
24 corruption of another?

25 MR. PATTAKOS: Objection.

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1 Don't answer.

2 I'm instructing the witness not to answer
3 the question.

4 Q Do you refuse to answer that?

5 MR. PATTAKOS: Matt, just say
6 yes and let's move on.

7 A Yes.

8 Q Okay. Do you agree you were charged with
9 corruption of another --

10 MR. PATTAKOS: Objection.

11 Q -- with drugs?

12 MR. PATTAKOS: Don't answer
13 the question.

14 This is harassment.

15 Q Do you agree with that, sir, that you were
16 charged with corrupting another --

17 MR. PATTAKOS: Matt, just keep
18 saying --

19 Q -- with drugs?

20 MR. PATTAKOS: -- "I refuse to
21 answer that question."

22 A I refuse to answer that question.

23 MR. PATTAKOS: Thank you.

24 Q Okay. If you were a class member, would you
25 want to know whether the representative of your

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1 class had any drug convictions or used drugs?

2 MR. PATTAKOS: Matt, once
3 again I'm instructing you not to answer that
4 question.

5 MR. MANNION: Wait. For what
6 possible basis there?

7 MR. PATTAKOS: Because this
8 whole line of questioning is harassment. It's
9 not reasonably calculated to lead to the
10 discovery of relevant evidence. Go ahead and
11 brief it. I really -- this is completely
12 inappropriate and abusive.

13 Q What would you expect, sir, of a class
14 representative if you were a member of a class?

15 MR. PATTAKOS: Go ahead.
16 That's ...

17 A Integrity.

18 Q Okay. How do you define "integrity"?

19 A Me.

20 Q You have to give me a better description than
21 that.

22 A It's the best description I can give.

23 Q What does "integrity" mean?

24 A Me.

25 Q What is the definition of the word "integrity"

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1 as you're using it?

2 A Me.

3 - - - - -

4 (Court reporter clarification.)

5 - - - - -

6 MR. PATTAKOS: He's saying me.

7 Q And what do you mean? What about you?

8 A Everything about me.

9 Q Okay. Explain.

10 A I just did.

11 Q No, you didn't, sir.

12 A Yeah, I did.

13 Q So you're saying the only thing you would
14 expect from a class representative is
15 integrity?

16 A Character.

17 Q And character.

18 Now, is the definition of "character" the
19 same as the definition of "integrity"?

20 A I don't know. I'm not Webster.

21 Q Okay. Well, what's the definition of
22 "character" as you're using it?

23 A Somebody that's going to represent the class to
24 the best of their ability.

25 Q And --

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1 A Because I can do this all day. It doesn't
2 bother me.

3 Q I don't really -- I don't mean to bother you or
4 not bother you, I'm trying to get --

5 A No, you're bothering me.

6 Q I'm trying to get answers to the questions and
7 you're not --

8 A We're on --

9 Q -- giving them to me.

10 A We're on my time.

11 MR. PATTAKOS: Matt, please.

12 Let's just move on.

13 Q So where do you currently work, by the way?

14 A I am actually interviewing right now for
15 management positions.

16 Q Okay. Do you expect in any way to be
17 reimbursed for your time today?

18 A No.

19 Q What do you expect to receive out of this
20 lawsuit as the representative?

21 A Nothing.

22 Q Zero?

23 A Satisfaction.

24 Q Okay. And satisfaction for what?

25 A I mean, if somebody's doing what I would call

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1 shady stuff, then -- even if it just gets
2 documented that it even happened.

3 Q Okay. And when did you first believe shady
4 stuff was going on with Liberty Capital?

5 A We already discussed that. We're not going
6 backwards.

7 Q Sir --

8 MR. PATTAKOS: Go ahead.

9 Q -- when did you first --

10 MR. PATTAKOS: Go ahead, Matt.

11 A That was my answer.

12 MR. PATTAKOS: Well --

13 Q When did --

14 Mr. PATTAKOS: -- I understand
15 that it's already been asked and answered.

16 But go ahead and ask again, Tom.

17 Q When did you first become concerned that shady
18 stuff was happening with Liberty Capital and
19 KNR?

20 A When it was brought to my attention by my
21 attorney Jack Morrison.

22 Q Okay. And at that time, since you didn't know
23 about the law before you saw Mr. Pattakos, what
24 did you believe KNR was doing wrong with
25 respect to Liberty Capital and the loans that

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1 Liberty Capital gave to KNR clients?

2 A Mr. Nestico's ownership interest in Liberty
3 Capital loans.

4 Q Okay. And can you tell me what that ownership
5 interest is?

6 A Liberty?

7 Q Yeah. What is Mr. Nestico's ownership interest
8 in Liberty Capital?

9 A I don't know all of the right answers, I
10 just -- I just -- I just know what I've been
11 informed of.

12 Q Have you seen any documents that show
13 Mr. Nestico having any type of financial
14 interest in Liberty Capital?

15 A What do you mean by "documents"? Like emails
16 between other attorneys at KNR --

17 Q Anything.

18 A -- expressing their displeasure to Mr. Nestico,
19 things like that?

20 Q If it talks about financial ownership interest,
21 sure.

22 A I mean he was telling them to specifically go
23 to that loan company.

24 Q One of the reasons he might do that is because
25 he trusts those people, true?

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1 A Or the fact that he's got an ownership interest
2 and he -- either that or he gets a kickback.

3 Q Okay. And so what evidence --

4 A Let's be real.

5 Q -- do you have that he has an ownership
6 interest or had an ownership interest in
7 Liberty Capital?

8 A I just told you.

9 Q The fact that KNR would recommend Liberty
10 Capital is your evidence that he --

11 A No.

12 Q -- had an --

13 A I'm saying there was --

14 Q -- ownership interest?

15 A There was emails that my attorney showed me
16 that were going back and forth in their
17 displeasure of what they felt was going on.

18 Q Okay. And you're saying you saw a specific
19 email that said Rob Nestico has an ownership or
20 financial interest in Liberty Capital?

21 A I'm not going to say it was word for word or
22 anything like that.

23 Q Well, what did these emails say?

24 A I don't know. Let me pull up my photographic
25 memory.

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1 Q Well, you're here as a class representative and
2 I'm asking what evidence that you have or
3 that --

4 A And I just --

5 Q -- you've seen --

6 A -- told you.

7 Q -- that Rob Nestico had an ownership or
8 financial interest in Liberty Capital.

9 A And I just told you.

10 Q You told me about some emails. I'm asking what
11 do they say.

12 A I don't remember word for word what they said.

13 Q Give me a generalization.

14 A That's my generalization.

15 Q A paraphrase.

16 Did they give a percentage that he owned?

17 A I'm being honest and telling you that I don't
18 remember.

19 Q Okay. What you're telling me is you don't have
20 any evidence of it. Do you, sir?

21 A No, that's not what I'm saying at all.

22 Q Okay.

23 A Don't put words --

24 Q Well, name one --

25 A Don't put words --

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1 Q -- piece of --

2 A -- in my mouth.

3 Q -- evidence you have.

4 Name one piece of evidence you have, sir.
5 You're the one making the claim, not me.

6 Name one piece of evidence.

7 Sir, you need to answer the question.

8 MR. MANNION: Would you
9 please instruct the witness to answer the
10 question.

11 MR. PATTAKOS: Matt, please
12 answer the question.

13 A I don't remember.

14 MR. PATTAKOS: Well, you've --
15 okay.

16 Q As you sit here today, you can't remember any
17 evidence showing that Rob Nestico has a
18 financial interest or ownership interest in
19 Liberty Capital at any time, true?

20 A I don't remember what I saw, so I'm not going
21 to lie and tell you otherwise.

22 Q Well, I mean you're not just going to go
23 tell --

24 A I'm not going to remember word for word. I'm
25 not going to remember the date of an email that

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1 I saw. I'm not going to remember this and that
2 and the other. So I'm going to tell you that I
3 don't remember.

4 Q Well, if you were being sued, wouldn't you want
5 the other side to tell you what their evidence
6 was?

7 A I mean, I guess.

8 Q Well, have you looked at the discovery requests
9 that KNR and the other defendants sent to you
10 asking you what that evidence was?

11 A I read through it, yes.

12 Q Okay.

13 A I didn't read through it, like, last night.

14 Q Did you review anything to prepare for this
15 deposition?

16 A Yeah.

17 Q What did you review?

18 A I reviewed a bunch of notes that I wrote down
19 based on what I read, but --

20 Q Okay.

21 A -- I'm not -- like, just like test taking,
22 I'm ...

23 Q Okay. Where are those notes?

24 A What do you mean where are they at?

25 Q Where are they?

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1 A They're at my home.

2 Q You didn't bring them here today?

3 A I'm not going to sit here with notes.

4 Q Okay. I would ask that you please provide
5 those notes to your attorney because you
6 reviewed them to prepare for today. So would
7 you please provide them to Mr. Pattakos?

8 MR. PATTAKOS: Sure.

9 Q Then he can decide whether they're produced or
10 not.

11 A Okay.

12 Q And what documents did you review to make those
13 notes?

14 A The -- I don't know what documents they were.
15 They were documents I was provided with by my
16 attorney.

17 Q Any documents that you would have reviewed to
18 prepare for this are still at your house?

19 A Yes.

20 Q An electronic version, hard copy?

21 A Paper.

22 Q Paper. Okay.

23 If you would please let your attorney
24 know which specific documents you reviewed to
25 prepare for today, and then we will deal with

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1 whether we get copies of those or not. Okay?

2 A Okay.

3 Q Do you recall if the complaint or any of the
4 amended complaints was one of those documents?

5 A I don't recall off the top of my head.

6 Q Do you recall whether the discovery responses
7 were --

8 A I remember the discovery stuff because I
9 remember it saying that on the --

10 Q Okay.

11 A -- paperwork.

12 Q And when did you review these? A couple days
13 ago or?

14 A Most recently, yeah.

15 Q Okay.

16 A To try to prepare myself. I'm a horrible test
17 taker. I didn't -- you know, when I get -- I
18 mean, I'm not going to lie. I have no reason
19 to get nervous, but I get nervous when I'm in
20 front of a bunch of people I don't know.

21 Q Well, I'm trying to -- do you remember anything
22 from your review the other day or from any
23 other time that there's actual evidence that
24 Mr. Nestico has a financial or ownership
25 interest in Liberty Capital or did at any time?

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1 A Yes, I just can't remember and pinpoint in the
2 paperwork what it was word for word.

3 Q Okay.

4 A You know, or anything like that. So I'm not
5 going to lie about what I saw if I don't
6 remember it.

7 Q So as the class representative, if you take the
8 stand at trial, what are you going to tell a
9 jury is your evidence?

10 A Well, that would give me more time to prepare,
11 so I would hope I would be okay by then.

12 Q Well, when you know what that evidence is, can
13 you through your attorney let us know so we can
14 take your deposition again and ask about that
15 evidence?

16 MR. PATTAKOS: Tom, you can
17 ask him about the evidence. We've already
18 provided you --

19 MR. MANNION: Stop.

20 MR. PATTAKOS: -- with the
21 precise answers --

22 MR. MANNION: Stop.

23 MR. PATTAKOS: -- that you're
24 asking for.

25 MR. MANNION: Stop.

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1 MR. PATTAKOS: So please stop
2 harassing --
3 MR. MANNION: Peter.
4 MR. PATTAKOS: -- and
5 condescending to the --
6 MR. MANNION: Please.
7 MR. PATTAKOS: -- witness.
8 MR. MANNION: Please.
9 Please. Please.
10 MR. PATTAKOS: Okay?
11 MR. MANNION: Please.
12 MR. PATTAKOS: Please, Tom.
13 MR. MANNION: Stop with
14 the --
15 MR. PATTAKOS: I ask you the
16 same thing.
17 MR. MANNION: Stop with the
18 speaking objections.
19 Q Sir, do you believe as a class representative
20 you have a duty to be familiar with the
21 allegations against the defendants and familiar
22 with the evidence that supports those
23 allegations?
24 A Yes.
25 Q And --

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1 A Have I -- do I -- have I seen that, yes. Do I
2 remember them right off the top of my head
3 without them in front of me, no. I can sit
4 here with all of my paperwork that I reviewed
5 in the last -- you know, it's Friday. Earlier
6 in the week before the holiday I reviewed them.
7 You know, so if I had them right here in front
8 of me, I could go over everything I have right
9 in front of me. I didn't think I was allowed
10 to bring them. I didn't know. I left them at
11 home. So that's that.

12 Q So you reviewed these earlier this week and
13 don't remember what they say?

14 A Not word for word. So I'm not going to be a
15 liar.

16 Q But I'm not asking word for word, I'm asking
17 generally. What do you recall the evidence
18 being that Mr. Nestico had any type of
19 ownership or financial interest in Liberty
20 Capital at the time you took a loan?

21 A The evidence -- the evidence is in the emails
22 that we have from other attorneys from KNR
23 expressing their displeasure to Mr. Nestico.
24 And, you know, emails and conversations that I
25 remember seeing. It's -- all I can remember

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1 is --

2 Q What was --

3 A The emails are what stick out in my head.

4 Q What was the displeasure that the other KNR
5 attorneys were expressing to Mr. Nestico?

6 A That, I mean, in layman's terms it wasn't
7 right.

8 Q What wasn't right?

9 A The fact that he had an ownership interest in
10 the loan company.

11 Q You're saying you have an email where one of
12 the lawyers at KNR --

13 A I didn't say that it was an email.

14 Q Okay.

15 A Or did I say it was an email?

16 Q You did --

17 A I don't know.

18 Q -- but --

19 A I have it on the typed paper, so I don't ...

20 Q Okay.

21 A If it was an email, it was an email. I don't
22 know.

23 Q Are you saying that you saw some type of
24 documents --

25 A Document is a better word.

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1 Q -- that were generated by KNR where -- and a
2 KNR attorney told Rob Nestico I don't think
3 it's right that you recommend Liberty Capital
4 because you have a financial interest in it?

5 A I don't know if that was word for word, but it
6 sounds like a roundabout way.

7 Q Okay. And I would ask you to please identify
8 any such documents that say that and provide
9 them to your attorney, please.

10 A Okay.

11 Q What about with respect to Mr. Redick, did he
12 have an ownership or financial interest in
13 Liberty Capital, do you know?

14 A I don't think so.

15 Q What about KNR itself, did they?

16 A I don't think so.

17 Q Do you know why your claim on Liberty Capital
18 is against more defendants than just
19 Mr. Nestico? Or is it only against
20 Mr. Nestico?

21 A No, it's not just against Mr. Nestico, from my
22 understanding.

23 Q If you don't believe KNR or Mr. Redick had an
24 ownership or financial interest in Liberty
25 Capital, then why are you including them in

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1 this claim?

2 A I personally am not including them in this
3 case.

4 Q I mean, you agree if they didn't have an
5 ownership or financial interest --

6 A I love everybody. Okay?

7 MR. PATTAKOS: Matt.

8 A I don't have --

9 Q It's not --

10 A I don't have any problem.

11 Q Sir. Look, I understand what you're saying,
12 but it's not about that. I have clients to
13 represent, some of the people here have clients
14 to represent, and I'm trying to find out
15 information from you.

16 A I understand that.

17 Q So as you sit here, you personally, do you feel
18 you have a claim against KNR and Mr. Redick
19 even though they don't have a financial or
20 ownership interest in Liberty Capital, to your
21 knowledge?

22 A Who said they don't have an ownership interest?

23 Q You did.

24 A I didn't say they don't have an ownership
25 interest in Liberty Capital.

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1 Q I just asked you that question and you said no.

2 A No, I didn't.

3 Q Okay. So are you saying Mr. Redick has an
4 ownership or financial interest in --

5 A Oh, Mr. Redick.

6 Q -- Liberty Capital?

7 A I don't think he does.

8 Q Okay. And you don't think KNR does either,
9 true?

10 A KNR and Mr. Redick are -- they're all -- I
11 don't know, man. I'm getting confused.

12 Q Okay. What do you think the ownership interest
13 is of Liberty Capital? Who all owns it?

14 A From what I've seen and from what I've been
15 told, Mr. Nestico.

16 Q He's the sole owner?

17 A I'm not sure.

18 Q Do you know how much of it he owns?

19 A I don't know.

20 Q Do you know whether he invested any money in
21 it?

22 A I don't know his financial records.

23 Q Do you know whether he ever received a penny
24 from Liberty Capital?

25 A No, sir.

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1 Q Do you know whether KNR ever received a penny
2 from Liberty Capital?

3 A I don't know anybody's financial records.

4 Q Do you know whether Mr. Redick ever received a
5 penny from Liberty Capital?

6 A No, sir.

7 Q You used the word "kickbacks" earlier. What's
8 a kickback to you? What's that mean?

9 A Did I say kickback? I don't remember saying
10 that word. Did I?

11 A kickback is like a -- I don't know, it
12 would be like a spiff. Like a financial
13 reimbursement maybe.

14 Q And you say spiff from your days selling cars?

15 A How did you know I sold cars?

16 Q Is that why you said it, sir? Is that where
17 you first became introduced to a spiff?

18 A Sure.

19 Q And in the concept of selling cars, there were
20 times if you sold a certain car you might get
21 an immediate \$250, for example, payment right
22 on the spot, true?

23 A No.

24 Q Okay. What do you mean by "spiff"?

25 A I don't know, man.

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1 Q You used the word. I'm asking you what you
2 meant by it.

3 A I don't know.

4 MR. PATTAKOS: Go ahead, Matt.
5 Answer the question.

6 THE WITNESS: I don't know
7 what he wants me to tell him.

8 Q Well, you used the word spiff. What did you
9 mean?

10 THE WITNESS: I mean, are we
11 getting that technical?

12 MR. PATTAKOS: I guess.

13 A I don't know what I meant, sir.

14 Q You used a word you didn't mean?

15 A I just don't know what you're trying to get at
16 here.

17 Q It really doesn't matter.

18 MR. PATTAKOS: Just do your
19 best, Matt.

20 THE WITNESS: I'm doing my
21 best.

22 MR. PATTAKOS: He's right. It
23 doesn't matter.

24 A I don't know, man. I don't know. You're not
25 going to break me, so I --

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1 Q My motivation is -- if there's something wrong
2 about a question or your lawyer thinks there's
3 an objection, he can make it, but it's not for
4 you to determine the relevancy or
5 discoverability of these questions --

6 MR. PATTAKOS: He's right,
7 Matt.

8 Q -- or my motivation.

9 MR. PATTAKOS: He's right.

10 Q So my question to you is: When you said
11 "spiff," what did you mean?

12 A I mean -- I don't know if I would define it the
13 same way you would. So I don't know.

14 Q I'm asking how you used it.

15 A A spiff in the car industry is like if you
16 sell -- I mean, I don't even know why we're
17 talking about this, but in the car business, a
18 spiff is like you get a certain incentive for
19 selling a certain car. There's a spiff on it.
20 So, like, if there's a spiff on, say, the Chevy
21 Impalas or something, they give you a --
22 more -- more commission to sell that certain
23 car.

24 Q When you used the word spiff answering my
25 question earlier today, just a few moments ago,

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1 what did you mean? In what context did you

2 mean it as it relates to KNR and Liberty?

3 A I would assume that if I -- I meant it in a way

4 that if, you know, they get everybody to use

5 the loan company, that, you know, they get a

6 kickback or a spiff.

7 Q Okay. So you're referring --

8 A That's what I meant.

9 Q -- to it as a cash payment?

10 A I don't know if it would be cash.

11 Q Well, I mean --

12 A I mean --

13 Q -- check or cash?

14 A Yeah.

15 Q A money payment?

16 A Yeah. Yeah.

17 Q Okay. How much did Mr. Nestico receive from

18 the loan you took from Liberty Capital?

19 A I don't know.

20 Q Did he receive anything?

21 A I don't know.

22 Q What about Mr. Nestico's -- I mean Mr. Redick?

23 Same answer?

24 A Yeah, I don't know what they do.

25 Q What about KNR?

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1 A I don't know.

2 Q Do you have any proof that Mr. Nestico received
3 any financial benefit from you taking a loan
4 with Liberty Capital?

5 A I personally don't have any proof, no, sir.

6 Q Okay. And do you have any evidence or proof
7 that Mr. Redick received any financial benefit
8 from you taking a loan with Liberty Capital?

9 A No, sir.

10 Q Same question for KNR.

11 A No, sir.

12 Q Why did you allege in the complaint that they
13 get a direct financial benefit or some type of
14 kickback from these loans?

15 A Because that's what I believe.

16 Q Based on what?

17 A That I feel like I know how things work.

18 Q Okay. And how do you think things work?

19 A Elaborate.

20 Q I'm asking you. You said because you think you
21 know how things work, and I'm asking you: How
22 do you think things work?

23 A I just think that -- just more things to make
24 more money. I don't know. I don't know how to
25 say it.

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1 Q Well, I'm asking you.

2 A Well, that's my answer.

3 Q Why do you believe that there were kickbacks
4 being paid to either Mr. Redick, Mr. Nestico,
5 or KNR?

6 A Because that's what happens.

7 Q That's what happens where, in the businesses
8 you've been in?

9 A No. I didn't say me.

10 Q Okay. Well, what happens where?

11 A It's what happens when you open that kind of
12 business and, you know, all of a sudden weeks
13 later people are getting emails that hey, use
14 this loan company, you know, whatever, blah,
15 blah, blah. Then you're obviously doing it to
16 profit from it.

17 Q So do you have some experience with loan
18 companies?

19 A I don't have -- I don't know what you're trying
20 to say to me.

21 MR. PATTAKOS: Matt, just
22 answer the question.

23 Q Do you have experience with loan companies?

24 MR. PATTAKOS: Just do your
25 best.

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1 Q In how they work and operate.

2 A Yeah. A little bit.

3 Q Okay. Tell me about that.

4 A I've never worked at one.

5 Q Okay. What's your experience?

6 A Just from being in, like, sales positions and
7 stuff.

8 Q Okay. So what did you learn about how loan
9 companies work in your sales position jobs?

10 A I don't understand the question.

11 Q You said you learned how loan companies work
12 from your sales position jobs. What did you
13 learn about how they work?

14 A I don't know, man.

15 Q You can't remember that?

16 A Nope.

17 Q I thought you just told me that your basis for
18 the kickbacks is because that's how it works?

19 A (Indicating.)

20 Q That's your basis?

21 MR. PATTAKOS: Objection.

22 Q Sir, is that your basis?

23 A He objected.

24 Q That's okay.

25 MR. PATTAKOS: Matt, you go

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1 ahead and answer the question.

2 A Yeah, I guess.

3 Q As you sit here, you have no idea what the
4 relationship was, if any, between Liberty
5 Capital and any of the defendants in this case,
6 true?

7 A I don't know their business.

8 Q Can you identify one cent that was provided to
9 any of the defendants in this case from Liberty
10 Capital?

11 A No.

12 Q Earlier you indicated that you paid Paul Steele
13 cash directly to give to Liberty Capital. I'm
14 going to ask some questions about that. Okay,
15 sir?

16 A Okay.

17 Q Can you remove your hand?

18 A Okay.

19 Q Thank you.

20 And you don't recall exactly how many
21 payments you gave him?

22 A No, sir.

23 Q But it was approximately \$100 per payment?

24 A Not always.

25 Q Okay. What were the various amounts you recall

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1 giving to Mr. Steele?

2 A I don't remember. This all was six years ago.

3 I don't remember.

4 Q Where did you meet Mr. Steele to give him this
5 money?

6 A I don't remember.

7 Q Well, I mean, was it in town? Was it in --
8 where was it?

9 A Well, yeah.

10 Q Did you bring it to the office?

11 A Well, yeah, it would be in town. I came into
12 the office I think one time while I was
13 represented by KNR.

14 Q Okay. Is the one time you came to -- let me
15 strike that.

16 When you say you came to a KNR office one
17 time while you were represented by them, is
18 that the office we're in today?

19 A Yeah. Well, unless they moved. I don't know.

20 Q It was an office in Akron?

21 A Yes.

22 Q At that time did you bring any money to
23 Mr. Steele to pay Liberty Capital?

24 A Yes.

25 Q So that would have been sometime after July of

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1 2012 or after the time you got the loan?

2 A I would assume so.

3 Q You didn't start paying the loan before you got
4 it, did you?

5 A No.

6 Q Do you recall how long after you first got the
7 loan that you made a payment?

8 A No, sir.

9 Q It wasn't the next day, was it?

10 A No, sir.

11 Q Was it the next week?

12 A No, sir.

13 Q The next month?

14 A Yes, sir. I would assume it was in August or
15 maybe September.

16 Q And after that, would the next payment, then,
17 have been the following month?

18 A I don't remember.

19 Q Was it approximately 100 a month you were
20 paying or not quite?

21 A I don't know.

22 Q How long did these payments last?

23 A Hold on.

24 THE WITNESS: I'm getting

25 dizzy.

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1 Q I'm sorry?

2 MR. PATTAKOS: He said he's
3 getting dizzy.

4 Q Do you need to take a break?

5 A I don't know what I got to do. I didn't take
6 my -- I didn't -- I didn't --

7 MR. PATTAKOS: Let's go.
8 Matt, let's take a break.

9 A I didn't eat --

10 MR. PATTAKOS: Don't -- Matt,
11 let's take a break.

12 A I didn't eat any food.

13 MR. PATTAKOS: Let's take a
14 break.

15 A I didn't eat any food this morning.

16 MR. PATTAKOS: Let's take a
17 break. Let's take a five-minute break.

18 THE VIDEOGRAPHER: We're off the
19 record. The time is now 12:13.

20 - - - - -

21 (Recess taken.)

22 - - - - -

23 THE VIDEOGRAPHER: We're back on
24 the record. The time is now 12:26.

25 BY MR. MANNION:

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1 Q Mr. Johnson, when you came to KNR the one and
2 only time you say you were at their Akron
3 office, do you recall how much money you gave
4 to Paul Steele that day to pay Liberty Capital?

5 A No, I don't remember.

6 Q Was it in cash?

7 A Yes.

8 Q Was a receipt written for you?

9 A That's when he -- that's when he wrote me a
10 handwritten receipt.

11 Q And approximately one month after you received
12 the loan this would have been?

13 A I'm assuming.

14 Q How many times, then, did you see Mr. Steele
15 after that day and hand him cash or check or
16 any type of thing that should be then given to
17 the Liberty Capital?

18 A I don't remember.

19 Q Until the loan was paid?

20 A I don't remember.

21 Q Do you still owe some on the loan?

22 A No. I don't think so.

23 Q Okay.

24 A I never -- I never got any phone calls or
25 anything.

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1 Q Okay. So it's your understanding that you paid
2 Liberty Capital everything that you owed under
3 that contract?

4 A I believe so.

5 Q And you did that by handing money to Paul
6 Steele and having him pay them?

7 A Yes. To my recollection.

8 Q And this happened more than twice?

9 A I'm thinking so.

10 Q Well, you know it happened more than once,
11 right?

12 A Right.

13 Q Do you recall ever paying more than \$100 at one
14 time?

15 A No, I don't think so.

16 Q So it had to happen more than twice, true?

17 A It would make sense, right?

18 Q Right.

19 Do you have any estimate as to how many
20 times you gave money to Paul Steele to give to
21 Liberty Capital?

22 A No, sir.

23 Q Anybody else at KNR that you gave money to give
24 to Liberty Capital?

25 A Nope. I don't think so.

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1 Q Did you ever pay Liberty Capital directly?

2 A I never heard from anybody from Liberty
3 Capital.

4 Q And on the other times that you saw Paul Steele
5 to give him money to give to Liberty Capital,
6 where was that?

7 A I don't remember, man. It was, like, a long
8 time ago.

9 Q Was it somewhere in Akron?

10 A Well, yeah. I lived in Akron.

11 Q Did you go to an office?

12 A I don't remember.

13 Q Meet him at a coffee shop?

14 A I don't remember.

15 Q Have any recollection of those dates at all?

16 A No, sir.

17 Q Did that happen all the way into 2013, or was
18 it paid before the end of 2012?

19 A That's a good question.

20 Q You don't remember?

21 A I don't remember.

22 Q Did you ever go to any other KNR office other
23 than the office in Akron?

24 A I didn't even know they had other offices.

25 Q Did you ever go to, for example, KNR's Columbus

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1 office?

2 A No, sir.

3 Q Did you ever see Mr. Steele outside the city of
4 Akron?

5 A No, sir.

6 Q Other than the person who saw you initially
7 at -- was it your house or your parents'
8 house --

9 A Uh-huh.

10 Q -- that he came out to?

11 A Yeah.

12 Q Other than that time and the one time -- excuse
13 me -- and the times you saw Mr. Steele, did you
14 meet anybody else from KNR?

15 A No, sir.

16 Q You may have had communications via email but
17 not any in-person meetings with anybody else?

18 A All of my communication was either over the
19 phone or in person. I didn't really -- I don't
20 think I emailed them. I don't really email
21 that much.

22 Q You don't recall any emails with KNR?

23 A I don't think so.

24 Q Did there come a time where you had another
25 lawyer involved other than Paul Steele?

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1 A Yeah, I think so.

2 Q Do you remember what his name was?

3 A I don't. But I remember -- I think somebody
4 said -- called me one day and said: Hey, I'm
5 whoever and I'm taking over for Paul or
6 something. If I remember.

7 Q You don't recall his name at all?

8 A Uh-uh.

9 Q If it was a man or a woman?

10 A No, because it was very soon after that that I
11 decided that I was unhappy with the process and
12 talked to Jack and he took over.

13 Q Did you think it was just taking too long, or
14 what was your unhappiness?

15 A I just didn't like the lack of communication.
16 And when I would talk on the phone, I felt like
17 I was -- I felt like it was like I was -- I
18 wouldn't say that I was being -- I just -- I
19 didn't feel like I was being taken care of. I
20 almost feel like I was put into a -- I don't
21 know how to describe it. Like, they probably
22 have so many cases and it's like oh, yeah,
23 yeah, blah, blah, blah, click. You know what I
24 mean? Like, I didn't feel like my case was
25 relevant at all, like it was just another case.

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1 You know what I mean?

2 Q Did you ever express that displeasure to anyone
3 at KNR?

4 A Yeah.

5 Q In writing?

6 A No, not in writing.

7 Q Just by -- on the phone?

8 A Yeah. I just said it seems like it's taking so
9 long or maybe I don't know the process or --
10 I've never done this before.

11 Q Paul explained to you that the bus company that
12 was involved in the case was taking a pretty
13 hard position on the case initially, correct?

14 A What do you mean by "hard position"?

15 Q That they were telling him that they did not
16 think there was any liability on their part for
17 a number of reasons. Correct?

18 A I believe so, but that was obviously proven
19 otherwise.

20 Q In fact, they were claiming you were partly at
21 fault for the accident, true?

22 A They tried to.

23 Q And they were claiming that there was some
24 immunity that prevented you from being able to
25 go against them. Do you recall that?

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1 A What do you mean by "immunity"?

2 Q Where they are under the law not responsible.

3 Do you remember anything like that?

4 A I don't remember that.

5 Q Okay. Do you recall who the driver was who was
6 driving the bus?

7 A (Indicating.)

8 Q What type of bus was this?

9 A Like one of them city buses.

10 Q Okay. You were pretty upset with that driver,
11 though, weren't you?

12 A Well, yeah. He ran me off the road.

13 Q Okay. And you used some derogatory names to
14 him throughout this, didn't you?

15 Sir.

16 A I don't know. What do you mean? What are you
17 trying to say?

18 Q What race was the driver? Do you recall?

19 A I wouldn't bring that up if I were you.

20 Q I'm asking you what race was he.

21 A I wouldn't bring that up if I were you.

22 Q Do you remember what race he was?

23 A I wouldn't bring --

24 MR. PATTAKOS: Objection.

25 A -- that up if I were you.

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1 MR. PATTAKOS: Move on. Let's
2 move on, Tom.

3 A I'm mixed in race. So that's --

4 Q I'm just asking you --

5 A I'm mixed in race. So that's irrelevant. So
6 don't bring race --

7 Q I'm asking you if you remember. Was he
8 Caucasian? Was he African American? Do you
9 know?

10 MR. PATTAKOS: Tom, what's the
11 relevance of this?

12 Q Do you know?

13 MR. PATTAKOS: I'm going to
14 instruct the witness not to answer the
15 question.

16 Tom, you can add this to your motion to
17 compel.

18 Q Do you in fact recall that you referred to the
19 driver as a nigger?

20 MR. PATTAKOS: I'm going to
21 instruct the witness not to answer the
22 question. Move on.

23 Q You did, didn't you, sir?

24 MR. PATTAKOS: Move on.
25 Matt, don't answer.

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1 Let's move on.

2 Matt, don't --

3 Q Do you recall the expletives that you used
4 against the bus company?

5 MR. PATTAKOS: Expletives that
6 he used against the party that caused him
7 damages are not relevant to this case in any
8 conceivable, legitimate way.

9 Tom, please stop harassing the witness I
10 will ask you again.

11 Matt, don't answer the question.

12 Tom, let's move on to something that is
13 remotely relevant. I know it's hard.

14 Q Do you refuse to answer those questions --

15 MR. PATTAKOS: Yes.

16 Q -- on the advice of counsel, sir?

17 MR. PATTAKOS: He does.

18 A Yes.

19 Q Okay.

20 MR. MANNION: Please stop
21 talking over us.

22 Q So do you recall what the bus company's offer
23 to you was at the time you left KNR?

24 A No.

25 Q Do you recall if there even was an offer?

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1 A No.

2 Q Do you recall coming to KNR or being delivered
3 checks from what's called medical payments
4 provisions?

5 A No.

6 Q Do you recall getting any checks from KNR ever?

7 A I don't remember.

8 Q You don't recall at all?

9 A No, sir.

10 Q Do you remember getting any checks from Erie
11 Insurance during your representation by KNR?

12 A No, sir.

13 Q Do you know what I mean by "medical payments
14 provision"?

15 A No, sir.

16 Q Eventually your case was actually filed with
17 the court, true?

18 A Yes, sir.

19 Q By Mr. Morrison?

20 A Yes, sir.

21 Q And that case settled?

22 A Yes, sir.

23 Q Okay. For what amount, sir?

24 A I don't even remember.

25 Q You have no idea what that was?

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1 A No.

2 Q Was it over 50,000?

3 A Before attorney fees or whatever?

4 Q Yes.

5 A I think so. I don't know.

6 Q Do you recall how much you obtained in your
7 pocket after all the disbursements and
8 attorney's fees and expenses were gone?

9 A No, sir.

10 Q Do you recall when the settlement was?

11 A No, sir.

12 Q What year?

13 A No, sir.

14 Q Was it last year?

15 A No, sir.

16 Q Was it the year before?

17 A No, sir. I don't know.

18 Q You're not sure?

19 A No.

20 Q Was it more than two years ago?

21 A I don't know.

22 Q Did you ever sign what's called a settlement
23 memorandum with KNR or any of KNR's attorneys?

24 A I don't know.

25 Q At the time that you had a settlement and were

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1 represented by Mr. Morrison and his law firm,
2 did you have to sign something that listed a
3 breakdown of the settlement and how much you
4 got, how much they got, things of that nature?

5 A I believe so, yes.

6 Q Was that called a settlement memorandum or
7 something similar to that?

8 A I don't remember what it was called.

9 Q But it listed the amount of the settlement and
10 where all the money was going to be paid?

11 A I guess.

12 Q You didn't sign anything like that with KNR,
13 did you?

14 A I don't remember if I did.

15 Q Okay. Can you point to one that you signed
16 with KNR anywhere? Have you seen one?

17 A Can I point to one --

18 Q Sure.

19 A -- any -- like you show it to me and I'll point
20 to it, or what do you mean?

21 Q No. I'm saying do you remember reviewing one,
22 seeing one, any settlement memorandum that you
23 signed with KNR.

24 A I don't remember. I wish I remembered
25 everything. I'm sorry.

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1 Q During KNR's representation of you, you never
2 settled the claim against the bus company,
3 true?

4 A Right.

5 Q So you never reached a settlement with the bus
6 company during KNR's representation of you,
7 true?

8 A Correct.

9 Q So you never signed a document that would have
10 had a settlement amount with KNR, fair?

11 A I would assume so, then, yeah.

12 Q On the settlement memorandum that you signed
13 with Mr. Morrison or his firm, do you recall
14 what the expenses were that came out of that
15 other than attorney's fees?

16 A No. I'm sorry I don't.

17 Q But your loan to Liberty Capital was already
18 paid by that time, true?

19 A I believe so, yes.

20 Q Because you paid that before you left KNR
21 you're saying?

22 A I believe so.

23 Q So on that settlement memorandum, was Liberty
24 Capital listed as having to receive any of the
25 money from the settlement proceeds?

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1 A I don't remember.

2 Q Because I think you told me that you paid
3 Liberty Capital off yourself, as opposed to
4 from the settlement proceeds.

5 A I thought -- I assume I did. I never received
6 a phone call like, "Hey, man, where's your
7 payment?" or nothing like that.

8 Q Do you have a document anywhere that says
9 Liberty Capital is getting money specifically
10 from that settlement -- let me strike that one.

11 After you settled your underlying case,
12 the bus accident case, at some point you went
13 to Mr. Morrison's office and they handed you a
14 check, correct?

15 A I believe so.

16 Q And the rest of that money was either
17 attorney's fees or expenses, true?

18 A Yes.

19 Q And none of those expenses were paid to Liberty
20 Capital, fair?

21 A I don't remember.

22 Q Was there some reason they paid Liberty Capital
23 if you already paid them off?

24 A Did they pay Liberty Capital?

25 Q I'm asking you.

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1 A I don't remember.

2 Q Okay. You didn't provide us that.

3 A I don't remember.

4 Q I'm asking you.

5 A I don't remember.

6 Q If you would have seen a payment to Liberty
7 Capital from that settlement, wouldn't you have
8 been a little upset since you already paid them
9 off?

10 A I would assume I would be upset.

11 Q You wouldn't authorize payment to Liberty
12 Capital if you had already paid them what's
13 due, would you?

14 A Say it one more time.

15 Q Sure.

16 If you had already paid Liberty Capital
17 what you owed them, you certainly weren't going
18 to agree to pay them more money out of your
19 settlement, would you?

20 A That would be silly, but stranger things have
21 happened.

22 Q But you don't recall Liberty Capital receiving
23 any money from those settlement proceeds, true?

24 A I don't recall a lot of it.

25 Q And you don't recall whether Liberty Capital

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1 was even on that settlement memorandum, fair?

2 A I don't -- yeah, I don't recall. You're right.

3 Q Do you remember whether Liberty Capital was on
4 any of the documents that you signed when you
5 were represented by Mr. Morrison or his firm?

6 A I don't believe so.

7 Q You're not sure?

8 A Yeah, I don't believe so.

9 Q Okay. Where do you currently live?

10 A In Akron.

11 Q What's your address?

12 A Akron.

13 MR. PATTAKOS: Go ahead, Matt.

14 It's on the complaint.

15 A 805 Thayer.

16 Q Sometimes people move.

17 You've moved several times, correct?

18 A I've been there four years.

19 Q Okay. Who lives there with you now?

20 A My son.

21 Q Who's that? His name.

22 MR. PATTAKOS: Keep his son
23 out of it, Tom.

24 Q What's your son's name?

25 MR. PATTAKOS: Tell him his

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1 first -- tell him your son's first name.

2 A Chase.

3 Q Okay. And does he have Martin or Johnson as
4 his last name or something else?

5 A Martin.

6 MR. PATTAKOS: Tom, why are
7 you asking --

8 A I have custody --

9 MR. PATTAKOS: -- him about --

10 A -- of my child, sir.

11 MR. PATTAKOS: -- his child?

12 Q I'm asking.

13 A I have custody of my son. I'm a good dad.

14 MR. PATTAKOS: Matt --

15 Q Matt, I'm not saying you're not, I'm just
16 finding out. Because you wouldn't tell me his
17 name, I'm trying to find out.

18 MR. PATTAKOS: What does his
19 son have to do with this lawsuit, Tom?

20 Q Does anybody else live with you?

21 A A couple girlfriends here and there. They come
22 and go.

23 Q Okay.

24 MR. PATTAKOS: What do his
25 housemates have to do with this lawsuit?

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1 Q Currently does anybody else live with you?

2 MR. PATTAKOS: I'm going to
3 instruct him not to answer this. This is
4 harassment too.

5 Q Who have you talked to about this case other
6 than your lawyers?

7 Have you talked to anybody else about
8 this case?

9 A No.

10 Q Well, have you talked to any friends or
11 girlfriends?

12 A Sometimes I forget it's even going on until I
13 call him or he calls me.

14 Q Okay. Do you do anything proactively to see
15 what's going on in the case?

16 A What do you mean by "proactively"?

17 Q Do you do anything on your own initiative to
18 see what's going on in the case?

19 A Like research?

20 Q Look at the docket, anything.

21 How do you keep apprised of what's going
22 on?

23 A I have an attorney so that I don't -- I trust
24 my attorney. I don't have to worry about that
25 kind of thing. But when he presents me with

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1 the discovery and stuff like that, I read over
2 it like a normal human being would.

3 Q Okay. What do you do to keep apprised of what
4 your attorney's doing to fairly and adequately
5 pursue the interest of these potential class
6 members?

7 A I call Peter every once and a while and say,
8 "Hey, is there anything you need from me?"

9 Q What's Peter's experience in handling class
10 action litigation, do you know?

11 A Really good.

12 Q What is it?

13 A Amazing.

14 Q Tell me about it.

15 A I mean ...

16 Q Name one case that he's handled as a class
17 action other than this potential class action.

18 A Which one do you want to know about?

19 Q You tell me. Which ones did you know about
20 before you agreed to have him as your lawyer?

21 A Man, I can't remember what I read. I read --
22 before -- you know, I actually met with Peter a
23 couple times before I agreed to even proceed,
24 you know. And I read up on his firm and what
25 they've done, but I can't tell you right now

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1 specifically what cases they were involved in.

2 It's not my business.

3 Q Well, do you think it's your business to know
4 whether the attorney representing a potential
5 class has the adequate experience to handle
6 that case?

7 A I think he has more than enough advocacy, based
8 on the recommendation by Jack Morrison.

9 Q That wasn't my question, though.

10 A That's my answer.

11 Q My question was --

12 MR. PATTAKOS: Go ahead.

13 Q My question was: Do you believe that it's
14 important for the attorney who represents the
15 potential class to have the --

16 A Absolutely.

17 Q -- proper experience to handle the case?

18 A Absolutely.

19 Q And what is it about his experience that you
20 believe makes him the proper attorney for this
21 case?

22 A What is it about his experience specifically?

23 Q Yes.

24 A There is no specific experience that ...

25 Q It's just the recommendation of Mr. Morrison?

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1 A That's all I need.

2 Q Okay. What about Mr. Cohen, did Mr. Morrison
3 recommend him?

4 A No. I learned about Mr. Cohen through Peter.

5 Q Do you know anything about his experience with
6 class actions?

7 A No, sir, I don't.

8 Q I see he's not here today. Do you know why?
9 Has he withdrawn from the case?

10 A I do know why, but it's not --

11 Q Okay.

12 A -- my business.

13 Q That came from your lawyer?

14 A What, the reason why he's not here?

15 Q Yeah.

16 A Yes, sir.

17 Q Okay. Has he withdrawn from the case?

18 A No, sir.

19 MR. PATTAKOS: He's working on
20 a motion for a protective order right now if
21 you want to know, Tom.

22 Q When did you -- approximately when did you
23 start living at Thayer Street?

24 Go ahead, sir.

25 MR. PATTAKOS: Go ahead.

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1 A Can I ask a question, a little question?

2 MR. PATTAKOS: Go ahead and
3 answer. Matt, please just go ahead. Just
4 answer the question.

5 A April of 2014 or '15.

6 Q Okay. And when you first moved in there, was
7 it just you and your son?

8 MR. PATTAKOS: Objection. I'm
9 not asking -- he's not going to answer
10 questions about his living arrangements.

11 Q Please identify all individuals who have ever
12 lived with you --

13 MR. PATTAKOS: Yeah, no.

14 Q -- at Thayer Street other than you and your
15 son.

16 MR. PATTAKOS: Nope. Not
17 going to go there.

18 Q Who are your prior girlfriends in the last --

19 MR. PATTAKOS: Not going to go
20 there. Yeah, not going to go there, Tom.

21 A Are you serious?

22 MR. PATTAKOS: Yeah, no.

23 A Man.

24 MR. PATTAKOS: No. Matt,
25 don't answer the questions. Tom knows what

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1 he's doing and he can move on.

2 MR. MANNION: Please stop
3 with the comments.

4 MR. PATTAKOS: No, Tom, I'm
5 not going to stop objecting to harassing --

6 MR. MANNION: You can object.

7 MR. PATTAKOS: To harassment
8 of my client.

9 MR. MANNION: Stop. Stop.
10 Stop. Stop.

11 Q So prior to Thayer, where did you live?

12 MR. PATTAKOS: Go ahead.

13 A Usually with my -- let's see. Before Thayer.
14 I lived at -- man, what was that street called.
15 It was in Ellet. I had a one bedroom
16 apartment.

17 Q Was that Edwin Avenue or somewhere else?

18 A Oh, Edwin Avenue I lived with my buddy. That
19 was -- that was -- Edwin was before the
20 apartment.

21 Q Okay. And the apartment was where, do you
22 recall?

23 A What was that street.

24 Q I used to live in Ellet, so I know some of
25 those streets.

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1 A Off of Seiberling.

2 Q I lived on Davenport. Right off of Mogadore.

3 A Yeah. It wasn't over there. It was off of
4 Seiberling. There's a little dead-end street
5 that had a one bedroom apartment building.

6 Q How long --

7 A I can't remember what that street was called,
8 though.

9 Q How long did you live there?

10 A How long. A little over a year.

11 Q Who did you live there with?

12 A It was a one bedroom apartment.

13 Q I'm just asking. Just you and your son?

14 A Yeah. At the time I didn't have -- I had
15 shared parenting. I had a pull-out bed out of
16 the couch --

17 Q Okay.

18 A -- he would sleep on on the weekends.

19 Q And on Edwin Avenue, how long did you live
20 there?

21 A About a year.

22 Q Who was that with?

23 A That's -- I'm not implicating other people
24 by --

25 Q I'm just asking who you lived there with.

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1 A I lived with a friend.

2 MR. PATTAKOS: Tom, how is it
3 relevant? He doesn't want to bring other
4 people's names into this.

5 Q Are you not going to answer the question?

6 MR. PATTAKOS: He'll answer
7 the question. I'll instruct him to answer the
8 question if you can explain a remotely
9 conceivable basis for why it would be relevant
10 to this case.

11 Q Sir, are you going to answer the question?

12 A I lived there with my friend Dan.

13 MR. PATTAKOS: Matt, I'm --

14 A I'm not going to --

15 MR. PATTAKOS: -- instructing
16 you not --

17 Q -- give you his --

18 MR. PATTAKOS: -- to answer
19 these questions.

20 A -- full name, sir.

21 Q You refuse to?

22 MR. PATTAKOS: Yes, he does.

23 A I refuse to on the ...

24 MR. PATTAKOS: On the advice
25 of counsel.

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1 A On the advice of counsel.

2 Q And before that did you live on Krumroy with
3 your parents?

4 A Yes.

5 Q When did you move out of Krumroy for the first
6 time, do you know?

7 A When I was 18.

8 Q Okay. And at some point you came back?

9 A Yeah.

10 Q At the time you were represented by KNR, you
11 lived at Krumroy or somewhere else?

12 A I was in between Krumroy and Edwin.

13 Q When you first retained KNR as your attorney,
14 you lived at Krumroy?

15 A I lived at Krumroy, but I was at -- I was at
16 Edwin half the time too.

17 Q Okay. Ever been married?

18 A No. I'm not stupid. See, you got to laugh.

19 Q Why -- let me strike that.

20 Other than Chase, do you have any other
21 children?

22 A Not that I know of.

23 Q Okay. And you graduated from Springfield High
24 School in '98?

25 A Yes, sir.

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1 Q And took some time off from school and went
2 back to Tri-C?

3 A Yes.

4 Q Okay. And did you obtain a degree?

5 A One credit away.

6 Q And what was the degree going to be in?

7 A Construction management.

8 Q Okay. Any specific reason you didn't finish it
9 or?

10 A Yeah. Responsibility.

11 Q Meaning?

12 A Well, I was a carpenter and then I was going to
13 school at night. And then when I didn't have
14 as much help with my son as I needed, it made
15 it hard to finish up.

16 Q Okay. Did you ever meet your attorney from KNR
17 at a restaurant ever?

18 A I can't remember.

19 Q Other than the first person who came out to
20 your parents' house, did you ever meet anyone
21 from KNR at any place you lived other than that
22 time?

23 A More than the one time they did come out?

24 Q Correct.

25 A I don't think so.

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1 Q And do you recall any other location that you
2 met anybody else from KNR other than the one
3 time in this office and the one time at your
4 house?

5 A No, sir.

6 Q You know there were times, but you don't
7 remember where they were?

8 A Correct.

9 Q Okay. When did you sell cars?

10 A When I was like 19, 20.

11 Q So it would have been '98 or somewhere around
12 there?

13 A '99, 2000. Somewhere around there.

14 Q Where did you go after you sold cars?

15 A Where did I go after I sold cars.

16 I think that's when I started with
17 Mr. Lorenzo.

18 Q Do you recall working for Goodyear at all?

19 A Oh, yeah.

20 Q When did you work for them?

21 A I don't remember what years. It was a while.

22 Q How long did you work for them?

23 A Like seven or eight years.

24 Q What did you do?

25 A I started at the bottom, worked my way up to

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1 management.

2 Q And at the end, what was your title?

3 A I was the assistant service manager.

4 Q Okay. After -- strike that.

5 Approximately when did you stop working
6 for Goodyear, do you know?

7 A I don't know.

8 Q Do you recall where you went next?

9 A Yes. That's when I started in the union.

10 Q Carpentry work?

11 A Yeah.

12 Q Who was your employer, just whoever hired you
13 out of the union?

14 A No. I was with Nyman Construction.

15 Q How long did you work there?

16 A Oh, man. I don't know. Five, six years maybe.

17 Q So we're getting up until around 2011 or so?

18 Does that sound right?

19 A I think so, yeah.

20 Q And is that where you were laid off from,
21 Nyman?

22 A Yeah.

23 Q At the time that KNR first represented you, you
24 would be receiving unemployment compensation
25 from Nyman? Or do you not remember?

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1 A I don't remember --

2 Q Okay.

3 A -- what the situation was.

4 Q What was your next job after Nyman
5 Construction?

6 A I don't remember.

7 Q You can't remember?

8 A I can't remember.

9 Q Did you have any other sales jobs?

10 A As far as, like, in the --

11 Q Any.

12 A -- automotive industry?

13 Q Any.

14 A I went back to managing an AMCO, but I don't
15 remember what years that was.

16 Q Okay. What about Mars Auto & Truck Parts?

17 A Yeah, I worked there. Yeah, I worked there as
18 a salesman.

19 Q Okay. What did you sell there?

20 A Used, you know, parts. It was a salvage yard.
21 So used, you know, engines and transmissions
22 and stuff like that.

23 Q Do you recall your unemployment running out
24 sometime in April of 2012?

25 A (Indicating.)

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1 Q It doesn't ring a bell?

2 A I don't remember.

3 Q Okay. Do you recall telling anybody at KNR
4 that you could start a new job in June of 2012
5 but you wanted to make sure it wasn't going to
6 hurt the case?

7 A I don't know if I ...

8 Q How do you think that would hurt the case?

9 A I don't know.

10 Q Okay. Did any of the --

11 A I don't think I -- I don't know if I was -- I
12 was -- I think I was -- if anything, I might
13 have been asking if I was ready to go back to
14 work yet, because I banged my neck up pretty
15 good.

16 Q Okay. Well, what do you think about starting a
17 new job would hurt the case?

18 A I don't remember why I would have said that at
19 that time. So I don't -- I don't know.

20 Q Did anyone from KNR ever give you an evaluation
21 of what they thought your case was worth?

22 A I don't recall that.

23 Q Did you give KNR an evaluation of what you
24 thought your case was worth?

25 A I don't recall that either.

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1 Q Do you recall telling KNR you thought the case
2 was worth half a million dollars?

3 A No.

4 Q You don't --

5 A That would be weird.

6 Q Okay.

7 A But I'm weird, so I might have.

8 Q Have you ever been a party to a lawsuit other
9 than this one and the one from the underlying
10 case? And I'm talking about civil, not any
11 criminal types, not any traffic cases, just
12 civil cases. Do you know what I mean by civil?

13 A (Indicating.)

14 Q Okay. Have you ever been involved in another
15 lawsuit where either you were seeking money
16 from somebody else or they were seeking it from
17 you other than from the underlying accident in
18 this case or in the current case?

19 A I don't -- I don't believe so.

20 Q Okay.

21 A Not to my knowledge.

22 Was I?

23 Q I'm asking you.

24

- - - - -

25 (Defendants' Exhibit 1 was marked.)

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1

- - - - -

2 Q I'm going to show you what's been marked as
3 Exhibit 1 for identification and ask if you can
4 identify that, please.

5 Have you seen this before?

6 A Uh-huh.

7 Q I'm sorry?

8 A Uh-huh.

9 Q You need to say "yes" or --

10 A No.

11 Q -- "no," please. Okay.

12 And can you identify this for the record?

13 What is it?

14 A It's a document.

15 Q What type of document, sir?

16 A It looks like a court document.

17 Q Okay. What's the title of it?

18 A It's a -- it's a -- for the deposition for
19 Member.

20 Q Okay. And did this document, Exhibit 1, ask
21 you to bring anything with you today?

22 Look at page 3.

23 A Yeah.

24 Q Did you bring any documents today in response
25 to this notice?

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1 A No, sir.

2 Q Did you bring any documents at all with you
3 today?

4 A No, sir.

5 Q Did you provide your attorney with any
6 documents that are responsive to these
7 requests?

8 A No, sir.

9 Q Have you provided your attorney any documents
10 in this case?

11 A No, sir.

12 Q Has anybody other than Mr. Pattakos provided
13 you any documents in this case?

14 A No.

15 Q Who else other than the lawyer who you can't
16 remember who took over for your initial lawyer,
17 your initial lawyer, and the initial guy who
18 came out to your house, do you recall
19 interacting with anybody else at KNR?

20 A Through the case or in general?

21 Q Both.

22 A No.

23 Q Do you recall any of the names of anybody else
24 at KNR who you interacted with?

25 A Nope.

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1 Q Do you recall a woman who worked at KNR who you
2 communicated with a number of different times?

3 A No.

4 Q Not at all?

5 A (Indicating.)

6 Q Okay.

7 A Maybe the secretary that answered the phone.
8 Is that what you're talking about?

9 Q I'm asking you: Do you know of any other names
10 that you've contacted that you've had
11 communications with at KNR other than who
12 you've told me about?

13 A (Indicating.)

14 No, sir.

15 Q Okay. What is your email address?

16 Go ahead.

17 A Moose4u2nv@gmail.com.

18 - - - - -

19 (Court reporter clarification.)

20 - - - - -

21 A Moose4u2nv@gmail.com.

22 Q How long have you had that email address?

23 A For a while.

24 Q Have you ever had any other email addresses?

25 A Yeah.

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1 Q In the past -- let's say since 2002.

2 A Yeah.

3 Q Okay. What were those?

4 A I don't know. That's why I had to create a new
5 one.

6 Q Okay. Do you recall if you had an email
7 address during your representation with KNR?

8 A Yeah, I assume so.

9 Q Do you know what email address that one was?
10 Is it the current one or a prior one?

11 A Current one.

12 Q Okay.

13 A Because I still get -- I still get birthday
14 emails.

15 Q Have you provided your email communications
16 with KNR to your attorney?

17 A I don't have any communications via email.

18 Q With KNR?

19 A Right.

20 Q None?

21 A I don't know if I emailed them.

22 Q Okay. So looking at these documents being
23 produced, if you look at page 3, please, number
24 1.

25 And I think number 1 we've already

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1 handled. You didn't bring any tax returns or
2 income information on advice of counsel. Is
3 that fair?

4 A That's fair.

5 Q Okay. Number 2. "All documents relating to
6 communications between Plaintiff and KNR at any
7 time."

8 Did I read that correctly?

9 A Yep.

10 Q What documents did you bring today relating to
11 communications between plaintiff and KNR at any
12 time?

13 A I didn't.

14 Q Is there a reason?

15 A No.

16 Q Didn't you think it was important to comply
17 with the request?

18 A It was a request.

19 Q I'm sorry?

20 A It was a request.

21 Q Oh, you think that if we request something in
22 discovery it's just a simple request and you
23 don't have to follow through and provide
24 documents?

25 MR. PATTAKOS: Objection.

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1 Q Is that what you're saying?

2 A That's not what I'm saying.

3 Q Why didn't you bring anything responsive to
4 this request?

5 MR. PATTAKOS: Because I
6 didn't advise him to, Tom. Let's move on.

7 A Yeah, I do what my lawyer tells me to, man.

8 Q Do you have possession of any documents
9 relating to communications between yourself and
10 KNR?

11 MR. PATTAKOS: Tom, why don't
12 you review the docket for the pending motions.
13 We know you have a pending motion to compel.
14 We have filed a motion for protective order.
15 It's all pending. I don't know why you're
16 asking the witness about this or why you even
17 served a notice of deposition duces tecum,
18 which isn't even a thing under Ohio law. So,
19 you know, let's move on. Please.

20 Q Do you recall, sir, in discovery being asked
21 for any documents relating to communications
22 between yourself and anybody at KNR?

23 A No, I don't recall that.

24 Q Have you ever provided any documents to your
25 attorney regarding any communications between

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1 yourself and KNR?

2 A Say that one more time.

3 Q Sure.

4 Have you ever provided any documents,
5 whether it's an electronic form, hard copy
6 form, any form, between yourself and anyone at
7 KNR?

8 A No.

9 Q Would you give the same answer if I asked you
10 about Mr. Nestico and Mr. Redick,
11 communications with them?

12 A I've never communicated with those guys. I
13 never --

14 Q Had you ever met them before today?

15 A I've -- I've crossed -- I've seen Mr. Nestico
16 walk by me at a Cavs game. That's about it.

17 Q Okay. Prior to today, you had never met
18 Mr. Nestico or Mr. Redick true?

19 A No, sir.

20 Q Neither one of those individuals ever gave you
21 advice on how your case should be handled,
22 true?

23 A No, sir, but it is their law firm.

24 Q Okay. But did either of those two ever give
25 you advice regarding your case?

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1 A Not personally, no.

2 Q And did either of those two ever tell you that
3 you should use Liberty Capital?

4 A Not personally, no.

5 Q Okay. Were there any communications you had
6 with either Mr. Nestico or Mr. Redick prior
7 to -- well, at any time during their
8 representation of you, KNR's representation of
9 you?

10 A No. No communication whatsoever.

11 Q Okay. And number 5 we already talked about,
12 documents you reviewed in preparation for your
13 deposition. And so we'll talk with your
14 counsel regarding that.

15 You've never talked to Naomi Wright,
16 correct?

17 A I've never heard that -- I don't know who that
18 is.

19 Q Okay. You've never talked to Thera Reid,
20 correct?

21 Do you recognize those names?

22 A Yeah, they're part of the -- they're part of
23 the case. I don't know who they are, though.

24 Q Do you know what their part of the case is?

25 A They're part of the class.

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1 Q Okay. Do you know what potential class they
2 are representatives of?

3 A Class C.

4 Q No, you're Class C, right, sir?

5 A Yeah.

6 Q Okay. Do you know whether Naomi Wright, Member
7 Williams, or Thera Reid are purported
8 representatives or representatives of any other
9 classes?

10 A Yeah, I would assume so, but I ...

11 Q You don't pay attention to those?

12 A Yeah. I do what I'm told to, man.

13 Q Okay. Do you view yourself as a potential
14 member of the other classes in this case other
15 than Class C?

16 A No, I don't believe so.

17 Q In what -- in your -- what's your understanding
18 of what Class C is?

19 A I could have told you Tuesday when I reviewed
20 everything. But the fireworks just blew my
21 mind away. Sorry.

22 Q I hope we don't have a trial close to the
23 Fourth of July.

24 A I know.

25 Q Okay. So as you sit here today, can you

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1 describe for us what Class C is, who those
2 potential members are?

3 A I'm not going to lie to you.

4 Q I'm not asking you to lie. You're under oath.
5 I'm asking: What's your understanding of what
6 Class C is?

7 A I can't -- I can't -- I can't explain that to
8 you right now.

9 Q Do you think that a class representative has a
10 duty to understand what the class is?

11 A Yeah.

12 Q Is there some reason you don't?

13 A Because I'm just overwhelmed right now.

14 Q Overwhelmed with what?

15 A Just being here in general.

16 Q Okay. So do you think that a class
17 representative should be able to answer
18 questions in front of a jury and a judge or at
19 a deposition in order to represent the other
20 class members?

21 A If I had known I was able to bring my notes, I
22 would be fine.

23 Q Who told you you couldn't bring your notes?

24 A I didn't -- I didn't know. I didn't even think
25 about it. I just left them right on the

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1 counter.

2 Q Do you know whether you're allowed to bring
3 your notes up to the stand at trial?

4 A I don't know. Are you?

5 Q I'm asking you. Do you know if you are?

6 A I don't know.

7 Q Okay. Well, if you don't have your notes --

8 A I don't -- I don't usually get into these kind
9 of things, you know?

10 Q If you don't have your notes at trial, how are
11 you going to represent the class?

12 A Lots of studying.

13 Q Okay. But you didn't do the studying even
14 though you knew we were going to be asking you
15 questions about this today?

16 A I reviewed everything on Tuesday.

17 Q Did you know you forgot it already when you
18 walked in here?

19 A It was sitting on the counter when I left the
20 house, yeah, but I didn't think I was allowed
21 to bring them. Sorry.

22 Q Okay. But what I'm saying is as you left your
23 house to come here today, did you know you had
24 forgot the information you looked at several
25 days previous?

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1 A I didn't forget it. I left it there because I
2 didn't think I was allowed to have it. I
3 didn't know what the rules were.

4 Q The information that is written down in those
5 documents, did you know you had forgotten that
6 information when you left to come here today?

7 A Not intentionally. I mean, my mind is drawing
8 a blank because I'm not a very good test taker.

9 Q Okay. This isn't a test. We're asking you
10 what your allegations are against the
11 defendants and what your basis for those
12 allegations are, and you can't give us those
13 without your notes?

14 MR. PATTAKOS: Objection.

15 A I know what it is in layman's terms. All of
16 your other questions --

17 Q That's what I want to know.

18 A All your other questions --

19 Q What are layman's terms?

20 What are layman's terms of your
21 allegations against the defendants?

22 A This was discussed a long time ago.

23 Q What is your understanding in layman's terms --

24 A The --

25 Q -- of the allegations --

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1 A The --

2 Q -- against the defendants?

3 A The main reason that we are here is because of
4 his ownership interest in Liberty Capital
5 loans. Period. That's it. That's why we're
6 here.

7 Q Are you saying that if you knew that
8 Mr. Nestico or somebody at KNR had an ownership
9 interest in Liberty Capital you would not have
10 agreed to the loan?

11 A Heck no.

12 Q Okay.

13 A That would be, like, a red flag.

14 Q And you had mentioned some red flags earlier,
15 and I'm not sure you got done telling me all of
16 them.

17 What other red flags did you see when you
18 were represented by KNR?

19 A I don't know, man.

20 Q Well, you're the one who told me.

21 Do you recall any as you sit here?

22 A No, sir.

23 Q Do you recall any red flags as it related to
24 the Liberty Capital loan to you?

25 A I mean, the biggest red flag is the ownership

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1 interest in a loan company.

2 Q But you didn't know that during your
3 representation by KNR, true?

4 A Correct.

5 Q Were there any red flags that you saw, heard,
6 knew about during KNR's --

7 A Just the --

8 Q -- representation --

9 A Just the --

10 Q -- of you?

11 A Just the lack of communication and when Paul or
12 whoever I would talk to would fumble over their
13 words, like they didn't have the answers to my
14 questions.

15 Q Were there any questions --

16 A Bogus responses. I can tell when somebody's
17 lying to me or not.

18 Q Okay. So you're saying that Paul lied to you?

19 A I'm not saying that. I'm saying that I can
20 tell when somebody -- like when somebody -- you
21 know what I mean. When somebody's not sure of
22 what they're even saying, like -- and then they
23 just give you whatever answer. You know what I
24 mean?

25 Q Are you alleging that Paul or anybody from KNR

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1 lied to you during their representation of you?

2 A I mean, in a way by the whole loan thing. But

3 I didn't know that until after the fact.

4 Q Other than -- other than the loan issue, are

5 you alleging that there were any lies told to

6 you by anybody at KNR during their

7 representation of you?

8 A Do I believe I was lied to, yeah, I think they

9 knew more than what they were telling me about,

10 you know, the case and that they were trying to

11 just stretch it out as far as they could, you

12 know.

13 Q What benefit would they have to stretch it out?

14 A I don't know.

15 Q They're not getting paid unless you recover,

16 true?

17 A I have no idea how that works.

18 Q Well, you signed an agreement with them,

19 correct?

20 Didn't you, sir?

21 A Yeah.

22 Q Okay.

23 - - - - -

24 (Defendants' Exhibit 2 was marked.)

25 - - - - -

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1 Q I'm going to hand you a copy of Defendants'
2 Exhibit 2.

3 MR. PATTAKOS: Tom, can we
4 take a break for lunch?

5 Q Do you recognize this?

6 MR. PATTAKOS: Before you --

7 MR. MANNION: One second.

8 MR. PATTAKOS: After you're
9 done with this.

10 MR. MANNION: One second.

11 Q Do you recognize this, sir?

12 A I mean, it's been so long, I'm not going to say
13 that I recognize it, but that's my signature.

14 Q Okay. And your signature is right above where
15 it says "Client"?

16 A Yes, sir.

17 Q This is a contingency fee agreement between
18 yourself and KNR?

19 A Uh-huh.

20 Q And where did you sign this at?

21 A Right there.

22 Q I apologize. Where were you at the time you
23 signed this?

24 A Oh. When the guy came to my house, I believe.

25 Q Okay. And when the guy came to your house, did

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1 you also talk to anybody on the telephone, do
2 you know?

3 A That same day?

4 Q Yes.

5 A Yeah. When he called and said he was coming.

6 Q Okay. After he got there, did you talk to
7 anybody else on the phone with him there?

8 A I don't remember that day, sir.

9 Q Okay. When is the first time you talked to
10 Paul?

11 A I don't remember. Shortly before this.

12 Q Before you signed this?

13 A I think so. I don't remember.

14 Q How is it you heard about KNR?

15 A After the accident, I didn't know what to do.
16 I didn't know -- if I would have known Jack
17 covered -- would have represented me, I would
18 have never called KNR, first of all.

19 Q Okay.

20 A But after I got home and I didn't -- I
21 didn't -- I wasn't, like -- like, visibly there
22 were no wounds on me per se, but the next day
23 when I was sore and stuff like that, I didn't
24 know what to do. I've never been in that
25 situation. It's never happened to me before.

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1 And my buddy made a joke about the "Get hurt in
2 a car, call KNR."

3 I was like, "You think so?"

4 He was like, "Yeah, might as well call
5 them."

6 That was how it happened.

7 Q Who was that?

8 A My roommate. My roommate at the time.

9 Q And who was that?

10 A Dan.

11 Q Dan who?

12 A Dan.

13 MR. PATTAKOS: Go ahead. Tell
14 him his last name, Matt.

15 A I don't remember.

16 Q You don't remember his last name at all?

17 A Nope.

18 Q Okay. Do you remember what his job was?

19 A What do you mean "what his job was"?

20 Q What did he do for a living?

21 A He worked at a shop as a mechanic.

22 Q Okay. Do you recall being told by a nurse at
23 all about KNR?

24 A I don't think so.

25 Q Okay. So it's not because of an advertisement

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1 that you saw --

2 A Right.

3 Q -- that you came to KNR, true?

4 A Correct.

5 Q It's not because of anything they left at your
6 house that you called KNR, true?

7 A Correct.

8 Q After your accident, did you have any calls,
9 either on your cell phone or at your house or
10 people trying to contact you to represent you?

11 A Oh, yeah.

12 Q Do you remember who those were?

13 A No. Because I just don't pay attention to that
14 kind of stuff.

15 Q And you don't remember whether KNR did or
16 didn't do that at the time?

17 A No, they did not.

18 Q Okay. And did any chiropractors or any
19 healthcare practitioners contact you?

20 A No. I don't think so.

21 Q Okay. Who's the first medical care provider
22 you went to?

23 A My doctor.

24 Q Okay. Before you went to Barberton ER, you
25 went to your doctor?

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1 A No. I went to -- you're right. I went to
2 Barberton first.

3 Q Okay.

4 A And then I went to my doctor to follow up.

5 Q Okay. If you take a look at this agreement, do
6 you recall -- well, before you even look at
7 this, let me ask you just your memory.

8 Do you recall what your agreement was
9 with KNR regarding their representation of you?
10 And I'll elaborate a little bit.

11 Do you recall how much their fees were?
12 Do you recall anything about expenses? Do you
13 recall anything about the entire process?

14 A I mean, I remember I think it's like a third,
15 like most attorneys are in that kind of thing.
16 That's about all. That's about all I remember.

17 Q What do you remember about expenses for the
18 lawsuit?

19 A I don't understand what you mean by "expenses."

20 Q Okay. Do you realize it costs some money to
21 pursue a lawsuit?

22 A I would assume so, yeah.

23 Q Were you ever asked for money to give to KNR to
24 pursue the lawsuit?

25 A Was I ever asked --

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1 Q Upfront.

2 A -- for money to give --

3 Q Yes.

4 A -- to K -- no.

5 Q And you never provided KNR money for a lawsuit,
6 did you?

7 A No, sir.

8 Q When you got these loan proceeds, these weren't
9 to pay attorney's fees, were they?

10 A I don't believe so.

11 Q And you didn't use them to pay expenses that
12 KNR was incurring to pursue your lawsuit, were
13 you?

14 A I don't think so.

15 Q Okay. What was your understanding about
16 whether you owed KNR any money if they didn't
17 recover for you?

18 A That was never an issue. I never thought of
19 that.

20 Q Okay. What was your understanding of whether
21 you owed any of the expenses for the case if
22 you didn't recover?

23 A I never -- I never thought about it or worried
24 about it.

25 Q Did KNR ever ask you for any money for

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1 expenses?

2 A I don't think so.

3 Q Okay. Why don't you take a look at Exhibit 2
4 here in paragraph 2.

5 Do you see the first line it mentions the
6 one-third --

7 A Uh-huh.

8 Q -- that you mentioned earlier --

9 A Uh-huh.

10 Q -- sir?

11 A Yes, sir. Yes, sir.

12 Q And have you heard that referred to as a
13 contingency fee?

14 A Yes, sir.

15 Q And, in fact, the agreement's called a
16 contingency fee agreement, correct?

17 A Correct.

18 Q In this same paragraph, it indicates, "In the
19 event of no recovery, client shall owe
20 attorneys nothing for services rendered."

21 Did I read that correctly?

22 A Yes, sir.

23 Q Does that refresh your recollection as to
24 whether you had an agreement with KNR regarding
25 expenses if you didn't recover or fees if you

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1 didn't recover?

2 A Yes.

3 Q So you agree that you owed KNR nothing if they
4 didn't recover, fair?

5 A Correct.

6 Q Paragraph 3. "Client agrees and authorizes
7 Attorneys to deduct, from any proceeds
8 recovered, any expenses which may have been
9 advanced by Attorneys in preparation for
10 settlement and/or trial of Client's case."

11 Did I read that correctly?

12 A Yes.

13 Q And you agreed to that, true?

14 A Yes, sir.

15 Q Do you need to take a break before we finish
16 this line of questioning?

17 A Keep on going.

18 Q Okay. What expenses did you believe might be
19 incurred by KNR?

20 A I don't know. What do you mean by expense --
21 like any expenses for whatever they did or
22 whatever?

23 Q Yeah. It says, "any expenses which may have
24 been advanced in preparation for settlement
25 and/or trial of client's case."

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1 What expenses did you think those might
2 entail?

3 A I mean, I don't -- I never really gave it much
4 thought.

5 Q You didn't ask?

6 A No.

7 Q Do you recall if they told you?

8 A I think that when you hire an attorney, you're
9 supposed to trust them to -- you know what I
10 mean? That's why you hire an attorney, because
11 the average person doesn't go to school to be
12 an attorney. So that's why they hire an
13 attorney, to do their job.

14 Q I'm asking you, sir, though: Did you have an
15 understanding of what expenses might be
16 incurred during the lawsuit or during their
17 representation?

18 A And my answer is I don't have to have an
19 understanding because I should be able to trust
20 my attorneys when I hire them.

21 Q But that's not my question. My question --

22 MR. PATTAKOS: He's right.

23 Q -- isn't whether you have to or don't. It's:
24 What was your understanding of what potential
25 expenses might be incurred on your behalf?

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1 MR. PATTAKOS: That's a
2 different question, Matt. Go ahead and answer.

3 Q It's the same question, but go ahead.

4 MR. PATTAKOS: Or I mean it's
5 different than the one he was answering.

6 MR. MANNION: Okay.

7 MR. PATTAKOS: I didn't mean
8 to ...

9 Q Go ahead.

10 A I don't -- I don't -- say it one more time.

11 Q Sure.

12 What expenses do you think KNR was
13 referring to in the agreement that you signed
14 here in paragraph 3?

15 A Well, I know what you're getting at, but that's
16 not the case. It's not about the loan.

17 Q I'm -- it doesn't matter. I'm asking you:
18 What expenses, sir, do you think were being
19 referred to in paragraph 3 here?

20 A I don't know. Probably the time that they took
21 to prepare the case and stuff like that I would
22 assume.

23 Q Okay. That would be called a fee, which is in
24 paragraph 2, but what expenses do you think --

25 A I don't know. I don't know, sir.

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1 Q Okay. Do you recall any conversations with
2 Paul or anybody at KNR about the terms and
3 conditions of this agreement?

4 A Just when they went over it with me when I
5 signed it.

6 Q Okay. So they did talk to you about these --

7 A Yeah, they didn't just hand me a paper and say,
8 "Here, sign this." You know.

9 Q They told you, "Do you have any questions?"
10 true?

11 A Correct.

12 Q They read each paragraph to you, didn't they?

13 A I mean, I read it myself.

14 Q And then they asked you about --

15 A And then they said, "Do you have any
16 questions?"

17 Q And you don't recall whether you had questions
18 or didn't have questions, fair?

19 A No, sir. Yeah, fair.

20 Q In that paragraph 3, it says, "In the event of
21 no recovery, Client shall owe attorneys nothing
22 for such advanced expenses."

23 Do you see that?

24 A Yes.

25 Q So does that refresh your recollection that if

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1 there was no recovery on your behalf, you
2 didn't have to pay back the litigation expenses
3 either?

4 A I would assume that's exactly what that means.

5 Q Now that there has been a settlement, do you
6 know whether you paid KNR back for their
7 expenses in the case? Not their fees, but
8 their expenses.

9 A I can't recall what all was in there.

10 Q If all of those expenses were not paid, do you
11 have any idea why?

12 A No, I don't.

13 Q Okay. Let's take a break.

14 THE VIDEOGRAPHER: Off the record.
15 The time is now 1:18.

16 - - - - -
17 (Recess taken.)

18 - - - - -
19 THE VIDEOGRAPHER: We're back on
20 the record. The time is now 2:29 p.m.

21 BY MR. MANNION:

22 Q Mr. Johnson, over the lunch break or earlier
23 today, has anything come to mind where you
24 would like to change or revise any of the
25 answers you've given earlier?

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1 A No, sir.

2 Q Did you read any documents or do anything to
3 refresh your memory over the break?

4 A No, sir.

5 Q Okay. Talk to anybody other than your lawyer
6 during the break?

7 A I ordered my food.

8 Q Okay. Do you recall a gentleman by the name of
9 Tim Hill?

10 A Yeah.

11 Q Who's that?

12 A Dan's dad.

13 Q Okay. Is he the one who recommended KNR?

14 A Yeah.

15 Q Okay. Where does he work?

16 A I have no idea.

17 Q Is he a nurse at Akron City?

18 A I don't know if he still is.

19 Q Oh, he was at one time?

20 A Yeah.

21 Q Okay. So if anyone from KNR recalls you
22 telling them that the referral was from Tim
23 Hill, a nurse at Akron City, would that be
24 correct?

25 A That would be correct, yeah.

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1 Q Okay. Do you know how many other KNR clients
2 came to retain KNR?

3 A Do I know?

4 Q Yeah.

5 A I told you several times I don't know other
6 people's business.

7 Q Okay. What is your understanding of the
8 defense of Mr. Nestico, Mr. Redick, and KNR to
9 your claims against them? Do you have an
10 understanding?

11 A Can you elaborate?

12 Q What are they claiming in defense to your
13 claims, do you know?

14 A I would assume no wrongdoing, like anybody
15 would, right?

16 Q Do you know any specific way in which they're
17 trying to defend this or facts that they've
18 alleged --

19 A I haven't --

20 Q -- to defend the claim?

21 A I haven't called anybody and asked them their
22 strategies, no.

23 Q No, I didn't ask you if you asked them their
24 strategies.

25 Do you happen to know what defenses have

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1 been set forth by any of the defendants?

2 A No, sir.

3 Q Do you think that's important in representing
4 the class, that you know not only your claims
5 but what the defenses are?

6 A When the time comes.

7 Q And you didn't think that you should know that
8 yet?

9 A No, sir.

10 Q Okay. When do you think the proper time would
11 be?

12 A If I have to go to trial.

13 Q Okay. And how will you learn information about
14 what the defenses are?

15 A I would probably get with my attorney.

16 Q Right now you have no idea what the defenses
17 are?

18 A I don't have no idea. I have an idea.

19 Q What's your idea?

20 A I don't know what you want me to tell you.

21 Q I'm asking you: What's your understanding of
22 what the defendants are saying in response to
23 your claims?

24 A Like what is their rebuttal --

25 Q Yes.

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1 A -- so to speak?

2 Q Exactly.

3 A I don't know, man. I'm not -- like, it's 2:30
4 in the afternoon.

5 Q What's that have to do with their rebuttal?

6 A It's just like let's just keep it going.

7 Q I'm asking you what's your understanding of, in
8 your words, their rebuttal?

9 MR. PATTAKOS: He said I don't
10 know, Tom. Let's move on.

11 A Yeah, I'm just ...

12 Q Go ahead.

13 A I don't know.

14 Q Okay. Do you have any --

15 A I don't know what their --

16 Q -- understanding of what the defenses are
17 against --

18 A I don't know.

19 Q -- your claims?

20 A I don't know law. That's why I retained an
21 attorney.

22 Q Do you have any idea of any -- of what the
23 factual defenses are to the claims against you?
24 Excuse me, the claims that you're raising.

25 A All's I know, whether I remember everything

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1 I've read or not is what I've read in
2 documentations.

3 Q What are the claims against you in this case,
4 do you know?

5 A There's like three or four.

6 Q Do you recall what they are?

7 A In my terms, so I understand it, pretty much
8 saying that I'm pretty much coming after them
9 to hurt their business and stuff like that.
10 That's how I take it. But I'm not worried
11 about that.

12 Q Do you take it that one of the claims is you
13 have no evidence to support the claims against
14 them?

15 A I think that's one of them, yes.

16 Q And you haven't been able to provide for me
17 today the evidence that you do have against
18 them, true?

19 MR. PATTAKOS: Objection.

20 A Correct.

21 Q Okay. Let's go now to the actual complaint.

22 Did you read the complaint that first had
23 your name in it?

24 A The one against me?

25 Q No. The one that you filed.

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1 A Yes, I read it.

2 Q Okay. And did you read it before it was filed
3 with the court?

4 A Yes.

5 Q When did you read it?

6 A I don't know a date, a time. I don't document
7 my whole life, what I do.

8 Q Do you have any idea when you read it at all?

9 A When I met with my attorney and we went over it
10 together and he said: Okay, I'm going to --
11 I'm going to go file this.

12 Okay. Do whatever you got to do.

13 Q Do you recall whether there was ever an
14 additional complaint that was filed?

15 A I don't remember. I'm sorry.

16 Q Did you review the factual allegations in the
17 complaint to see if they were accurate?

18 A Review as in, like, research or?

19 Q Well, you're going to file something with the
20 court with allegations against a law firm --

21 A I understood everything that was brought to my
22 attention. And I also, like I said previously,
23 I met with Pete -- Peter more than once before
24 I even agreed to be part of the class action
25 suit.

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1 Q Okay. And my question is: What, if anything,
2 did you do to ensure that the facts you were
3 alleging in the complaint or the amended
4 complaints were true?

5 A I trust my attorney. I don't need to do
6 anything.

7 Q Did you have any independent information with
8 respect to the claims against the defendants as
9 it related to the relationship between KNR and
10 Liberty?

11 A Did I have any independent -- like, what do
12 you --

13 Q Something you didn't learn from your attorney,
14 something --

15 A Oh. No. No.

16 Q Okay. I'm going to show you -- I actually
17 marked it at yesterday's deposition, so I don't
18 have extra copies here, but I'm going to show
19 you a copy of the third amended complaint in
20 this case --

21 MR. PATTAKOS: I would like a
22 copy, please.

23 Q -- which we'll mark as --

24 MR. MANNION: You have a
25 copy.

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1 MR. PATTAKOS: I don't have a
2 copy.

3 - - - - -

4 (Defendants' Exhibit 15 was marked.)

5 - - - - -

6 Q Which we'll mark as Exhibit 15.

7 MR. PATTAKOS: Tom, I don't
8 have a copy.

9 MR. MANNION: You can look at
10 it first before I give it to him.

11 MR. PATTAKOS: Well, I want to
12 be able to look at it while my client is
13 looking at it. If someone can please --

14 MR. MANNION: You don't have
15 that on your computer?

16 MR. PATTAKOS: I don't.

17 MR. MANNION: Seriously?

18 MR. PATTAKOS: I don't.

19 MR. MANNION: That's not true
20 and you know it's not true.

21 MR. PATTAKOS: Well, hold on a
22 second, Tom.

23 I do have one on my desktop.

24 MR. MANNION: Okay. Thank
25 you.

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1 MR. PATTAKOS: Thanks for
2 reminding me.

3 Q Do you recognize Defendants' Exhibit 15?

4 A I do.

5 Q What is it?

6 A It's a court document.

7 Q When is the first time you saw this, do you
8 recall?

9 A I don't remember the exact date. I don't
10 remember the exact date.

11 Q Do you recall how long it took you to review
12 it?

13 A There's 57 pages here.

14 Q Do you recall how long it took you to review
15 it?

16 A I didn't get out a stopwatch, sir.

17 Q Did you review it on your own at home or did
18 you only review it with your counsel?

19 A I reviewed it with my counsel and then I also
20 reviewed it on my own.

21 Q Did you review it to prepare for today?

22 A Yeah.

23 Q Is that what you also took notes on?

24 A Yeah.

25 Q Did you provide other than -- excuse me. Other

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1 than your name and -- well, let me ask you
2 this: What information did you provide to
3 Mr. Pattakos that is referenced in the
4 complaint, do you know? Information you
5 provided that he didn't already have.

6 A I think he already had everything he needed.

7 Q Do you happen to know where he got it?

8 A No.

9 Q Okay. By the way, what is your responsibility
10 as a class representative as it relates to
11 settlement? Do you know?

12 A I have that answer in my notes. Does that
13 help?

14 Q You do?

15 A Yeah.

16 Q Okay. That will. We'll take a look at those
17 notes and maybe come back then.

18 Why don't you turn to page 5. Well,
19 before you do, let me ask you another question.

20 Now, earlier you said you don't really
21 remember what Paul said to you, if at all,
22 regarding Liberty Capital other than pay it off
23 as quick as you can because of the interest.

24 Is that fair?

25 A Yes, sir.

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1 Q Do you remember Paul actually recommending that
2 you take a loan, giving you advice to take a
3 loan?

4 A He said if I -- if I felt -- if I felt it
5 necessary or whatever. I don't remember what
6 my response was, probably like what the heck.
7 You know, whatever.

8 Q He didn't push you to take a loan, did he?

9 A It wasn't forced on me, no.

10 Q Are you saying that he recommended that you
11 take a loan or just it's up to you?

12 A It was a recommendation, but it was almost like
13 it was like an option.

14 Q Okay. And when you say it was a
15 recommendation, what did he say?

16 A Just, like, if I needed a little bit of money
17 or whatever to tie me over or whatever.

18 Q That you could take a loan?

19 A Correct.

20 Q Do you recall when Paul first talked to you
21 about that?

22 A We already discussed this.

23 Q And you don't recall or you do?

24 A You know the answer, right?

25 Q I'm asking you.

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1 A You asked me a couple hours ago.

2 Q Sir, when did Paul first talk to you about
3 this?

4 A We already discussed this.

5 MR. PATTAKOS: Just answer the
6 question again, Matt, please.

7 A It's the same answer as it was before.

8 Q What was the answer?

9 A I don't remember.

10 Q Okay. And do you recall how long before you
11 obtained the loan it was that Paul talked to
12 you about obtaining a loan?

13 A Same question you asked a couple hours ago.

14 Q I mean was it days, months, weeks? Do you have
15 any idea?

16 A No, sir.

17 Q Do you recall the name of the first lending
18 company ever mentioned to you from anybody at
19 KNR?

20 A No, sir.

21 Q Do you remember the name Preferred Capital?

22 A I've heard that name before but I don't know if
23 it was there.

24 Q Do you know where you heard that name from?

25 A I just said I don't know where.

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1 THE VIDEOGRAPHER: Counsel, do you
2 have -- your mic fell.

3 MR. MANNION: Oh. Thank you.

4 Q Do you recall talking with Paul in March of
5 2012, the month after you signed up with KNR,
6 about the claims process, how a claim is
7 handled?

8 A No.

9 Q Do you recall talking with Paul in March 2012
10 about the process with Preferred Capital or PCF
11 lending if you needed a loan?

12 A No.

13 Q Do you recall telling Paul in March 2012 that
14 you were not interested in any loans?

15 A No.

16 Q Do you recall telling Paul in March of 2012
17 that you like the chiropractor that you were
18 seeing?

19 A I don't remember.

20 Q Are you disputing any of those occurred, or you
21 just don't remember?

22 A I don't remember. It was six years ago, man.

23 Q Okay. You're not disputing they occurred, you
24 just don't recall one way or another, fair?

25 A Yeah, that's fair.

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1 Q Okay.

2 A I don't -- yeah, I don't.

3 Q Do you recall, though, needing money throughout
4 the initial stages of your representation with
5 KNR, especially after your unemployment ran
6 out?

7 A I already answered that question.

8 Q And is your answer you don't know or you don't
9 remember?

10 A I think I stated before that, just like anybody
11 that wants the process to speed up, make it
12 seem like you need something to see if they
13 care enough to see what they can do for you.

14 Q Are you saying they didn't care?

15 A Huh?

16 Q You're not saying they didn't care, are you?

17 A It didn't seem like it.

18 Q Okay. Why did you stay with them from February
19 2012 until October 2013 if they didn't care?

20 A Like, I'm not, like, familiar with what I
21 should or shouldn't have done until I ran into
22 Jack. And I didn't know he handled that kind
23 of case. And he took over from there.

24 Q Okay. And was there -- okay.

25

- - - - -

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1 (Defendants' Exhibit 4 was marked.)

2 - - - - -

3 Q I'm going to show you what's been marked as
4 Defendants' Exhibit 4. And before I do, did
5 you say your email was moose4u2nv@gmail.com?

6 A Yep.

7 Q I'm going to show you a copy.

8 Do you recognize this?

9 A I mean, no, I don't recognize it, because, like
10 I said, it was six years ago.

11 Q Okay. That is your email address, though,
12 correct, moose4u2nv --

13 A Yep.

14 Q -- @gmail.com, correct?

15 A Yes, sir.

16 Q And according to this, there was an email you
17 sent on Sunday, April 1 at 9:22 p.m. to Jenna
18 Sanzone. Do you see that?

19 A Yeah. I think -- was she the front desk lady
20 or something? I can't remember.

21 Q Had you ever met her in person, do you know?

22 A I don't remember.

23 Q Talked with her on the phone a couple of times?

24 A Yeah, I think so.

25 Q And this is -- you're not denying this is your

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1 email, are you?

2 A No, I'm not denying it. I told you it's my
3 email.

4 Q Okay. No, I mean that you actually typed out
5 this email to her.

6 A Oh. I mean, how can I deny something that --
7 it's obviously documented right here.

8 Q Okay. If you look at the second paragraph
9 starting with "I talked to Paul."

10 Do you see that?

11 A Uh-huh.

12 Q "I talked to Paul and in conversation told him
13 that my unemployment is ending April 7 and no
14 income will be coming in till the numbness is
15 out of my arms and left leg from the pinched
16 nerves."

17 Did I read that correctly?

18 A Yeah, it looks like it.

19 Q By "Paul" you were referring to whom?

20 A Paul Steele.

21 Q Your attorney from KNR?

22 A Yes.

23 Q And so you had told him and now you're telling
24 Jenna that you were going to have no income
25 after April 7, true?

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1 A That's what it says.

2 Q And then it says, "He mentioned an interest
3 free loan that would go against the settlement
4 from my insurance company."

5 Do you recall writing that to Jenna?

6 A I don't recall writing it, but it's -- we're
7 looking at it right here.

8 Q Okay. But you don't remember any conversation
9 with Paul about an interest free loan, do you?

10 A No.

11 Q Okay. And you then indicate you had been
12 losing sleep because you were worrying about
13 bills and you were hoping to get 5,000 to hold
14 you over. Correct?

15 A That's what it says.

16 Q Okay. And you were asking Jenna and KNR to
17 basically look into it for you to see hey, can
18 I get some money to help me pay my bills, true?

19 A Like, hey, is this a real thing?

20 Q Okay. And do you recall what response they
21 gave you back in April 2012?

22 A I don't.

23 Q Okay.

24 - - - - -

25 (Defendants' Exhibit 6 was marked.)

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1

- - - - -

2 Q I'm going to show you what's been marked now as
3 Exhibit 6 for identification.

4 Same question: Do you recognize these
5 emails?

6 Do you recognize these emails?

7 A No.

8 Q Do you agree that these are emails between you
9 and Jenna Sanzone in May 2012?

10 A Yeah. I mean, they are. It's my email
11 address, right?

12 Q Do you recall that at one point you called KNR,
13 you wanted to tell them something, and when
14 either Jenna or the lawyer called you back, you
15 couldn't remember why it was, even though it
16 was the same day? Do you recall that
17 happening?

18 A It could have.

19 Q Okay. If you turn to page 2 on Defendants'
20 Exhibit 6, you mention at the top, if we look
21 at the second sentence starting with I, "I
22 remember what I called for the other day. I
23 got a phone call from my landlord for one about
24 being a lil behind on my rent. I put that
25 check you guys got toward my truck but still 30

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1 days behind."

2 Do you see that?

3 A Uh-huh.

4 Q So you had -- by May 4 there was some check you
5 received from KNR already?

6 A That's what it sounds like, what it looks like.

7 Q And that wasn't a loan, was it, sir?

8 A I don't know what it was. What was it?

9 Q Was it a loan, sir?

10 A I don't know what it was. What was it?

11 Q Do you know whether it was a loan, sir?

12 A No, I don't know whether it was a loan or not.

13 Q Okay. Do you recall how much it was?

14 A I don't recall.

15 Q Whatever that money was, you put it towards
16 your truck but were still 30 days behind,
17 correct?

18 A That's what it says.

19 Q Plus you were behind on your rent as well,
20 true?

21 A That's what it says.

22 Q And while you were interviewing for jobs, you
23 had not been able to land one yet, true?

24 A Correct.

25 Q And as far as the information with respect to

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1 your income, you asked Jenna at the bottom,

2 "Any insight?"

3 Do you see that?

4 A Yes, sir.

5 Q And then that was on Friday, May 4, and if you
6 turn to the next page -- if you flip back over,
7 actually, to page 1, do you see that the
8 response was actually two days later on May 6?

9 A Uh-huh.

10 Q On a Sunday, true?

11 A (Indicating.)

12 Q You need to answer verbally, sir.

13 A Yes, sir.

14 Q Okay. And Jenna first tells you that she
15 apologizes for not getting back the same day
16 but she had surgery that day, true?

17 A Uh-huh.

18 Q I'm sorry?

19 A Yes, sir.

20 Q And in this email to you, what Jenna tells you
21 is "Unfortunately you're going to have to do
22 whatever you can to mitigate the circumstances.
23 What were you doing before the accident?
24 Construction or something? It is unfortunate
25 that your unemployment ran out" -- it goes to

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1 the next page -- "but you're going to have to
2 find a way to survive and pay your bills."

3 If you look at the next page too to see
4 if I was reading that correctly, sir.

5 That's what she was indicating to you --

6 A Yes.

7 Q -- correct?

8 And then at the end of that paragraph,
9 she says, "I wish I had a better answer for you
10 in regard to gaining employment, but
11 unfortunately that part's on you."

12 Did I read that correctly?

13 A Yes, sir.

14 Q And you didn't expect KNR to find you a job,
15 did you?

16 A No, sir.

17 Q Okay. If you then go back to the first page.
18 Please.

19 You responded about an hour and a half
20 later to Jenna on Sunday, May 6, true?

21 A Yes, sir.

22 Q In your words, "I was under the impression that
23 we were waiting for the MRI monies to clear and
24 release that to me. I'm not far behind on
25 anything a little boost would be nice."

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1 Did I read that correctly?

2 A Yes, sir.

3 Q And what did you mean by "MRI monies"?

4 A I don't know, sir.

5 Q Would that be the medical payments in which
6 money was given to you to pay medical bills?

7 A I don't know, sir.

8 Q Did you use any of those medical payments that
9 were given to you to actually pay the medical
10 bills?

11 A I don't know, sir.

12 Q Did you realize your obligation was to pay
13 medical bills?

14 A I don't know, sir.

15 Q What are you going to do to find out?

16 A I don't know, sir.

17 MR. PATTAKOS: I don't think
18 he needs to do anything to find out, Tom.

19 MR. MANNION: I don't think
20 it's for you to answer the question.

21 MR. PATTAKOS: I think it's
22 time for you to move on to something that's
23 relevant.

24 A You have until about 4:00.

25 MR. PATTAKOS: Matt, please.

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1 A And then we're done.

2 MR. PATTAKOS: Matt, please.

3 Q Why is that?

4 MR. PATTAKOS: Matt.

5 A Because I need to take my next pill for the
6 day.

7 Q Okay. And it's not with you?

8 A No, it's not, because I didn't know I was going
9 to be here so long.

10 Q Okay.

11 MR. PATTAKOS: Yeah, Jim did
12 advise us that this -- we asked for an earlier
13 start, and Jim told us that this was not going
14 to take as long as Tuesday's deposition did.

15 MR. MANNION: Well,
16 unfortunately I didn't realize your client
17 wasn't going to answer the questions,
18 Mr. Pattakos.

19 MR. PATTAKOS: Uh-huh.

20 Q On Exhibit 6 in the same email --

21 MR. PATTAKOS: He's answering
22 all --

23 Q -- you indicate --

24 MR. PATTAKOS: -- your
25 questions, Tom.

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1 MR. MANNION: Do not
2 interrupt me again.
3 MR. PATTAKOS: I'm
4 responding --
5 MR. MANNION: Stop it.
6 MR. PATTAKOS: -- to your
7 baseless --
8 MR. MANNION: Please stop.
9 MR. PATTAKOS: -- accusations
10 that you --
11 MR. MANNION: Please stop.
12 MR. PATTAKOS: -- directed
13 toward me --
14 MR. MANNION: Please stop.
15 Your actions are --
16 MR. PATTAKOS: -- against my
17 client.
18 MR. MANNION: -- wholly
19 inappropriate in this deposition.
20 MR. PATTAKOS: Tom.
21 MR. MANNION: In fact, that's
22 one of the things perhaps your client should
23 consider in choice of counsel is the
24 inappropriate objections and what you're doing.
25 THE WITNESS: No. Actually,

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1 he's doing a great job.

2 MR. PATTAKOS: Matt, please.

3 Tom --

4 Q But you don't know the law, do you, sir?

5 MR. PATTAKOS: It's all
6 proportional, Tom.

7 A Jack Morrison told me what a great job they
8 were doing too.

9 Q Yep. That's great.

10 So Jack Morrison doesn't represent you in
11 this case, does he?

12 Does he?

13 A No.

14 Q Okay. But you've been talking to him about
15 this case, haven't you?

16 A I didn't say that.

17 Q Well, how does he know they're doing a great
18 job?

19 A I don't know.

20 Q He just randomly told you that?

21 A I don't know.

22 Q Did you ask him what he meant?

23 MR. PATTAKOS: Answer the
24 question, Matt. Go ahead.

25 THE WITNESS: Huh?

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1 MR. PATTAKOS: Go ahead and
2 answer his questions.

3 A I didn't -- I didn't ask him what he meant. I
4 don't need to ask him what he meant. I trust
5 everything that man says to me.

6 Q Okay. Well, how did this conversation come up?

7 A Huh? Jack's the one that originally brought
8 Pete into the picture.

9 Q Do you know if Jack reviewed any of the
10 pleadings in this case?

11 A I don't know what he did.

12 Q Okay. When did he tell you that Mr. Pattakos
13 is doing a great job?

14 A When I ran into him a month or so ago.

15 Q Okay. And tell me about that conversation.

16 A It has nothing to do with this.

17 MR. PATTAKOS: Go ahead, Matt.
18 Tell him. He wants to know.

19 Q Go ahead.

20 A He just said that they were doing a great job
21 on your case.

22 Q Okay. You didn't ask him what he meant?

23 A No.

24 Q Okay. Did you initially --

25 A I'm a very, like --

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1 Q Did you initiate that conversation with him
2 about this lawsuit?

3 A No, sir.

4 Q He just randomly said, "Oh, by the way, they're
5 doing a great job on your case"?

6 A Exactly.

7 Q Nothing else?

8 A How'd you know?

9 Q Nothing else?

10 A No, sir.

11 Q Okay. Where did you see him at?

12 A Huh?

13 Q Where did you see him at?

14 A A restaurant.

15 Q Okay. Which restaurant?

16 A I don't remember.

17 Q Akron?

18 A Possibly.

19 Q Okay. Now, if you look at this email here from
20 May 6, the one you sent back to her, on the
21 second line near the end, "I'm in a financial
22 situation that I've never been in before and
23 it's making me worry probably more than I
24 should."

25 Did I read that correctly?

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1 A You're a good reader.

2 Q Sir, did I read that correctly?

3 A You're a good reader.

4 Q Is that a "yes"?

5 A That's a yes.

6 Q Can you tell me what you mean by you were never
7 in a financial situation like that before?

8 A I don't know.

9 Q In other words, it was the worst financial
10 situation you had ever been in?

11 A I don't know.

12 Q You don't know what you meant?

13 A No, sir.

14 Q Okay. And Jenna responded to you as well at
15 the top of that page. You can see that,
16 correct, sir?

17 A Yep.

18 Q And, in fact, one of the things Jenna said was,
19 "You're not a bother at all." True?

20 A Yes, sir.

21 Q She also said, "We are still waiting on the
22 remaining medical payments money to come to
23 give to you, so that should help."

24 Did you ask her what she meant by
25 "medical payments"?

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1 A No, sir.

2 Q You had talked to Paul about medical payments,
3 hadn't you?

4 A I don't know.

5 Q You had talked to Jenna about medical payments,
6 didn't you?

7 A I don't remember.

8 Q If they say that you did, you're not going to
9 dispute that, are you?

10 A No, sir.

11 Q Okay.

12 - - - - -

13 (Defendants' Exhibit 7 was marked.)

14 - - - - -

15 Q Now if you would look at Exhibit 7, please.
16 And at the bottom you'll see this is another
17 email from you to Jenna, and this one's on May
18 9, 2012, at 5:39 p.m.

19 Do you see that?

20 A Excuse me. I'm reading this.

21 Q Sure.

22 A What was it? I'm sorry.

23 Q These are your emails, correct?

24 A Yeah. I was just -- my point is exceptional.

25 Q On Wednesday, May 9, 2012, at 5:39 p.m., you

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1 emailed Jenna Sanzone from KNR, correct?

2 A It sure looks like it.

3 Q And the subject said "Chiropractor."

4 Correct?

5 A Indeed it does.

6 Q And you had no complaints about the
7 chiropractor, did you?

8 A No.

9 Q You also indicated in this email that the cams
10 were going out in your truck so it would be a
11 blessing when the check came in.

12 True?

13 A It looks like we're reading the same thing.

14 Q And that would be the medical payments check
15 that she was referencing in the prior emails,
16 correct?

17 A I don't know, because it doesn't specify that.
18 So who's to assume -- who's to assume it's this
19 or that.

20 Q Well, you're the one who wrote the email that
21 didn't specify.

22 What did you mean by "when the check
23 comes in"?

24 A It's hard telling. It was six years ago.

25 Q If this was before the time you got a loan, you

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1 would agree it would have to be something other
2 than a loan?

3 A It could be.

4 Q Well, what else? If you haven't already signed
5 for a loan, how can it be a loan?

6 A I don't know.

7 Q KNR didn't loan you any money, did they, sir?

8 A Did KNR loan me money?

9 Q Yes.

10 A Yeah.

11 Q They did?

12 A Yeah.

13 Q What money did they loan you?

14 A I told you at the beginning that I don't
15 remember the amount. I wish I could.

16 Q You mean Liberty Capital loaned you money?

17 That's who you signed an agreement with, true?

18 A Yeah. Well, I mean ...

19 Q Isn't that true, sir?

20 A Yes, sir.

21 Q Okay. Can you identify a single loan KNR or
22 any of its employees or attorneys loaned you
23 where you had to repay KNR for a loan?

24 A (Indicating.)

25 Q There isn't one, is there?

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1 A I don't know.

2 Q Okay. Can you identify one?

3 A I don't know.

4 Q You don't know if you can identify one?

5 A Nope.

6 Q Well, can you identify one as you sit here?

7 A Nope.

8 Q Okay. And at the top you see Jenna tells you,
9 "I'll let you know as soon as the check comes
10 in."
11 True?
12 Is that true, sir?

13 A Is that what it says? Is that what she's
14 saying?

15 Q Did she tell you that, sir?

16 A It looks like it right here.

17 Q Okay. So you had some significant financial
18 concerns from the time your unemployment ran
19 out moving forward, true?

20 A Horribly.

21 Q Okay. And yet you still were not taking a loan
22 in April or May or June of 2012, nor was
23 anybody at KNR pushing it, true?

24 A It had been brought up in conversation.

25 Q Earlier, true?

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1 A Possibly.

2 Q And nobody pushed it on you, did they?

3 A Nobody held a gun to my head.

4 Q And at the time they brought it up before these
5 emails, Liberty Capital wasn't even mentioned,
6 were they?

7 A Now say that again.

8 Q Sure.

9 In May of 2012, nobody from KNR had ever
10 even mentioned Liberty Capital, had they?

11 A I'm pretty sure it was mentioned within the
12 first couple of days.

13 Q Liberty Capital?

14 A I think so.

15 Q And if the notes suggest it was Preferred
16 Capital, would that refresh your recollection?

17 A It might.

18 Q Okay.

19 A But it might not.

20 Q Well, do you know which loan company, if any,
21 was recommended to you in the first month or
22 two, if any?

23 A Do I know which one it was?

24 Q Yeah.

25 A Off the top of my head, six years ago, not

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1 really.

2 Q Okay. So you're not going to come in and say
3 that Paul or anybody at KNR told you or
4 recommended that you get a loan with Liberty in
5 the first couple of months, February --

6 A I don't remember what --

7 Q -- March, April --

8 A -- company --

9 Q -- May, June 2012, true?

10 A I don't remember what company he was talking
11 about at that point.

12 Q Okay.

13 - - - - -

14 (Defendants' Exhibit 9 was marked.)

15 - - - - -

16 Q If we now look at Exhibit 9, are these another
17 set of emails between you and Jenna?

18 A It looks like it.

19 Q Earlier in this deposition, you told me you
20 don't recall any emails with anybody at KNR.

21 Do you now agree that you emailed with
22 KNR?

23 A It looks like it.

24 Q Do you know how many times you emailed with
25 KNR?

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1 A No, sir, I don't.

2 Q You knew Jenna -- excuse me.

3 You spoke with Jenna on the phone and/or
4 emailed with her a total of dozens of times,
5 fair?

6 A I don't know. I didn't count them all.

7 Q Over 10, sir, you would agree?

8 A I would have to take some time here to count
9 them.

10 Q Okay. Well, if we look at the bottom of
11 Exhibit 9, you sent an email to Jenna July 16,
12 2012, at 12:02 p.m., true? At the bottom.

13 A Yes, sir.

14 Q And can you read the subject line?

15 If you go back to the first page, please,
16 sir. The subject line of that email.

17 A "Anymore help available."

18 Q Any more help available, is that what you said?

19 A Exactly.

20 Q And by "help," what did you mean?

21 A I don't know. Six years ago.

22 Q Let's look at the email on the next page.

23 "This doesn't need to waste phone time,
24 just wondering if there was any financial boost
25 available anymore till the end."

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1 Did I read that correctly?

2 Sir?

3 A Yep.

4 Q And so when you said "any more help available,"
5 you were talking about financial help, true?

6 A I don't know. It's kind of vague.

7 Q The email you sent to her is kind of vague?

8 A It just says help.

9 Q And in the body of it, you asked for any
10 financial boost available, true?

11 A Agree.

12 Q And you indicated in there that you had missed
13 some work and so you thought you would email
14 and ask her, true?

15 A That's what it looks like.

16 Q Okay. Now if you go to the first page of that
17 Exhibit 9, please.

18 Did Jenna respond to you, from looking at
19 this exhibit?

20 A It looks like she replied at 12:12.

21 Q Within 10 minutes?

22 A Yep.

23 Q And what Jenna told you was, "The only option
24 available is for you to take out a loan against
25 your case, but you have to pay interest on

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1 it...so essentially you're paying money to
2 borrow money."

3 Is that what she told you?

4 A It sure looks like it.

5 Q "But if the need is necessary, I can definitely
6 get you the information."

7 Did I read that correctly?

8 A Sure did.

9 Q So you knew whatever loan it was that you were
10 going to take there would be interest to pay,
11 true?

12 A Yes, sir.

13 Q Now, you've told us already that the 50 percent
14 or whatever you recall the interest being was
15 exorbitant. Those are your words, something
16 similar to that?

17 A Yes.

18 Q What do you believe the interest should have
19 been?

20 A I don't know.

21 Q Okay.

22 A I'm not a financial ...

23 Q I mean what you're complaining about is that
24 the interest was too high, fair?

25 A Well, I'm not complaining that the interest is

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1 high, I'm complaining that the owner -- the
2 sole owner of the loan company was an attorney.

3 Q The sole owner of Liberty Capital was an
4 attorney?

5 A Yes, sir.

6 Q You're referring to Mr. Nestico?

7 A Yes, sir.

8 Q What if you find out that he has no ownership
9 interest in Liberty Capital? Will you withdraw
10 your claim?

11 A Isn't that why we're here?

12 Q My question to you was: If you find out he
13 has -- that Mr. Nestico has no financial
14 interest in Liberty Capital, will you withdraw
15 your claim against him?

16 A Well, since that's not the case, we don't have
17 to worry about withdrawing the claim, do we?

18 Q That wasn't the question, though, sir.

19 A That's my answer.

20 Q If you find out that Mr. Nestico has no
21 financial or ownership interest in Liberty
22 Capital and did not at the time you took the
23 loan, do you agree to withdraw the claim
24 against him?

25 A I answered your question.

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1 MR. PATTAKOS: Tom, it's
2 irrelevant. Let's move.

3 Q Do you agree?

4 A I answered your question.

5 MR. PATTAKOS: It has no
6 conceivable relevance.

7 Q As the representative of this potential
8 prospective class, do you agree that you need
9 evidence to support claims?

10 A I answered your question.

11 MR. PATTAKOS: Go ahead and
12 answer the question, Matt.

13 Q Do you believe that you need evidence to
14 support claims as a representative of this
15 purported class?

16 A There is evidence or we wouldn't be here, sir.

17 Q That wasn't my question. My question was: Do
18 you think you need it?

19 MR. PATTAKOS: He answered the
20 question, Tom. Let's move on.

21 A Now I've answered your question twice.

22 Q And, sir, although you haven't been able to
23 identify the evidence, my question to you is:
24 If you find out that Mr. Nestico does not have
25 an ownership interest or financial interest in

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1 Liberty Capital, do you still intend on being a
2 class representative suing him claiming that he
3 does have it?

4 A Say that one more time.

5 Q Sure.

6 If you find out that your factual
7 allegation that Mr. Nestico has a financial
8 interest or ownership interest in Liberty
9 Capital is in fact false, will you agree to
10 withdraw that allegation?

11 A No.

12 Q Why not?

13 A Because that's my answer.

14 Q Even if it's not true, you'll pursue it?

15 A Why not?

16 Q Okay. And do you think that would be good
17 advice for you to give to the other prospective
18 class members?

19 A Absolutely.

20 Q Great. Okay.

21 MR. PATTAKOS: Tom, he's going
22 to rely on the advice of his attorneys and he
23 knows if we don't have evidence for the claims
24 we're not going to pursue them. Okay? If
25 you're worried about that or if you think

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1 that's relevant in any way, you know, you can
2 follow up.

3 We have a duty as professionals to not
4 pursue claims where there's no evidence.

5 Q If you don't see evidence that Mr. Nestico --
6 if you don't find evidence or don't see
7 evidence that Mr. Nestico actually had a
8 financial interest or ownership interest in
9 Liberty Capital --

10 A Just because I can't remember what all the
11 evidence is today doesn't mean that there's not
12 evidence, sir.

13 Q Okay. That wasn't my question, though. Okay?

14 A Well, that's how I'm answering it.

15 MR. PATTAKOS: Well, you keep
16 saying that, Tom.

17 A That's the end of the question. Next question,
18 please.

19 MR. PATTAKOS: You keep
20 misrepresenting his testimony. He's right.
21 You keeping badgering him and you keep
22 misrepresenting his testimony.

23 MR. MANNION: And you keep
24 trying to testify for him. So let's just move
25 forward and have the witness testify.

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1 MR. PATTAKOS: I'm not

2 testifying. Okay.

3 Q As the representative of --

4 A I've answered your question. That's the end of
5 that question.

6 MR. PATTAKOS: Go ahead, Matt.

7 Q As the representative of this purported Class
8 C, if you find there is no evidence to support
9 the claims of that class, will you agree to
10 withdraw as the representative --

11 A It's irrelevant because --

12 Q -- of that class?

13 A -- there is evidence.

14 Q That wasn't the question.

15 A That's how I'm answering your question.

16 Q You refuse to answer it?

17 A I'm not refusing to answer it. That's how I'm
18 answering it.

19 Q Okay. And what if there is no evidence?
20 You'll still proceed like you told me earlier?

21 A There is evidence.

22 Q What is it?

23 A I don't remember all of it. I told you that
24 three times now.

25 Q Okay. Well --

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1 MR. PATTAKOS: Okay. Matt --

2 Q -- but my question is --

3 MR. PATTAKOS: -- just take it
4 easy, buddy.

5 Q -- if you don't remember it and you can't point
6 to any of it here and you find out later that
7 there is no such evidence, would you agree --

8 A I don't have to know all the evidence. I'm not
9 an attorney.

10 MR. PATTAKOS: Tom, this is --

11 Q If you find --

12 MR. PATTAKOS: -- ridiculous.
13 Please move on.

14 Q -- out that there's no evidence to support the
15 claim, will you withdraw it?

16 A No, sir.

17 Q Okay.

18 A Dumb fuck.

19 MR. PATTAKOS: I'll do it for
20 him, I promise.

21 Q Now if you keep looking at Exhibit 9, please,
22 sir. In response to what Jenna told you, you
23 responded to her another 10 minutes later by
24 saying, "I'd be willing to look into it to see
25 how worth it it would be to help me get ahead."

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1 True?

2 A Yes.

3 Q Now does this refresh your recollection as to
4 why you were taking a loan out?

5 A Nope.

6 Q Well, we just read you needed it because you
7 were having problems with bringing money in and
8 you owed -- you needed to get caught up on
9 bills, true?

10 A That's what we read.

11 Q Okay.

12 A It doesn't mean it's going to refresh my
13 recollection.

14 Q Would you agree that's the reason that you
15 wanted a loan?

16 A No, I'm not going to agree to that.

17 Q Why not?

18 A Because that's what I said.

19 Q Okay. Do you agree at least that you told KNR
20 through Jenna that the reason you wanted a loan
21 is because you wanted to get caught up on
22 bills?

23 A I said it.

24 Q Okay. So do you agree you said that to KNR and
25 Jenna?

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1 A I said that to KNR and Jenna.

2 Q Okay. And was it true?

3 A Was it true --

4 Q Yeah.

5 A -- that that's what I needed it for?

6 Q Yeah.

7 A I'm not going to agree to that.

8 Q So were you lying to them?

9 A No.

10 Q Were you giving them a false --

11 A No.

12 Q -- reason?

13 A Attorneys don't lie, clients don't lie. No.

14 Q Well, sir, that's what you said to them as to
15 why you needed it. Do you agree the --

16 A Do you remember --

17 Q -- reason you --

18 A -- what I said --

19 Q -- wanted a loan --

20 A Do you remember what I said earlier?

21 Q Sir, please.

22 The question is: Do you agree the reason
23 you took out this loan after having reviewed
24 Exhibit 9 is to get caught up on bills?

25 A Do I agree that that's the reason or that's

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1 what I stated?

2 Q Do you agree that -- first do you agree that's
3 the reason?

4 A If it will make you happy.

5 Q No. Do you agree that it's the reason under
6 oath?

7 A Sure.

8 Q Is that a sure you're just saying it, or do you
9 mean it?

10 A I mean it with all of my heart.

11 Q Okay. And when you told her you would look
12 into it, Jenna then sent you information, if
13 you look at the top of this, please, Exhibit 9.

14 Sir, please look at Exhibit 9 at the top.

15 A I already looked at it.

16 Q Okay. And what does the top of it say?

17 A "Tell them you're a client of Kisling, Nestico
18 & Redick, attorney Paul Steele."

19 Q Okay. And it gave you a phone number to call
20 Liberty Capital Funding?

21 A It looks like it.

22 Q And you then called them, didn't you?

23 A I don't know.

24 Q Well, you told us earlier you never talked to
25 anybody from Liberty Capital, but the truth is

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1 you actually called them, didn't you?

2 A I don't know.

3 Q And you talked with an employee of Liberty
4 Capital, true?

5 A I don't know.

6 Q You don't remember that?

7 A No.

8 Q Okay. At least you were given the phone number
9 and you wanted a loan from them at that time,
10 at least to look into it, correct?

11 A Yes, sir.

12 Q Okay.

13 - - - - -

14 (Defendants' Exhibit 10 was marked.)

15 - - - - -

16 Q Now if we could look at Exhibit 10.

17 And at the bottom, sir, you may not --
18 you may not have seen this, because I don't
19 know if your attorney showed this to you or
20 not. This was produced in discovery.

21 At the bottom there is an email from Ciro
22 Cerrato. Do you remember that name?

23 A No, sir.

24 Q Okay. And it says, "Hi Jenna,

25 Matthew has contacted us for an advance

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1 on his settlement."

2 Did I read that correctly?

3 A It looks like it.

4 Q Okay. Do you dispute that?

5 A Do I dispute that?

6 Q Do you dispute that you contacted --

7 A I mean, how am I going to dispute that if it's
8 right here?

9 Q I'm asking you.

10 Are you saying that for some reason
11 Mr. Cerrato is not telling the truth about you
12 contacting them for an advance on the
13 settlement?

14 A No, I'm not going to dispute that.

15 Q Okay. And then he asked for certain
16 information, correct?

17 A That's what it looks like.

18 Q And that information was then sent by KNR, the
19 police report and things of that nature, true?

20 A I guess so.

21 Q This is July 2012. July 16, correct?

22 A Yes, sir.

23 Q And up until that time, you had not taken out
24 any loan as an advance on the settlement, true?

25 A Sounds about right.

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1 Q Did you call Paul up after talking with --

2 A I don't know.

3 Q -- Mr. Cerrato?

4 A I don't remember.

5 - - - - -

6 (Defendants' Exhibit 11 was marked.)

7 - - - - -

8 Q I'm showing you now what's been marked as
9 Defendants' Exhibit 11.

10 Do you recognize this?

11 A No.

12 Q Is that your handwriting on the front page
13 where it says "Thanks,
14 Matt"?

15 A Yes, sir.

16 Q Can you read that front page as to what you
17 said?

18 A "If need to fax" --

19 Q Out loud so we can hear it, please.

20 A If need to fax, call me at my number first so I
21 can go retrieve it.

22 Q Why is it that you had to go retrieve it? Was
23 it at your house they were faxing it to or a
24 business, or where was that?

25 A I don't remember.

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1 Q It says, "Fax to (330) 628-3743."

2 Do you know what fax number that was?

3 A No, sir.

4 Q But that is where you told them to fax things,
5 correct?

6 A It sure looks like it, doesn't it?

7 Q And then you also said you would like direct
8 deposit of the money, true?

9 A That's what it looks like.

10 Q If you look at the top on the fax cover sheet,
11 it says, "To Matthew Johnson."

12 And can you tell us who it was from?

13 A It was from however you say that name.

14 Q Ciro Cerrato?

15 A Yes, sir.

16 Q And you understand --

17 A The guy working out of his house.

18 Q Well, but not in Ohio, was it?

19 A I don't know where he was at. It's not my
20 problem.

21 Q How do you know he was working out of his
22 house?

23 A Because.

24 Q How do you know?

25 A Because I just know.

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1 Q You got to tell us how if I ask it.

2 MR. PATTAKOS: Go ahead. Tell
3 him, Matt.

4 A My attorney. My attorney told me that.

5 Q Okay. And does it matter to you whether he
6 worked out of his house or not when he was
7 giving you a loan?

8 A It doesn't seem like a very -- a very
9 professional company.

10 Q So if he would have told you, "Hey, Matt, this
11 is Ciro. I'm working out of my home. I sent
12 the loan papers over," you wouldn't have done
13 this?

14 A I would have been very sketched out by that.

15 Q Okay. Did you ask him where he was working?

16 A No, man. I don't really ask many questions. I
17 have a problem with trusting people too much.

18 Q Okay. At any rate, this was sent from a --
19 when it says, "Fax back to 561," do you know
20 what area code that is?

21 A No. What area code is it?

22 Q And Ciro Cerrato never indicated that he was an
23 employee, agent, anything of KNR, did he?

24 A You know how this goes. I'm not ...

25 Q Sir, did he?

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1 See, here's the issue, sir, you're under
2 oath.

3 A What is the issue?

4 Q You're under oath.

5 A What is the issue?

6 Q You're under oath.

7 A What is the issue?

8 Q And what I'd ask for is some respect for the
9 system, and I'd like you to answer the
10 question.

11 Does it say, "Fax back to 561.423.0931"?

12 A Yes, it does.

13 Q Do you know what area code that is?

14 A No, for the second time, I don't.

15 Q Did it matter to you at the time?

16 A No, it didn't.

17 Q You would have taken this loan out regardless
18 of what state that was, true?

19 A I don't know.

20 Q Okay. Well, do you recognize it as an Ohio
21 area code?

22 A No.

23 Q So you knew it was out of state, true?

24 A I don't even think -- I don't even know if I
25 even -- you can have a fax number of any kind

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1 wherever you're at.

2 Q Okay. Well, you do agree that you must have
3 got this fax cover sheet, because you wrote on
4 it, right?

5 A Yeah.

6 Q Now if you turn to the second page of this, and
7 at the bottom they're called Bates stamp
8 numbers, it would be KNR01651.

9 Are you at that page?

10 A So the second page?

11 Q Yes.

12 And at the top it indicates it was your
13 name, Matthew Johnson, and by this time you
14 lived at Edwin Avenue, true?

15 A Yes, sir.

16 Q And what were the circumstances of you moving
17 out of your parents' home?

18 MR. PATTAKOS: Objection.

19 This is -- same objection as before. Let's
20 move on.

21 Q Sir, do you recall?

22 MR. PATTAKOS: I'm instructing
23 him not to answer that question.

24 Q Sir, do you recall?

25 MR. PATTAKOS: Tom, I'm

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1 instructing him not to answer the question.

2 Ask another question.

3 Q And do you recall, sir, that your father got in
4 your face and said you were a sponge and he
5 wanted you out?

6 MR. PATTAKOS: Oh, my God.

7 Q Do you recall that, sir?

8 MR. PATTAKOS: Good one, Tom.
9 The judge is going to love this.

10 Matt.

11 Q I'm asking.

12 MR. PATTAKOS: Matt.

13 Let's move on. You know what, we're
14 going --

15 Q You were --

16 MR. PATTAKOS: -- to take a
17 break.

18 Q -- having financial --

19 MR. MANNION: No. I'm in the
20 middle of a question.

21 MR. PATTAKOS: No. Tom, we're
22 going to take a break.

23 MR. MANNION: No, we're not.
24 We're in the middle --

25 MR. PATTAKOS: We're going

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1 to --

2 MR. MANNION: No, we're not.

3 MR. PATTAKOS: We're going to

4 take a five-minute break.

5 MR. MANNION: This has to do
6 with his financial difficulties.

7 MR. PATTAKOS: His financial
8 difficulties --

9 A My financial difficulties has --

10 MR. PATTAKOS: -- has nothing
11 to do --

12 A -- nothing to do with this case.

13 MR. PATTAKOS: -- with this
14 case.

15 MR. MANNION: Yeah, they do.
16 That's why he took out the loan.

17 MR. PATTAKOS: His reasons for
18 taking out the loan have nothing to do with
19 this case either.

20 MR. BEST: You're leaving
21 with a question on the table.

22 MR. PATTAKOS: Yeah, we sure
23 are.

24 MR. BEST: Good. Just so
25 the judge knows that.

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1 MR. PATTAKOS: Okay.

2 MR. BEST: And you know
3 that's inappropriate.

4 MR. PATTAKOS: Not under these
5 circumstances it's not. We're very confident
6 in that.

7 MR. REDICK: Under all
8 circumstances.

9 MR. PATTAKOS: Pardon?

10 MR. REDICK: Under all
11 circumstances it's inappropriate.

12 MR. PATTAKOS: You can have
13 your opinion and I'll have mine.

14 THE VIDEOGRAPHER: Off the
15 record. The time is now 3:19.

16 - - - - -
17 (Recess taken.)

18 - - - - -
19 THE VIDEOGRAPHER: We're back on
20 the record. The time is now 3:27.

21 BY MR. MANNION:

22 Q Do you understand, sir, that if this matter
23 gets to trial and Class C is one of the claims
24 at trial that you might be asked to testify on
25 behalf of the class as a representative?

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1 A Yes, sir.

2 Q Do you believe that your demeanor in front of a
3 jury would be important, as it relates to how
4 you represent that class?

5 A What do you mean by "demeanor"?

6 Q How you act in front of a jury. Do you think
7 that's important to representing the class?

8 A I guess so.

9 Q Okay. By the way, what did you call me earlier
10 on the record?

11 A Huh?

12 Q What did you call me earlier on the record?

13 A What do you mean what did I call you? I didn't
14 call you anything.

15 Q Who were you referring to when you used that
16 expletive earlier?

17 A What expletive?

18 Q Are you denying it?

19 A What expletive are you talking about?

20 Q We have you on video and audio, sir.

21 MR. PATTAKOS: Hey, Tom --

22 A I don't even know what I said, man.

23 MR. PATTAKOS: Tom.

24 Q Okay.

25 MR. PATTAKOS: Tom, you know

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1 what, his demeanor at trial's going to be a lot
2 different because there's going to be a judge
3 there that's going to keep you from harassing
4 him, asking him questions about his tax
5 returns, prior convictions, expletives,
6 questions about his son, questions about who
7 lived with him at his house, questions about
8 what his father said to him in a private
9 conversation, all of this completely harassing
10 lines of questioning, abusive conduct. So his
11 demeanor will probably be a lot different at
12 trial.

13 Q Okay. Do you understand, sir --

14 MR. PATTAKOS: Tom.

15 Q -- that this video could be shown at trial?

16 A Okay.

17 MR. PATTAKOS: Only maybe the
18 smallest parts of it, Tom.

19 Q Did you just now use the F-word -- just a
20 little bit earlier here?

21 MR. PATTAKOS: Let's move on.

22 A Did I use the F-word --

23 MR. PATTAKOS: Move on.

24 A -- a little bit earlier?

25 MR. PATTAKOS: We're not doing

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1 this.

2 Q Do you remember doing that?

3 MR. PATTAKOS: We're not doing

4 this. We're not doing this.

5 Don't answer the question.

6 Q Do you remember using the word F-U-C-K or
7 something similar, whether it's F-U-C-K-E-R or
8 something similar, a little bit earlier when
9 answering questions on video?

10 A I don't know.

11 Q That's not something you would want to blurt
12 out in front of a jury, is it, to represent the
13 class?

14 A No.

15 Q I mean, that would look bad, wouldn't it?

16 A Probably.

17 Q Yeah. So if that's something you did and you
18 can't even remember it, does that raise some
19 concern in your mind as to whether --

20 MR. PATTAKOS: No, Tom, it
21 doesn't. Let's move on.

22 MR. MANNION: I wasn't asking
23 you, Peter.

24 MR. PATTAKOS: Tom, this is --

25 MR. MANNION: Stop it.

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1 MR. PATTAKOS: -- abusive.

2 MR. MANNION: Please stop.

3 MR. PATTAKOS: It is abusive.

4 It's impermissible. The judge isn't going to
5 allow it. I wish we could get on the phone
6 right now with him. Tom, move on. File a
7 motion.

8 Q It would look pretty bad, wouldn't it, sir?

9 MR. PATTAKOS: File a motion.

10 Matt, I'm going to instruct you to stop
11 answering any questions along these lines.

12 Add it to the list.

13 Q Turn if you would again to the next page.

14 Do you see on this that the amount you
15 were requesting for a loan was \$250? Do you
16 see that?

17 A Yes, sir.

18 Q And, in fact, you were going to sign this
19 document at the end. If we look all the way to
20 it says page 6 at the top but it's page 5 of
21 the document.

22 Sorry about that. Keep going.

23 I meant page 8 of the document. Page 7
24 of the loan document. Do you see where there's
25 a signature?

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1 A Where's the signature? Right there?

2 Q Yeah. Do you see that signature?

3 A Yeah.

4 Q And do you see the "Seller Initials" are MWJ?

5 Do you see that?

6 A Yeah.

7 Q That's your initials, correct?

8 A Yeah.

9 Q And that's your signature, true?

10 A Yes, sir.

11 Q And you knew that you were signing this --

12 A Oh, look, it's in Florida.

13 Q You were signing this, sir, to request a loan,
14 correct?

15 A I don't -- it wasn't a loan request. That's
16 what they said they would give me.

17 Q You knew that the information in this for you
18 to sign it to the extent you made any
19 representations or acknowledgments in this, you
20 knew you had to be true about those, true?

21 A Yeah.

22 Q Okay. So let's go back to I think it's Bates
23 stamp 3280 at the bottom. It might be the one
24 you're holding right now. Is that 3280 at the
25 bottom?

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1 A Yes, sir.

2 Q And does it tell you the application fee --
3 excuse me, the processing fee of \$20 and the
4 delivery fee of \$50?

5 A Yes, sir.

6 Q And you agreed to make those payments, didn't
7 you?

8 A I signed it.

9 Q And it then goes through to tell you how much
10 you will owe depending on how far out it is
11 before you pay it, true?

12 A Yes, sir.

13 Q Okay. And you initialed that page as well?

14 A Yes, sir.

15 Q You read those and understood those, true?

16 A Yes, sir.

17 Q Did Paul Steele or anybody else at KNR give you
18 any advice as to Bates stamp 3280 that you
19 initialed?

20 A I don't remember.

21 Q Okay. Next page.

22 Bates stamp 3281 at the bottom. Is that
23 true?

24 A Yeah.

25 Q And if we look under the middle, "Obligation to

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1 repay is contingent."

2 A Yes, sir.

3 Q And do you agree that this paragraph is telling
4 you that if your legal claim is lost and no
5 money is awarded that you don't have to repay
6 the loan?

7 A Yes, sir.

8 Q You agree that would be some risk to the loan
9 company, because not every case is won, true?

10 A Right.

11 Q Now looking back at the previous page, what
12 amount do you claim would have been reasonable
13 in interest?

14 A I don't understand the question.

15 Q Okay. Well, you're --

16 A What do I think is fair?

17 Q Yes.

18 A I don't know anything about --

19 Q Some amount less than 49 percent?

20 A Absolutely.

21 Q Okay.

22 A Way less.

23 Q So let's -- would you agree if it was 5
24 percent, that would have been fair?

25 A Whether it's fair or not, it's not really ...

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1 Q That's not my question.

2 Do you think that would have been fair?

3 A That's my answer.

4 MR. PATTAKOS: Go ahead and
5 answer the question.

6 Q Do you think that would have been fair?

7 A 5 percent would have been very fair compared to
8 what's going on here.

9 Q Are you alleging that this percentage rate is
10 in some way related to anybody at KNR, whether
11 it's the firm, Mr. Nestico, Mr. Redick,
12 anybody, their financial interest in Liberty
13 Capital?

14 A Absolutely.

15 Q Okay. What is that based on?

16 A Just knowledge that I've -- knowledge that I've
17 obtained now that I didn't have then.

18 Q So what if you found out that they had a
19 financial interest but this was only a 1
20 percent loan, would you still be upset?

21 A If they had a financial interest and it was a
22 .5 percent loan I would have been a little
23 leery of it.

24 Q Would you have rather had a 10 percent loan
25 from a company they didn't have an interest in

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1 or a 5 percent interest loan from a company
2 they did have an interest in?

3 A Wait. Wait. Wait. Say it one more time.

4 Q Sure.

5 Would you have rather have had a loan at
6 10 percent interest in a company that the
7 defendants had no financial interest in versus
8 a much lower rate but with a company that they
9 did have a financial interest in?

10 A I mean ...

11 Q You would rather pay less, right?

12 A No. I mean it just doesn't seem right when
13 there could be -- when there could be that
14 interest in the loan company as opposed to not
15 having interest. It would make me feel more
16 comfortable.

17 Q Okay. So you would just go with the higher
18 interest rate just because they didn't have a
19 financial interest?

20 A It would make me feel more comfortable, yeah.

21 Q Okay. And what if it was 0 percent interest,
22 would you go with -- but you knew they had a
23 financial interest in the company?

24 A I would still not do it.

25 Q Okay. Why?

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1 A Because it just doesn't seem right.

2 Q What doesn't seem right?

3 A Well, at that point I didn't know they had a
4 financial interest.

5 Q Right, no. But what wouldn't seem right about
6 it?

7 A Just -- well, if it was 0 percent, is it really
8 even a loan?

9 Q Okay. Let's say 1 percent. If it was 1
10 percent but you knew they had a financial
11 interest, would you have rather taken a loan
12 out at 1 percent or taken a much higher
13 interest rate with the company they did not
14 have a financial interest in?

15 A I feel like whatever -- if they have any kind
16 of interest in it at all, whether they're
17 getting a kickback or whatever the case may be,
18 it doesn't matter what the interest rate is. I
19 wouldn't have done it.

20 Q And you say --

21 A If I knew. If I would have known.

22 Q Okay. And you say "whatever the case may be,"
23 because you don't know what the case is, do
24 you, as far as their interest in Liberty?

25 MR. PATTAKOS: Objection.

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1 A I do know because my lawyer has told me this.

2 Q Okay. But you won't tell us what that is?

3 MR. PATTAKOS: Objection.

4 Come on, Tom. Stop badgering him. You've
5 asked the question a hundred times, he's
6 answered it a hundred times.

7 Q So how did -- assuming that Mr. Nestico or any
8 of the defendants had a financial interest in
9 Liberty Capital, how did that cause you damage?

10 A I think it -- I don't know how it per se caused
11 me personal damage other than the fact that as
12 a person you feel like that you're getting
13 screwed in a sense.

14 Q Because of the interest rate?

15 A Not just the interest rate.

16 Q Okay. What else?

17 A The ethical part of it.

18 Q How did that cause you damages, if any?

19 A I don't know how to answer the question, man.

20 Q Well, I'm asking. What damages are you
21 alleging occurred as a result of the
22 defendants' actions?

23 MR. PATTAKOS: That's a
24 different question.

25 Q Sir.

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1 MR. PATTAKOS: Are you

2 changing your question, Tom?

3 Q Sir.

4 A Say it one more time, please.

5 Q Sure.

6 What damages are you claiming you have as
7 a result of the defendants' actions?

8 A It's not really damages per se, it's just based
9 on what's right and wrong.

10 Q Okay.

11 A As far as I'm concerned.

12 Q Well, what financial damages, if any, have
13 there been to you as a result of what you're
14 alleging the defendants did wrong?

15 A The fees and interest that I, you know, paid
16 for the loan.

17 Q Basically you're saying you paid too much fees
18 and interest, true?

19 A Yeah, that's all. Yeah.

20 Q Okay. And if it would have been lower fees and
21 interest, you wouldn't have been damaged, fair?

22 A It's -- it's not -- at that point it wouldn't
23 be a matter about being damaged if they still
24 had some kind of interest in the company,
25 whether they're getting a kickback or whatever.

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1 It's still not ethically moral.

2 Q Okay.

3 A If that's the right way to say it.

4 Q Well, do you know as a class representative
5 whether you can sue a lawyer for damages for an
6 alleged ethical violation as opposed to
7 actually being damaged financially?

8 A Like in a separate suit or?

9 Q In this suit.

10 A I don't know. I would have to review if that's
11 in my notes or not.

12 MR. PATTAKOS: We already won
13 the motion to strike on this, Tom.

14 Q Okay.

15 MR. PATTAKOS: We already won
16 this legal issue.

17 MR. MANNION: Stop it.
18 Please.

19 Q If this would have been a reasonable interest
20 rate and reasonable fees, are you saying your
21 only damage would be from the ethical part of
22 it?

23 A No, I'm not saying that at all.

24 Q Okay. If this was reasonable fees and
25 reasonable interest, what would your damage be?

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1 A It would still be the fees and the interest.

2 Q How?

3 A It's still there.

4 Q Well, you wanted a loan, true?

5 A I got a loan.

6 Q And nobody pushed you into getting the loan,
7 did they?

8 A No.

9 Q And, in fact, you're the one who asked Jenna
10 about the process, true?

11 A Yes, sir.

12 Q And you reviewed all of the documents and
13 signed them, correct?

14 A Yes, sir.

15 Q And if you found out right now that they had no
16 financial interest in Liberty Capital, what
17 damages would you have?

18 A If I found out that they had no -- nothing to
19 do with --

20 Q Yeah. No financial or ownership interest with
21 Liberty Capital. What's your damages then?

22 A Probably very minimal.

23 Q Okay. Well, what would they be?

24 A Very minimal.

25 Q What?

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1 MR. PATTAKOS: He answered the
2 question, Tom.

3 Q I don't understand, though. Minimal for what?

4 A The damages would be a lot less than what they
5 were.

6 Q Okay. What would those damages consist of?

7 A Money that I wouldn't have had to pay
8 otherwise.

9 Q Okay. Well, you took out a loan and knew you
10 were going to pay interest, right?

11 A Correct.

12 Q And if they had no financial interest or
13 ownership interest in Liberty Capital and if
14 the rate and the fees were reasonable, would
15 you agree you would have no damages that were
16 caused by the defendants?

17 A I wouldn't agree that I had no damages. I
18 would have less.

19 Q Okay. Well, what under that scenario would
20 have been caused by the defendants?

21 A What, if I had -- if we're saying that they
22 didn't -- if it was a --

23 Q Right.

24 A They didn't have any interest in it?

25 Q Yeah.

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1 A I don't know. I don't know how to answer that
2 question.

3 Q Well, you're saying that you would still have
4 damages even if they had no financial
5 interest --

6 A It would just be very minimal.

7 Q But my question is: What would they be? Not
8 the exact amount, but what would they consist
9 of?

10 A I don't know. That wasn't the case.

11 Q Okay. Do you agree that -- I'll strike that
12 one.

13 If the amount of interest in fees was
14 reasonable and you found out that none of the
15 defendants had a financial or ownership
16 interest in Liberty Capital, then can you
17 explain to me how the defendants would have
18 caused you any damages?

19 A You just asked the same question like three
20 times.

21 Q Before I ask what they would consist of, I'm
22 asking as far as the cause. Would you agree
23 that if the defendants had no financial
24 interest or ownership interest in Liberty
25 Capital then they would not have caused you any

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1 damages as a result of this loan?

2 A If they didn't?

3 Q Yes.

4 A Then they wouldn't have caused me any damages.

5 Q Okay. And if this loan had been, for example,

6 with Preferred Capital and there was no

7 financial or ownership interest of the

8 defendants in Preferred Capital, would you

9 still believe that they caused you some damages

10 somehow or?

11 A Well, this says Liberty Capital Funding, so I

12 don't know why we're talking about Preferred

13 Capital.

14 Q I'm asking if this was -- rather than saying

15 Liberty Capital. If that had a loan company's

16 name and it was a company that they had no

17 financial or ownership interest in, would you

18 still be suing them?

19 A It's irrelevant because that's not the case.

20 MR. PATTAKOS: Answer the

21 question, Matt.

22 THE WITNESS: I don't know

23 how to answer it because it's not part of it.

24 MR. PATTAKOS: Pretend like it

25 is the case.

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1 THE WITNESS: I can't
2 pretend.

3 MR. PATTAKOS: Try.

4 Q If that said Preferred Capital instead and you
5 knew Preferred Capital was not owned by the
6 defendants and the defendants had no financial
7 interest in Preferred Capital, would you still
8 be suing the defendants?

9 A I would assume not because they wouldn't have
10 any interest in that.

11 Q If you turn to the next -- let's see. Turn to
12 Bates stamp 3282. Do you see that?

13 Sir, are you at that page?

14 A 3282?

15 Q Yes.

16 A Yeah.

17 Q And you see in the top paragraph it
18 specifically indicates that you potentially may
19 be responsible for \$1,191.69?

20 A Yes.

21 Q And you knew that because you initialed that
22 page and signed the document, correct?

23 A Yes, sir.

24 Q And that's the same amount that they also told
25 you you might owe at Bates stamp 3280 of the

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1 document, true?

2 A Yes, sir.

3 Q If you look down again at 3282 at paragraph 17,
4 tell me if I read this correctly. "I" and by
5 "I" that would be you, correct, Mr. Johnson?

6 A Okay. Yeah.

7 Q "I acknowledge that my attorney has not offered
8 any tax or financial advice."

9 Was that statement true?

10 A Not totally.

11 Q Okay. Did they give you tax advice?

12 A No.

13 Q Did they give you financial advice?

14 A I mean, if you want to consider talking about
15 the Liberty Capital advice.

16 Q And what advice was that?

17 A I don't remember at the time. I don't remember
18 now. I mean I remember having -- I mean I
19 don't remember what we discussed on the phone
20 and stuff.

21 Q Wait. Are you saying they did give you advice
22 on Liberty Capital?

23 A I wouldn't -- I don't know if I would call it
24 advice.

25 Q What would you call it?

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1 A Is talking about it advice? I don't know if
2 that's advice.

3 Q Do you know what advice is?

4 A I mean, I know what advice is, but I don't
5 think it's considered advice if you're just
6 talking about something.

7 Q Okay. Do you --

8 A So this would be -- you know, this is whatever.

9 Q So it was true?

10 A Yeah, I guess.

11 Q And the next sentence, "My attorney has made no
12 recommendations regarding this transaction
13 other than the appropriate statutory
14 disclosures."

15 Did I read that correctly?

16 A Yes, you did.

17 Q Was that true?

18 A I don't remember, man. I'm sorry.

19 Q Do you think that you had a duty or an
20 obligation somehow to only sign this if your
21 statements were true?

22 A Wait. If my statements were true or --

23 Q Yes.

24 A -- if their statements were true?

25 Q Well, you're signing it. It says "I

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1 acknowledge."

2 A Yeah.

3 Q You weren't going to sign it if you didn't
4 agree with it, right?

5 A I think I -- maybe I'm wrong, but when I sign
6 stuff like this, I am acknowledging that I read
7 it.

8 Q Well, this actually says --

9 A I don't know if somebody's telling me the truth
10 or not.

11 Q This isn't what they're telling you. This is
12 you saying, "My attorney has made no
13 recommendations." Did I read that?

14 A Yeah, you read that.

15 Q Okay. So this is you making representations
16 that you then initialed and signed, correct?

17 A Yes, sir.

18 Q Were those representations true?

19 Yes or no.

20 A I don't really think so now that I think about
21 it.

22 Q Okay. Then tell me what recommendations they
23 gave you.

24 A I don't remember. It was six years ago.

25 Q So you're going to sue them over

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1 recommendations that you can't recall?

2 MR. PATTAKOS: Objection.

3 A No. Come on, man.

4 Q No, I'm asking.

5 Did they give you recommendations?

6 Yes or no.

7 A I don't know what you consider recommendations.

8 Q Well, when you signed this and said they gave
9 you no recommendations, what did you mean?

10 Sir, excuse me. What did you mean here
11 when you agreed that they gave you no
12 recommendations?

13 A I don't know. It was six years ago. I'm
14 sorry.

15 Q Okay. You do agree, though, that the gentleman
16 who sent this to you from Liberty Capital had
17 advised you to consult a lawyer of your own
18 choosing before signing this, true?

19 A I don't -- sure.

20 Q Well, look at the next paragraph, 18. "Company
21 has advised me to consult a lawyer of my own
22 choosing before signing this Agreement. I have
23 either received such legal advice or knowingly
24 choose not to."

25 Did I read that correctly?

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1 A Yeah.

2 Q And was that true, that they had advised you of
3 that?

4 A I don't remember.

5 Q And you chose not to have -- not to receive
6 legal advice before signing this?

7 A I don't remember.

8 Q Okay. If we go to --

9 MR. PATTAKOS: You want him to
10 hire a lawyer to review boilerplate language,
11 Tom?

12 Q If we go to the next page, please, sir, Bates
13 stamp 3283.

14 A I feel like we're reviewing homework or
15 something.

16 Q Well, sir, do you understand this is the
17 agreement that you're suing on?

18 A Uh-huh.

19 Q When's the last time you saw this?

20 A When's the last time I saw this?

21 Q Yes.

22 A The last time I met with my attorney, we went
23 over everything.

24 Q If you see in paragraph 24, Liberty Capital
25 agreed that it has no right and would not make

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1 any decisions with respect to the underlying
2 civil action. True?

3 A Yes, sir.

4 Q Also if we go to -- a couple pages in, Bates
5 stamp 3285, if you'd turn there, please, sir.

6 They gave you a five-day right to
7 cancellation, five business days, correct?

8 A Yes, sir.

9 Q Did you consult with anybody over those five
10 business days to determine --

11 A I don't remember.

12 Q -- whether or not you should cancel?

13 You don't recall?

14 A No, sir.

15 Q And you certainly did not cancel the agreement,
16 did you?

17 A No, sir.

18 Q If you turn to the next page, Bates stamp 1657.
19 Right above your signature it indicates, "Do
20 not sign this contract before you have read it
21 completely, or if it contains any blank
22 spaces."

23 Did I read that correctly?

24 A Yes, sir.

25 Q And you read that before you signed it, true?

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1 A Yes, sir.

2 Q Just like you read the contract before you
3 signed it, correct?

4 A Right.

5 Q Did you have any questions about the contract?

6 A I don't remember.

7 Q "Before you sign this contract you should
8 obtain the advice of an attorney."

9 Did you do that?

10 A I don't remember.

11 Q Okay. Then you see, sir, on the very last
12 page, Bates stamp 3287.

13 Do you see that page?

14 Did you read this over at all? You
15 didn't have to sign this page, but you did
16 initial it. So is this something that you
17 would have reviewed and initialed?

18 A Yeah, if my initials are there.

19 Q Okay. Do you recall what this was for?

20 A This is, like, for him to be my lawyer, I
21 think.

22 Q I think you might need to read it a little bit
23 closer or you can show me on there where --
24 he's your lawyer in the underlying legal claim.
25 You're not referring to lawyer as it relates to

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1 this, correct?

2 A Right. Right.

3 Q Okay.

4 A Yeah.

5 Q So you did agree to these terms, correct?

6 A Yes, sir.

7 Q Did you do anything to find out whether you
8 could get \$250 from another source without
9 these type of --

10 A No.

11 Q Okay. Now if you look at a copy of the
12 complaint still that should be in front of you.

13 A Which one? This one?

14 Q Yeah. It was the --

15 A 11?

16 Q No. No. The complaint. I think it's 15.

17 So now if you turn to page 5, please.

18 Paragraph 13.

19 The second sentence of paragraph 13,
20 "Defendants recommended to Johnson that he take
21 out a \$250 loan with Liberty Capital,
22 guaranteed by the prospective proceeds of his
23 lawsuit, at annual rate of 49 percent,
24 compounded semi-annually, with \$70 in
25 processing fees that also accrued interest at

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1 the same rate."

2 Did I read that correctly?

3 A Yes, sir.

4 Q Okay. Sir, you told me earlier you couldn't
5 recall any recommendations that the defendants
6 gave you. Does this refresh your recollection
7 at all?

8 A I mean, it doesn't refresh my recollection.
9 I'm pretty sure that I -- it didn't -- not that
10 it didn't or didn't refresh my recollection, I
11 just -- I don't know what would be considered a
12 recommendation. I just feel like if somebody
13 brings a possibility of a loan to my attention
14 that I feel like that's a recommendation.

15 Q Okay. Is that all you're talking about is the
16 possibility of a loan is what you consider to
17 be a recommendation?

18 A Yeah, I think. Yeah, I feel that's what it
19 was.

20 Q You're not saying that they recommended you
21 enter into the loan, you're just saying that
22 they told you the possibility?

23 A No, they -- it was a -- it was a
24 recommendation.

25 Q It was a recommendation that you take a loan?

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1 A Like if -- like if -- like if you need some,
2 like, money for now or whatever.

3 Q Okay. Who made this recommendation?

4 A Again, I'm sorry, I don't remember. It was six
5 years ago.

6 Q When you say defendants plural, which
7 defendants are you referring to?

8 A Well, when it says defendants plural, they're
9 talking about the defendants that are on the
10 case.

11 Q Well, I mean, you're not referring to, for
12 example, the chiropractor, are you?

13 A No, sir.

14 Q Okay. So are you referring to Mr. Redick?

15 A I would be referring to -- I mean, Mr. Nestico
16 and Mr. Redick. They're the men in charge of
17 their attorneys. So --

18 Q Well --

19 A -- they're responsible for what their
20 attorneys ...

21 Q You certainly agree neither of those two gave
22 you any personal recommendations about this
23 loan?

24 A No, sir.

25 Q You agree or you don't agree?

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1 A I agree that they did not.

2 Q Okay. And did Paul give you any specific
3 recommendation as it relates to this loan?

4 A I remember talking to him about it.

5 Q What do you recall about that conversation?

6 A And then I talked to the other girl about it.

7 Q You knew Jenna wasn't a lawyer, right?

8 A I don't know. I don't know what I knew.

9 Q Or a paralegal?

10 A Yeah. I think she was a -- was she a
11 paralegal? I don't know.

12 Q I'm asking. Do you know, recall?

13 A No, I don't know.

14 Q Okay. Did Paul Steele give you any specific
15 recommendation as to a \$250 loan with Liberty
16 Capital?

17 A If you're asking if -- I look at it as a
18 recommendation.

19 Q Okay.

20 A I don't know how else to put it.

21 Q And what is it that Paul Steele told you that
22 you consider a recommendation?

23 A That I can get this \$250 loan if it will help
24 you out.

25 Q Okay. Paul told you, though, that he wasn't

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1 recommending one way or another whether you

2 take this loan, correct?

3 A If I remember, it wasn't like he was pulling my

4 arm or anything, you know.

5 Q It's this is available to you, it's up to you,

6 fair?

7 A It was almost like put it on the table.

8 Q You initially asked Jenna about it and asked --

9 said yeah, you would like to look into it,

10 right, in those emails?

11 A Yeah.

12 Q And she then sent you the number for Liberty

13 Capital, correct?

14 A Right.

15 Q And you called Liberty Capital before you even

16 talked to Paul about Liberty Capital, true?

17 A Possibly.

18 Q Okay. So Paul didn't recommend Liberty

19 Capital, did he?

20 A Well, I think I talked to Paul way before, like

21 really closely after I was, like, signed up.

22 Q And that was Preferred Capital he talked to you

23 about, not Liberty, true?

24 A I don't remember.

25 Q Okay. So what specific recommendation, if any,

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1 did Paul give you as it relates to Liberty
2 Capital?

3 A I just told you. A \$250 loan.

4 Q He said that it's available?

5 A Right.

6 Q Okay. And he didn't twist your arm and he
7 didn't push you one way or another as to
8 whether you take it or don't take it. Fair?

9 A Yeah, I agree with that.

10 Q Okay. Now the next sentence says, "Defendants
11 did not disclose to Mr. Johnson that they
12 received a kickback payment in connection with
13 his loan."

14 Did I read that correctly?

15 A Yes.

16 Q What kickback payment did they receive?

17 A I don't know exactly what they received.

18 Q Why would you say it?

19 A I didn't say that.

20 Q This is --

21 A This is written up and I went over it with my
22 attorney before I -- we filed it or whatever.

23 Q Well, you didn't want things that were false to
24 be filed, did you?

25 A No.

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1 Q And as the class representative, what were you
2 referring to when you said "kickback payment"?

3 A Like when you have a deal with a company and
4 you get, like, a kickback or a stipend or a
5 stiff -- spiff or, you know, whatever.

6 Q Okay. What evidence did you have that they
7 received such a --

8 MR. PATTAKOS: Tom.

9 Q -- kickback --

10 MR. PATTAKOS: For heaven's
11 sake, he's answered this question a hundred
12 times.

13 Q Sir.

14 A The only evidence that I've seen -- the
15 evidence that I've seen is the emails between
16 other attorneys in the law firm and Mr. Nestico
17 that were -- they were trying to show their
18 displeasure or their not agreeing to what, you
19 know, what they thought was going on or
20 whatever.

21 Q Did any of those emails indicate that any of
22 the defendants were receiving a kickback?

23 A I don't -- I don't remember. It's been I don't
24 know how long since I saw those emails.

25 Q Do you have any evidence that any actual

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1 payment was made to KNR from Liberty Capital as
2 a result of your loan?

3 MR. PATTAKOS: Tom. Asked and
4 answered.

5 MR. MANNION: Stop, please,
6 sir.

7 MR. PATTAKOS: I'm asking you
8 to stop asking the same question over and over
9 and over that he's answered.

10 Q Sir, do you?

11 A What was the question?

12 Q What evidence do you have that any payment,
13 actual payment, was made from Liberty Capital
14 to any of the defendants as a result of your
15 loan?

16 A The only evidence I've seen is emails. There
17 was phone conversations, things of that nature.

18 Q And are you saying that those reference a
19 specific payment made from Liberty Capital to
20 any of the defendants as a result of your loan?

21 A I don't remember.

22 Q Okay. Didn't you want to know whether or not
23 that statement was true before you authorized
24 it to be filed potentially on behalf of a
25 class?

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1 A I know it's true because I trust my attorney,
2 his abilities to do what he has to do in this
3 case.

4 Q But you can't show me any proof of a kickback?
5 How much was it?

6 MR. PATTAKOS: Tom, let's move
7 on.

8 Q How much was the kickback?

9 A I don't know. You tell me.

10 Q What are you claiming?

11 MR. PATTAKOS: Tom, you're not
12 giving us any discovery in this case. So how
13 are we ever supposed to know?

14 MR. MANNION: Stop it.

15 Q How much are you claiming the kickback was?

16 A I don't know. You tell me.

17 Q Well, if you find out there was no kickback,
18 will you withdraw this claim?

19 A No, sir.

20 MR. PATTAKOS: We already told
21 you we would, Tom.

22 Q Why not?

23 A Because.

24 Q You would pursue this claim about a kickback
25 even if there was no kickback?

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1 A Yeah.

2 Q Okay.

3 MR. PATTAKOS: Move to strike.

4 Q If you go to page 33, paragraph 121. I'm
5 sorry, paragraph 122.

6 Can you read 122 out loud, please, for
7 the record?

8 A "The KNR Defendants knew that many KNR clients
9 would be unable to repay their Liberty Capital
10 loans until their lawsuits resolved, a process
11 that often takes years."

12 Q Now, your particular loan was paid before your
13 lawsuit resolved, correct?

14 A I'm pretty sure. I don't know.

15 Q So your situation would be different from those
16 clients you're referencing here?

17 Is that true, sir?

18 A I'm -- I don't remember.

19 Q To find out whether those KNR clients were able
20 to repay their loans before their lawsuits
21 resolved, we would have to go talk to each of
22 those clients, wouldn't we?

23 A I would assume so.

24 Q We'd have to look at each of those loan
25 agreements and repayments separately, wouldn't

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1 we?

2 A I would -- makes -- makes sense.

3 Q And what evidence did you have that KNR
4 defendants knew KNR clients would be unable to
5 repay their loans until their lawsuit resolved?
6 Did you have any?

7 A Yeah.

8 Q What was it?

9 A I don't remember, man. Like I said, I have
10 notes at home.

11 Q Okay. If you look at page 34, paragraph 124.
12 And in the middle of this, it says that the KNR
13 attorney stated "I am not endorsing or
14 recommending this transaction."

15 Did I read that correctly?

16 A Correct.

17 Q Okay. And is that the same as what occurred in
18 your case, they were not endorsing or
19 recommending the transaction, they put that in
20 the loan papers? Do you know?

21 A I don't remember.

22 Q Do you recall?

23 A I don't remember.

24 Q You're not sure?

25 A No, sir.

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1 Q Okay. If you would look back at the loan
2 agreement, Exhibit 11, please.

3 Sir, Exhibit 11. Right underneath that,
4 I believe.

5 Go to the very last page. Five lines up
6 from the bottom in the middle starting with the
7 word "While." Do you see that?

8 "While I am not."

9 A Uh-huh.

10 Q "While I am not endorsing or recommending this
11 transaction."

12 Did I read that part of the sentence
13 correctly?

14 A Yes, sir.

15 Q And it's signed by KNR, true?

16 A Yes, sir.

17 Q So that would be referencing KNR was not
18 endorsing or recommending this transaction,
19 correct?

20 A Yes, sir.

21 Q And you initialed that knowing that, true?

22 A Yes, sir.

23 Q And it then goes on to say, "I have reviewed
24 the contract and all costs and fees have been
25 disclosed to my client."

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1 And those were disclosed to you, correct?

2 A Yes, sir.

3 Q "including the annualized rate of return
4 applied to calculate the amount to be repaid by
5 my client."

6 That was also disclosed to you, true?

7 It's in the document, true?

8 A Yes, sir.

9 Q Okay. So that was disclosed to you as well,
10 correct?

11 A Yes, sir.

12 Q Yet in paragraph 124 you're claiming in a court
13 document that this was a false representation.
14 Do you still maintain that?

15 A Yes, sir.

16 Q What was false about it?

17 A I don't remember.

18 Q You can't tell us what was false about it?

19 A No, sir.

20 Q And if that statement is actually true, would
21 you agree to withdraw that claim?

22 A No.

23 Q You wouldn't withdraw that one either, even if
24 it's not true?

25 A No, sir.

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1 Q Okay. If you would turn to page 41, please.

2 For Class C there's a number of items
3 listed that apply to the class members
4 purportedly and it indicates "Defendants, as a
5 matter of KNR firm policy, recommended to their
6 clients that they obtain loans with Liberty
7 Capital."

8 Did I read that correctly?

9 A Yes, sir.

10 Q Are you aware that they have clients who have
11 testified that, in fact, rather than being
12 recommended to take loans they're advised
13 against taking loans?

14 MR. PATTAKOS: Objection.

15 A I don't know, sir.

16 Q You would have to ask each of those clients
17 separately what was recommended to them and
18 what wasn't, true?

19 A I don't know, sir.

20 Q Well, how would you find out what was
21 recommended to them?

22 A Probably have to interrogate them all day too.

23 Q And you certainly aren't claiming that the
24 potential members of Class C all had the same
25 conversations that you had with either Paul

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1 Steele or Jenna or anybody at KNR, are you?

2 A Everybody's situation's different.

3 Q Everybody's situation is different, correct,
4 sir?

5 A I think in this case there's -- like, that's
6 why there's Class C and there's different
7 classes, right?

8 Q My question to you is: Members of Class C,
9 you're not saying they all had the same
10 conversations as you had, are you?

11 A Wouldn't that be why we're all in the same
12 class?

13 Q So are you alleging that simply advising
14 clients of the potential for a loan was the
15 recommendation that KNR made to its clients?

16 A Yeah.

17 Q Just that it was available?

18 A I mean it wasn't -- nobody put a gun to my head
19 because they're not that stupid.

20 Q Do you know how the discussions went between
21 KNR and any other clients?

22 A No.

23 Q The next Roman numeral, ii, "Defendants
24 received kickback payments for every loan
25 transaction that Liberty Capital completed with

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1 KNR clients."

2 What do you base that on?

3 A I don't know.

4 MR. PATTAKOS: Excuse me.

5 Q You have no idea if it's true, do you?

6 MR. MANNION: Objection.

7 A Yeah, I do.

8 MR. PATTAKOS: Objection.

9 Tom.

10 Q What's it based on, then?

11 MR. PATTAKOS: Objection.

12 Matthew, don't answer --

13 MR. MANNION: You can

14 object --

15 MR. PATTAKOS: -- the

16 question.

17 MR. MANNION: -- for the

18 record.

19 Q What's it based on?

20 MR. PATTAKOS: What I'm

21 objecting is that you are mischaracterizing the

22 complaint which says that these are questions.

23 These are legal issues. These issues include

24 the determinations as to whether. Okay? So

25 don't tell him that this is something that he

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1 alleged.

2 Q Are you --

3 MR. PATTAKOS: This is
4 something that needs to be examined through
5 discovery in this case, that the allegations
6 that have been put forward have left these
7 inferences open. We are entitled to discovery
8 to discover them. Stop grilling him as if he's
9 saying that they exist or that it's happened.
10 Okay?

11 Q Well, you just told me that they exist.

12 A No, I didn't.

13 MR. MANNION: Can we read
14 back the last question and his answer to me,
15 please.

16 - - - - -
17 (Requested portion of the record was read.)

18 - - - - -
19 MR. MANNION: We'll have to
20 look at the video on that.

21 Q What you had just told me, sir, is you believe
22 that that's true, that they received kickback
23 payments on every loan transaction, true?

24 A Yes.

25 Q Okay. What is that based on?

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1 A Based on all of the evidence that we gathered
2 in this case.

3 Q And can you identify one kickback payment?

4 One.

5 A I don't need to.

6 Q That's not what I asked you. I said: Can you
7 identify one kickback payment?

8 A And my answer is I don't need to.

9 Q That's not my question.

10 Can you --

11 MR. PATTAKOS: He's answered
12 your question, Tom.

13 A That's my answer. I'm answering your
14 question --

15 MR. PATTAKOS: Move on.

16 Q No, you're not.

17 A -- Tom.

18 Q No, you're not.

19 Can you identify --

20 A That's my answer to the question.

21 MR. PATTAKOS: Matt, why
22 don't --

23 Q Can you identify one kickback payment for any
24 loan transaction?

25 A I don't need to.

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1 Q That's not my question.

2 A That's my answer.

3 Q Sir.

4 MR. PATTAKOS: Let's take a
5 break.

6 Q No.

7 A We don't need to take a break.

8 Q Can you identify --

9 A Let's get this over with.

10 Q -- a single kickback payment from Liberty
11 Capital to any of the KNR defendants for any
12 loan transaction, a single one?

13 A I don't need to.

14 Q That's not my question. Can you?

15 A Are we going to do this for another --

16 Q Well, you have to answer the question, sir.

17 MR. PATTAKOS: He did answer
18 the question, Tom.

19 A That's my answer.

20 MR. PATTAKOS: That's his
21 answer. If you don't like it --

22 Q It's a yes or no. Can you identify one?

23 MR. PATTAKOS: If you don't
24 like his answer, Tom -- you don't get to pick
25 his answer.

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1 Q You don't --

2 MR. PATTAKOS: Ask another --

3 Q -- know the law.

4 MR. PATTAKOS: -- question.

5 Q You already told me that, sir. So whether you
6 have to or not is a different issue --

7 MR. PATTAKOS: Ask another --

8 Q -- than whether you can.

9 MR. PATTAKOS: Ask a new --

10 A I'm sorry.

11 MR. PATTAKOS: -- question,

12 Tom. You got your answer.

13 Q Please identify for me all kickback payments
14 that you know about for any loan transaction
15 that Liberty Capital completed with KNR.

16 A What was the question?

17 Q Sure.

18 Please identify for me any kickback
19 payment that you are aware of for any loan
20 transaction that Liberty Capital completed with
21 KNR clients.

22 A You want me to show you?

23 Q I asked you to identify any. Can you?

24 A Not right now.

25 Q When do you plan on doing that?

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1 A I don't know, sir.

2 Q Okay. Go now to page 49, please, Claim 7.

3 Now, before we get into this particular
4 page, sir -- sir. Excuse me.

5 A Yeah.

6 Q Before we get into this particular page, are
7 you telling me that anybody at KNR told you
8 that the best source of loan funding was
9 Liberty Capital?

10 A Liberty Capital's the only one I ever heard of.

11 Q Did anybody from KNR tell you Liberty Capital
12 was the best source of loan funding?

13 A Liberty Capital is the only one I ever heard
14 of.

15 Q Well, what about Preferred Capital?

16 A I don't remember Preferred Capital.

17 Q Well, if Paul remembers talking to you about
18 Preferred Capital, are you disputing that?

19 A No, I'm not. I'm not confirming or denying it.
20 I'm telling you I don't remember.

21 Q Okay. So did anybody at Liberty Capital tell
22 you that the best source of loan funding -- I'm
23 sorry.

24 Did anybody at KNR tell you Liberty
25 Capital was the best source of loan funding?

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1 A I don't remember.

2 Q Okay. Is there a reason that you have this as
3 an allegation against the defendants in a
4 complaint if you don't even recall if it's
5 true?

6 Are you going to answer the question?

7 A I was reading real quick.

8 What was the question?

9 MR. MANNION: Please read
10 back the question.

11 - - - - -

12 (Requested portion of the record was read.)

13 - - - - -

14 A Yeah, because I trust my attorney.

15 Q And what evidence do you have that anybody at
16 KNR told you the best source of loan funding
17 was Liberty Capital? If you don't recall, then
18 how would your lawyer know?

19 A Well, I mean, that's what -- he's the lawyer.

20 Q Okay. But you can't recall?

21 A I don't remember everything.

22 Q Okay. It says also that the defendant induced
23 you to take out a loan with Liberty.

24 What do you mean by that?

25 A I don't know.

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1 Q Okay. Because I thought you told me that
2 nobody put a gun to your head and it was your
3 own choice to take out the loan.

4 A Putting a gun to a head and induced are two
5 different -- two different --

6 Q Okay. What do you mean -- what does "induced"
7 mean, then, to you?

8 A I don't know, man.

9 Q On the next page, page 50, paragraph 200, you
10 claim, "No KNR client would have taken out a
11 loan with Liberty Capital were it not for
12 Defendant's recommendation, or had they been
13 advised of Defendant's secret kickback
14 arrangement with Liberty Capital."

15 Did I read that correctly?

16 A You sure did.

17 Q Okay. And do you know of a single KNR client
18 other than yourself who allegedly would not
19 have taken out a loan with Liberty Capital if
20 it wasn't for the defendants' recommendation
21 and if they had been advised of the kickback
22 arrangement that you claim? Have you talked to
23 anybody who said that?

24 MR. PATTAKOS: It's called
25 classwide reliance, Tom. You should ask --

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1 MR. MANNION: I'm just
2 asking.

3 MR. PATTAKOS: -- Kennedy's
4 firm about it.

5 MR. MANNION: I'm just asking
6 if he knows. I have a right to ask that.

7 A Yeah, I don't know. I don't know if anybody
8 else -- I don't know what other people's ...

9 Q Are you sure you paid this loan back, sir?

10 A I told you I'm not 100 percent sure.

11 Q Okay. Are you sure you paid any of it back?

12 A Yeah. I remember making payments.

13 Q But you can't find those receipts?

14 A No. I mean, it's six years ago, dude.

15 Q How are you going to prove that you made any of
16 these payments?

17 A I don't know.

18 Q What if you found out Paul Steele wasn't even
19 in the Akron area when you claim to have come
20 here and gave him these payments?

21 A That's not true.

22 Q It was definitely Paul that you gave the money
23 to?

24 A I'm pretty sure. You're talking something that
25 happened six years ago, man.

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1 Q Well, you're suing over something that happened
2 six years ago.

3 So I'm asking you: What if you find out
4 Paul Steele wasn't even in Akron at the time
5 you claim you gave him money to give to
6 Liberty?

7 A It was a pretty while ago.

8 Q I'm asking.

9 A That's my answer.

10 Q Okay.

11 A Let's go.

12 Q Would you agree, then, that perhaps your
13 memory's wrong on making those payments?

14 A No. I remember making payments, I just don't
15 remember -- I never got like a -- I remember at
16 some point Paul or a gentleman said -- I asked
17 about it, said no, we're good. Never heard --
18 never heard about it again.

19 Q Who was that?

20 A I would assume that if I still owed money on a
21 loan that I would have somebody calling me.

22 Q Okay.

23 A Or emailing me.

24 Q Who told you it was still good --

25 A I think it was Paul.

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1 Q -- or you resolved it?

2 A But it was a gentleman.

3 Q Okay. Do you recall when that was?

4 A No, I don't recall when it was.

5 MR. PATTAKOS: Do you have
6 pictures you could show him, Tom? Maybe that
7 would help.

8 Q What did Paul look like?

9 A I don't even remember that.

10 Q Okay.

11 MR. PATTAKOS: You could show
12 him pictures of the lawyers that represented
13 him at this firm, Tom.

14 MR. MANNION: Would you
15 please stop it. Please.

16 MR. PATTAKOS: Well, it just
17 seems like a pretty obvious solution to this
18 problem that you're trying to manufacture.

19 THE WITNESS: I got to be
20 somewhere at 5:00 that's a half hour away.

21 MR. PATTAKOS: We're going to
22 cut out at 5.

23 THE WITNESS: I need to be
24 somewhere at 5.

25 MR. PATTAKOS: We'll take a

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1 break. Now's a good time to break.

2 THE WITNESS: I don't need a
3 break. I need a break -- I don't need a break.

4 MR. MANNION: He just said he
5 doesn't need a break.

6 MR. PATTAKOS: I need a break.
7 Let's go outside.

8 THE WITNESS: But I need to
9 be somewhere at 5:00.

10 MR. PATTAKOS: You and I will
11 talk about that and we can go from there.

12 Tom, I'm going to try to convince him to
13 stay until 5, so figure out what you need.

14 THE VIDEOGRAPHER: We're off the
15 record. The time is now 4:20.

16 - - - - -
17 (Recess taken.)

18 - - - - -
19 THE VIDEOGRAPHER: We're back on
20 the record. The time is now 4:34.

21 BY MR. MANNION:

22 Q Sir, any of your prior answers that you'd like
23 to change or revise?

24 A I don't remember all of my answers.

25 Q I'm just asking did anything come to mind that

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1 you thought you gave a wrong answer to or
2 something you would like to add or revise that
3 comes to your mind?

4 A I'm trying to do this to the best of my
5 ability.

6 Q Okay. Is the answer no, you can't think --

7 A No.

8 Q -- of anything? Okay.

9 Are you claiming that you relied on any
10 statements that KNR made to you in order to --
11 let me strike that.

12 Are you saying that in taking out your
13 loan with Liberty Capital you relied on any
14 statements or representations of anyone at KNR?

15 A What do you mean by relying on them? Like to
16 pay back the loan or to --

17 Q No. Did you enter into the loan based upon or
18 in reliance of any statements made by anyone at
19 KNR?

20 A I don't understand the question.

21 Q Okay. Why did you enter into the loan
22 agreement then? Was it based solely on the
23 terms and conditions that were in the loan
24 papers, or was there some other reason that you
25 entered into the agreement with Liberty

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1 Capital, as opposed to looking elsewhere?

2 A Well, I don't know -- I don't know if there
3 was -- if elsewhere was an option.

4 Q Okay. Is there any statement that anybody at
5 KNR made to you that because of that statement
6 you entered into the loan with Liberty Capital?

7 A Oh. Is there a statement that they made that
8 because they made that statement, is that why
9 I --

10 Q You relied on it to enter into with Liberty
11 Capital.

12 A More or less a statement of if you need some
13 money to tie you over, this is what you can do.

14 Q Okay.

15 A But there's, you know, you're borrowing money
16 to pay back money or whatever. So ...

17 Q So you had asked whether there was anything
18 that could be done to get a loan, true?

19 A I -- I -- I asked about it because it was
20 brought to my attention.

21 Q Okay. And you said you wanted to look into it,
22 true?

23 A Right.

24 Q After you looked into it, your decision to
25 enter into that loan with Liberty Capital, was

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1 your decision based on anything that anybody at
2 KNR had told you?

3 A It was based on something that they told me?

4 Q I'm asking was it.

5 A Well, I mean, yeah, I wouldn't have known about
6 it if it wasn't for --

7 Q Other than the fact about being told about the
8 company, is there anything that KNR told you
9 about the loan or about the company that you
10 relied on in order to enter into a contract
11 with Liberty Capital?

12 A I mean, I was -- you know, any time something's
13 high interest, you're always leery about it.
14 The fact that it would have been taken out of
15 any monies or whatever, I didn't particularly
16 like that.

17 Q But you knew about it?

18 A Because knowing that the case could have went
19 to that three-year mark, it would have been an
20 astronomical -- it would have been like 1,100
21 something dollars, you know, at the three-year
22 mark or whatever.

23 Q But that didn't happen for you, right?

24 A No, I don't think so.

25 Q So even if a statement was made to you about

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1 the money coming out of settlement proceeds,
2 the money to pay back your loan never did come
3 out of settlement proceeds, did it?

4 A I never -- I never -- I never got a settlement
5 from -- because of KNR.

6 Q That wasn't my question, sir.

7 The loan that you repaid or you claim to
8 have repaid Liberty was not repaid out of
9 settlement proceeds, was it?

10 A I don't believe so.

11 Q Okay. I'm asking what statements, if any, by
12 KNR did you rely on in entering into your loan
13 with Liberty Capital?

14 A I don't know if it was a particular statement,
15 but it just -- more of like a convenience, I
16 guess, to me.

17 Q Explain what you mean.

18 A Just that it was convenient. It was there, you
19 know, why not take it.

20 Q Okay. And other than the fact that it was
21 convenient and it was there, was there any
22 other statement by anyone at KNR that you
23 relied on for entering into the loan with
24 Liberty Capital?

25 A No one -- no one particular statement.

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1 Q Name any statement other than hey, Liberty
2 Capital's available. Any other statement than
3 that? Did you rely on any other statement than
4 that?

5 A I didn't -- I wouldn't say relied, but I --
6 just the statement that, you know, that
7 you're -- I forget how it was said where you
8 have to -- you know, it's available, but you
9 have to pay back money with money. It just
10 seemed like, you know, whatever, but you're not
11 always thinking when you're going through that
12 particular time or whatever.

13 Q Well, you're not saying that Jenna by sending
14 that to you was trying to take advantage of
15 you?

16 A Oh, I'm not saying that she particularly tried
17 to. Jenna, if I remember correctly, Jenna was
18 very nice to me.

19 Q And I think you referred to her as awesome.
20 Right?

21 A Yeah. She's pretty cool.

22 Q Very responsive, true?

23 A Yeah. She was very, like -- she was very --
24 she was actually very informative.

25 Q Did you ever ask Paul or anybody at KNR, "Hey,

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1 do you actually recommend these guys, Liberty?"

2 A I don't know. I don't remember.

3 Q The documents that you signed specifically
4 indicated from KNR that they were not
5 recommending or endorsing the loan, true?

6 A That's what their documents said.

7 Q Okay. So my question to you is: Can you --

8 A That doesn't mean that somebody didn't
9 recommend it.

10 Q Okay. But I'm trying to find out did Paul or
11 anybody at KNR specifically recommend hey, you
12 should take a loan out with Liberty and here's
13 why?

14 A I wouldn't say that it was put in those
15 particular words.

16 Q How was it put?

17 A I don't remember.

18 Q Well, I'm trying to find out. Did you rely on
19 anything KNR did other than giving you the name
20 of the company that --

21 A Not particularity.

22 Q Okay.

23 A Okay.

24 Q So you entered in -- KNR told you about the
25 existence of Liberty, true?

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1 A Yes.

2 Q And they may have told you about Preferred
3 Capital too if that's how Paul remembers it,
4 true?

5 A Yeah, I just don't remember the name Preferred
6 Capital, so I -- being mentioned, but I feel
7 like I've heard of that company.

8 Q And you weren't relying on any advertisements
9 or mailers or anything like that, true?

10 A No, nothing like -- you know, nothing that
11 sticks out at you or anything, you know what I
12 mean?

13 Q Okay.

14 A Nothing like that.

15 Q And you don't know what any other potential
16 plaintiff may have relied on or not relied on
17 in entering into their loan, true?

18 A No, sir.

19 Q My statement was true?

20 A Yeah. Yeah.

21 Q Okay. So I'm just trying to find out: Are you
22 trying to claim there was something that the
23 defendants told you about Liberty Capital that
24 you relied on that you found out later wasn't
25 true?

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1 A When I -- when it was brought to my attention
2 through Jack that he felt like something was
3 going on and we had lunch over it and when he
4 started talking about what he, you know, felt
5 was going on or whatever, I said, "Hey, that
6 makes sense now."

7 Q What made sense?

8 A Just the -- the -- how -- I don't know how to
9 put it. I don't know what words to use. Like
10 how everything was, like, all together. I want
11 to use a certain word, but it's not the right
12 word to use, so I'm not going to use it.
13 But -- I don't know how to spit it out. I'm
14 sorry. I don't know what I'm --

15 Q Try your best.

16 A I'm trying my best. I don't know how to even
17 word it. Like, how all of the doctors' office
18 and chiropractor and the -- with the pain
19 management place, that they were all like -- I
20 want to say related, but not related as people.
21 But they were all, like, correlating together.
22 Like, that's, like, where you shuffle off your
23 people to when, you know, they come in for
24 injuries. You know, stuff like that.

25 And then -- so when he started bringing

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1 that to my attention, you know, it all started
2 making sense. And, you know, he -- I think
3 that's when he introduced -- he said he was
4 going to have Peter call me and talk to me
5 about it to see if I would be interested in
6 being a part of the class action lawsuit.

7 Q Now, you don't --

8 A So at that point -- sorry.

9 Q I'm sorry. Go ahead. I didn't mean to --

10 A So at that point when I met with -- Peter
11 called me and said he would like to --

12 MR. MANNION: Yep.

13 MR. PATTAKOS: That's
14 privileged, so you don't talk about our
15 conversations.

16 Q Yeah, you don't talk about --

17 THE WITNESS: Oh, I'm sorry.

18 MR. PATTAKOS: You can just
19 say when you're relying on the advice --

20 THE WITNESS: I'm sorry.

21 MR. PATTAKOS: -- of your
22 attorneys in this case.

23 THE WITNESS: Sorry. I'm
24 sorry.

25 MR. PATTAKOS: That's fine.

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1 You didn't really say anything.

2 Q You don't have any claim as it relates to the
3 chiropractic care you received, do you? Are
4 you making any claims about that?

5 A I wish I could go back. My neck still hurts.
6 That's about it.

7 Q I mean you're not claiming that KNR did
8 something wrong with the chiropractor, are you?

9 A No, I'm not claiming anything about, like,
10 my -- like, when I went to see Dr. Markarian,
11 you know, he said that my neck was really F'd
12 up and I probably wouldn't -- I would probably
13 need surgery in five to 10 years.

14 Q And, actually, haven't you previously testified
15 that it was your primary care physician who
16 referred you to Markarian?

17 A No. I thought my physician sent me to Summa
18 for the -- he tried to get me physical therapy
19 there and I almost chased the guy out of the
20 room.

21 Q Because?

22 A It hurt so bad what he was trying to have me
23 do.

24 Q Okay. And he also referred you to another
25 physician who worked very closely with the

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1 chiropractor, true?

2 A I don't remember if it was him or not.

3 Q Okay. If you testified to that in 2015, would
4 that have been accurate?

5 A Would I remember more?

6 Q Yeah.

7 A Probably.

8 Q Okay. Have you looked at your deposition from
9 2015 recently?

10 A I haven't looked at that for -- I should have
11 probably looked at that this week.

12 Q You're not making any claim, are you, that
13 somehow you paid a chiropractic fee --

14 A Oh. No. No. No. No.

15 Q -- for a --

16 A No.

17 Q -- narrative report or anything --

18 A No.

19 Q -- that was wrong?

20 A No, I was trying to tell the story about how it
21 all came -- how it all came about and I guess I
22 said more than I was supposed to.

23 Q No. No. That's okay.

24 Are you making any type of claim as to an
25 investigator's fee that you think you paid that

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1 you shouldn't have?

2 A I don't think so.

3 Q Okay. Do you know if there was an investigator
4 on your case?

5 A I have no idea.

6 Q Do you know what he did, if at all?

7 A (Indicating.)

8 Q Okay.

9 A No.

10 Q Just to clarify, your only claim in this case
11 relates to the loan with Liberty Capital, fair?

12 A Yeah. The -- yeah.

13 Q Okay. Now what I'm still trying to understand,
14 and maybe it's my fault for not understanding,
15 I'm trying to understand what damages you are
16 claiming were a result of the defendants'
17 behavior other than the fact that it was a high
18 interest rate and high fees.

19 Is there anything else that you're
20 claiming financially caused you damage?

21 A Not financially, but just the fact that I felt
22 it was --

23 Q Wrong?

24 A Yeah. If that's, yeah, the word.

25 Q Okay. Would you agree that financially the

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1 only damages that the defendants caused you, if
2 they did the things you said, would be that the
3 interest rate was higher than it should have
4 been and the fees were higher than they should
5 have been?

6 A Correct.

7 Q Okay. And if those amounts would have been
8 reasonable, then, in essence, the defendants --

9 A You already --

10 Q -- would have caused --

11 A -- asked that, though.

12 Q -- you no damages, true?

13 I'm just trying to clarify that we're on
14 the same page here.

15 A I feel like you're trying to trick me because
16 I'm getting tired.

17 Q No. No. No. No. I'm not at all. I'm trying
18 to clarify exactly what you're asking for in
19 damages. That's what I'm trying to clarify.

20 A What I'm asking for in damages? You're trying
21 to clarify what I'm asking for in damages?

22 Q Yeah.

23 A I'm not -- I don't know how to answer that
24 question.

25 Q Did you see an email from either Mr. Nestico or

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1 somebody else indicating to lawyers at KNR that
2 they should recommend Liberty Capital for
3 loans?

4 A Yes.

5 Q Okay. What about that makes you believe that
6 Mr. Nestico or anyone at KNR has an ownership
7 or financial interest in Liberty Capital?

8 A Why wouldn't it?

9 Q I'm asking what about it makes you think that.

10 A I just think it's a little bizarre that weeks
11 after this Liberty company comes about that all
12 of a sudden there's records of emails. I don't
13 remember the exact wordage, but pretty much
14 campaigning is the word I'll use for that
15 company, for the loan company. And, my
16 opinion, it just looks strange.

17 Q Do you realize it actually makes it more
18 difficult sometimes for KNR lawyers to settle a
19 case when there's loans taken out?

20 A I could understand that.

21 Q And do you understand that for that reason KNR
22 tries to dissuade its clients from taking these
23 loans?

24 A Since 2015?

25 Q Since 2012 and before.

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1 You weren't aware of that?

2 A Huh?

3 Q Are you aware of that?

4 A Say it one more time.

5 Q Sure.

6 Because it makes cases more difficult to
7 settle as being one of the reasons that KNR
8 lawyers often try to talk their clients out of
9 taking a loan. Were you aware that that
10 practice occurred?

11 A Until this -- until --

12 Q Before this lawsuit.

13 A Before the lawsuit, no, I was not.

14 Q Okay. What about the statement of an attorney
15 indicating Liberty Capital should be
16 recommended if somebody wants a loan, what
17 about that makes you think that Mr. Nestico or
18 anyone here has an ownership or financial
19 interest? I'm trying to -- that's what I don't
20 understand.

21 You're just saying by the mere fact
22 they're saying to use this company? That's
23 what you're basing it on?

24 A I mean, you got to have oil in the engine to
25 make it start, right?

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1 Q Well, I mean, the doctor you saw recommended
2 other physicians. Did he have an ownership
3 interest in those places?

4 A No.

5 Q Did he receive kickbacks from those places?

6 A I don't know.

7 Q Do you think he did?

8 A Who knows.

9 Q Well, the mere fact that he recommended you to
10 go see someone else, are you jumping to the
11 conclusion that he had an ownership interest in
12 those places?

13 A I understand what you're saying.

14 Q Yeah. You didn't jump to that conclusion with
15 your doctor, did you?

16 A No.

17 Q Okay. So why did you jump to that conclusion
18 with Mr. Nestico or any of the KNR defendants?

19 MR. PATTAKOS: Objection.

20 A I didn't --

21 THE WITNESS: Does that mean

22 I --

23 MR. PATTAKOS: Answer the
24 question.

25 THE WITNESS: Oh.

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1 A I didn't jump to that per se right away in the
2 moment until I -- until all of the stuff was
3 brought, you know, to me. You know what I
4 mean?

5 Q Do you think Paul Steele had a --

6 A Like he was getting a kickback?

7 Q Yeah.

8 A No.

9 Q Okay. Do you think that Paul Steele had an
10 ownership or financial interest in Preferred
11 Capital?

12 A I don't know, because I don't know what he had
13 to do with Preferred Capital.

14 Q If Paul Steele talked to you about loans early
15 on after you came to KNR --

16 A And said, "Hey, there's this company Preferred
17 Capital" --

18 Q Yeah. Do you think he had an ownership or
19 financial interest?

20 A I just think anybody that tries to hype
21 something up too much, it makes me feel weird
22 about it.

23 Q Okay. Well, when you were given the name
24 Liberty Capital, did you feel weird about it?

25 A It seems so American.

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1 Q Okay. Did you ask any questions about it?

2 A I mean, I looked over what I was signing, but
3 now that I think about it, six years later, I
4 probably should have read it a little bit
5 better.

6 Q Okay. But what I'm asking you is: When you
7 were given the name Liberty Capital from Jenna,
8 did you think hey, why didn't they give me two
9 names, why didn't they give me three names?

10 A No, I didn't think about it at all, actually.

11 Q Did you think about wow, Paul told me Preferred
12 Capital several months ago, now they're saying
13 Liberty Capital? Did you think about that?

14 A No, because I don't remember Paul telling me
15 about Preferred Capital.

16 Q Did you ask Jenna or Paul or anyone at KNR,
17 "Hey, are there any more competitive loans out
18 there?"

19 A At that time I didn't even think to ask such a
20 thing.

21 Q Okay. Did anyone at KNR tell you that the
22 loans from Liberty Capital were the best loans
23 out there?

24 A No. They can't be the best loans.

25 Q Okay. So knowing that they can't be the best

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1 loans, why did you go with them?

2 A Good question.

3 Q Just because it was easy?

4 A Convenience, I guess.

5 Q Okay. And if an attorney met with -- assuming
6 this happened, met with someone who or talked
7 with someone who had a funding company and felt
8 like he could trust them, would it be proper,
9 in your opinion, for the lawyer to recommend
10 that company?

11 A Say it one more time.

12 Q Sure.

13 If the reason that Mr. Nestico asked his
14 attorneys to recommend Liberty Capital is
15 because he trusted Liberty Capital and not
16 because he had any type of financial interest,
17 would you agree that would be a proper reason?

18 A That's a good question, because I would still
19 be concerned or leery why this one company was
20 being hyped up so much.

21 Q Okay. But you weren't concerned at the time
22 that it was only one company that Jenna --

23 A I wasn't --

24 Q -- told you?

25 A I mean, I wasn't, you know, thinking at the

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1 time. Like, according to the documents, I was
2 in a financial situation. So ...

3 Q You needed this money, didn't you?

4 A It seems like it, right?

5 Q It helped you out, didn't it?

6 A A little bit.

7 Q And you eventually paid it back you're
8 claiming?

9 A I'm hoping.

10 Q Okay. Well, no one's coming after you for it
11 right now, right?

12 A I mean, not many people come after me.

13 Q If -- well, we're not in a bar right now and
14 we're not at a strip club. That's not what I'm
15 talking about and you know that's not what I'm
16 talking about.

17 I'm talking about no one's come after you
18 financially --

19 A That's what I'm talking about.

20 Q -- to try to get this loan resolved, correct?

21 A That's what I'm taking about.

22 Q Okay. Well, people have come at you
23 financially before. They repossessed your
24 truck at one time, true, during this?

25 A Yeah. I got it right back the next day.

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1 Q Yeah, but they repossessed it, true?

2 A Correct.

3 Q And you called up KNR and said, "I need some
4 money"?

5 A It's all paid off now.

6 Q That's okay. And for these first -- from
7 February through July, nobody was pushing a
8 loan on you at all, were they?

9 A It was -- it was -- it was mentioned, but it
10 was never pushed on me.

11 Q After it was mentioned early on, the payments
12 that you got were from an insurance company
13 that you never had to pay back, true, the
14 medical payments?

15 A Correct, yeah.

16 Q Okay. And it wasn't until after you heard that
17 the insurance company would make no more
18 medical payments that you asked about hey, I'll
19 look into this loan issue, true?

20 A Yeah.

21 Q Okay. And at that time you knew that it was a
22 high interest rate?

23 A Correct.

24 Q And that's my question. Why is it that you
25 would enter into that knowing it's a high

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1 interest rate?

2 A I think I've said three times now.

3 Convenience.

4 Q Convenience, okay.

5 And you certainly know about loans from
6 working in the car industry?

7 A Oh, yeah.

8 Q Okay. I am about to get into discovery
9 responses, which will take quite a while. So
10 if you want to quit at 4:55 instead of 5:00, we
11 can do that. It's up to you.

12 Do you want to quit now or in five
13 minutes?

14 MR. PATTAKOS: Or in an hour?

15 MR. MANNION: What do you
16 mean "in an hour"?

17 MR. PATTAKOS: Do you want to
18 go another hour so Tom can get these discovery
19 responses done?

20 MR. MANNION: We're not going
21 another hour now.

22 MR. PATTAKOS: Okay. Well, we
23 might not go another hour again, because I
24 don't see what -- why you didn't do the
25 discovery responses earlier.

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1 But let's just call it. We can call it a
2 day. No need to go another five minutes.

3 MR. BEST: Just so the
4 record's clear, I want this fellow's notes --

5 MR. MANNION: Yes.

6 MR. BEST: -- before we
7 reconvene the deposition he's withheld and he
8 didn't respond.

9 THE WITNESS: They're my own
10 personal notes.

11 MR. PATTAKOS: Well, I
12 don't --

13 MR. BEST: I don't care
14 what you think they are. They are court
15 documents and we're going to get them and
16 they're going to be in our possession before
17 you're sitting back in front of a court
18 reporter on video.

19 MR. PATTAKOS: We'll talk. We
20 can deal with that off the record.

21 And, you know, I just want to say that,
22 gentlemen, you've convinced me I'm going to
23 withdraw as counsel in this case, as it's
24 become clear to me over the course of this
25 deposition that I should give up my practice

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1 and start representing parties who sign
 2 agreements for \$250 loans that say in the fine
 3 print that they should consult with an attorney
 4 before taking the loans out. There's a lot to
 5 be -- a lot of money to be made there
 6 apparently. So we'll see if we can get --

7 MR. MANNION: I hope you
 8 didn't take that down if you did. I think we
 9 should --

10 MR. PATTAKOS: That was a
 11 joke.

12 THE VIDEOGRAPHER: We're off the
 13 record. The time is now 4:55.

14 - - - - -

15 (Deposition was adjourned at 4:55 p.m.)

16 - - - - -

17 (Signature reserved.)

18 - - - - -

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1 THE STATE OF OHIO,) SS:
2 COUNTY OF CUYAHOGA.)

3

4 I, Sarah R. Drown, a Registered Professional
5 Reporter and Notary Public within and for the State
6 of Ohio, duly commissioned and qualified, do hereby
7 certify that MATTHEW W. JOHNSON, was first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth in the cause aforesaid; that
10 the testimony then given by him was by me reduced to
11 stenotypy in the presence of said witness,
12 afterwards transcribed on a computer/printer, and
13 that the foregoing is a true and correct transcript
14 of the testimony so given by him as aforesaid.

15 I do further certify that this deposition was
16 taken at the time and place in the foregoing caption
17 specified. I do further certify that I am not a
18 relative, counsel or attorney of either party, or
19 otherwise interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office at Cleveland, Ohio, on
22 this 18th day of July, 2018.

23 _signature_

24 Sarah R. Drown, RPR, Notary Public
25 within and for the State of Ohio
My Commission expires April 22, 2022.

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