

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JON BEELER,)
)
Plaintiff,)
VS.) CIVIL ACTION
) NO. 3:00CV2441-M
JOHN ROUNSAVALL,)
INDIVIDUALLY; MARY GAYLE)
RAMSEY, INDIVIDUALLY;)
AND THE CITY OF TERRELL,)
TEXAS,)
)
Defendants.)

VOLUME 2 OF THE
ORAL DEPOSITION OF MARY GAYLE RAMSEY

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1 Court, for the Northern District of Texas, Dallas Division,
2 before Susan M. Owen, a Certified Shorthand Reporter in and
3 for the State of Texas, on the 2nd day of October, A.D.
4 2001, in the offices of Nacol, Wortham & Associates, 990 S.
5 Sherman Street, Richardson, Texas, between the hours of
6 9:35 a.m and 11:32 a.m, pursuant to the Federal Rules of
7 Civil Procedure.

8 EXAMINATION (Cont'd)

9 QUESTIONS BY MR. NACOL:

10 Q. Ms. Ramsey, you understand that we're back on the
11 record now?

12 A. Yes.

13 Q. And you are still under oath?

14 A. Yes.

15 Q. And all of the answers you give are still subject
16 to the penalties related to the intentional giving of a
17 false answer. You understand that?

18 A. Yes, sir.

19 Q. Okay. I want to go over -- and I'm going to try
20 not to -- I hope to be done with this thing by noon at
21 latest, I don't want to rehash. It's kind of hard sometimes
22 to not go over a few additional items that you've been over
23 before. But since the last deposition have you had a chance
24 to review anything for your deposition today?

25 A. I've gone back through my file.

1 Q. Okay. Did you find any additional documents or
2 things that would be useful in explaining your answers to
3 your first deposition?

4 A. No, sir, I don't think so.

5 Q. Okay. I've had an opportunity to take Mr.
6 Rounsavall's deposition since I took your deposition, and he
7 indicated in his deposition that he was pretty much just
8 waiting on your opinion whenever it came, he didn't push you
9 or question you or anything, but just whenever it came,
10 that's when he'd make his decisions. Is that a fair
11 statement?

12 A. I don't know what Mr. Rounsavall said in his
13 deposition, but --

14 Q. Is that a fair statement?

15 MS. MORALES: Objection, to the extent it
16 calls for speculation.

17 THE WITNESS: Mr. Rounsavall would ask for my
18 opinion, and I would give him an opinion.

19 Q. (MR. NACOL) Were there any deadlines in those
20 opinions?

21 A. I don't believe there were.

22 Q. Was there any -- did you indicate to him any
23 urgency in the license because of any of the correspondence
24 you had received?

25 A. Not that I recall.

1 Q. Okay. From the commencement you were aware that
2 Mr. Beeler was opening a business?

3 A. Yes.

4 Q. And you were aware from the beginning that Mr.
5 Beeler's business to some significant degree involved the
6 sale of alcohol?

7 A. Yes.

8 Q. And you knew from the beginning that Mr. Beeler
9 had been selling alcohol at the location next to the
10 location he was trying to get licensed?

11 A. Yes.

12 Q. Did you communicate that to Mr. Rounsavall?

13 A. I don't recall whether I communicated that
14 specific fact to Mr. Rounsavall or not.

15 Q. Is that something that you think would have been
16 important to communicate to Mr. Rounsavall?

17 A. Not necessarily.

18 Q. So if -- Why do you feel that way?

19 A. Well, Mr. Beeler first approached Mr. Rounsavall
20 going through the procedures at the City of Terrell for
21 permits. I don't know at that point in time if I had had
22 any conversations with Mr. Beeler. So I didn't know whether
23 or not Mr. Beeler was still at the other location, the next-
24 door location, or whether Mr. Beeler had ceased employment
25 with Mr. Lawson.

1 Q. Well, from the commencement of Mr. Wortham's
2 letters to you it was expressly clear where his location was
3 and what his business was, was it not?

4 A. Once Mr. Wortham started contacting me, yes.

5 Q. Which was in March -- early March, correct?

6 A. I'm not sure of the date, but that sounds correct.

7 I first became aware of the situation -- as I testified
8 before, it was sometime late February --

9 Q. Right.

10 A. -- through a memorandum from John Rounsavall. And
11 sometime after that date I was contacted by Mr. Wortham.

12 Q. On March the 3rd, five days later, he sent you a
13 letter, didn't he?

14 A. If that's what the letter says. I don't dispute
15 the date, whatever the letter says.

16 Q. Exhibit No. 6, take a look at it. And in that
17 letter he told you that he wanted to open his business on
18 March the 7th, correct? In the last paragraph?

19 A. That's what the last paragraph says.

20 Q. And that he needed a permit to sell alcoholic
21 beverages at that time?

22 A. That's what the letter says.

23 Q. So you knew that?

24 A. Yes --

25 Q. You had that information on March --

1 A. -- that's what the letter says. I had that
2 information.

3 Q. And did you communicate that to Mr. Rounsavall?

4 A. I don't recall if I did or not.

5 Q. Okay. And on the March the 3rd of 2000 there was
6 no question in your mind at all where Mr. Beeler was
7 located; is that correct?

8 A. The letter states that Mr. Beeler applied and
9 received a permit for 305 Ninth Street in Terrell.

10 Q. All right. And you knew that 307 was next door to
11 where he was before, did you not?

12 A. Yes, sir.

13 Q. So you knew that information, right?

14 A. Yes, sir.

15 Q. And you knew on January the 6th Mr. Rounsavall had
16 approved the alcohol permit, did you not?

17 MS. MORALES: Objection. Assumes facts not
18 in evidence.

19 THE WITNESS: I'd have to check the date, Mr.
20 Nacol, but I knew what was in the memorandum from Mr.
21 Rounsavall to me dated February 23rd. And if that date is
22 in there, then that is correct.

23 Q. (MR. NACOL) If you'll look at Exhibit No. 5 from
24 your file, from the deposition exhibits to your deposition --

25 A. Yes, sir.

1 Q. -- there is a letter from John Rounsavall to Handy
2 Mart No. 1 and a copy of a certificate. Does that refresh
3 your recollection whether you had that information?

4 A. Yes, sir, and I believe that is dated January the
5 11th rather than January 6th.

6 Q. Okay. That's the date the permit was granted. So
7 Mr. Rounsavall did not discuss anything with you prior to
8 that date?

9 A. Not that I remember.

10 Q. And when did you become first aware of Mr.
11 Rodriguez's application?

12 A. I don't recall a specific date.

13 Q. Well, I don't want to trick you or mislead you.
14 Mr. Rounsavall indicated in his deposition yesterday that
15 around the 6th Mr. Grady Lawson, the owner of the property
16 that was being licensed in Mr. Rodriguez's name, came by and
17 he was somewhat upset and everything, and he was wanting to
18 know when he'd get his permit and whatnot. Was that
19 information communicated to you at that time?

20 MS. MORALES: Objection. Mischaracterizes
21 Mr. Rounsavall's testimony.

22 THE WITNESS: Would you restate the question,
23 please, sir?

24 Q. (MR. NACOL) Tell the jury when the first time is
25 you knew that Mr. Grady Lawson was seeking a new permit in

1 the old location that Mr. Beeler was in.

2 A. There is a letter that has been produced that was
3 sent to me by David Mallard, the attorney for Mr. Lawson,
4 and, I presume, for his --

5 Q. What exhibit are you looking at?

6 A. -- tenant. Exhibit No. 23. And that letter is
7 dated March the 14th of 2000.

8 Q. But you knew about it before then, didn't you?

9 A. Not that I remember.

10 Q. If you look back on Exhibit No. 23, the exhibit
11 before that exhibit, is that not a memorandum to you from
12 the city secretary, John Rounsavall?

13 MS. MORALES: 23?

14 MR. NACOL: Uh-huh. 22. I'm sorry. Excuse
15 me, 22.

16 THE WITNESS: Yes, sir.

17 Q. (MR. NACOL) And in that memorandum he discusses
18 the moving of the location was previously denied because of
19 school property, day care and the location was next door and
20 selling liquor prior to the applicant -- the store wants to
21 continue -- what next. Did that not -- did you do any
22 investigation as to who he was referring to as "next door"?

23 A. No, sir.

24 Q. Why?

25 A. Handy Mart No. 1, as referenced in this

1 memorandum, was -- this memorandum, the intent of it -- or I
2 assume the intent of it was the address change problem. Mr.
3 Rounsavall assumed that this was an address change only, and
4 then he found out subsequent to that that it was an entirely
5 new location.

6 Q. Well, he assumed -- the application doesn't say
7 anything about an address change, does it?

8 A. I'd have to look at the application.

9 Q. Okay. We did before this, but go ahead and look
10 again real quick.

11 A. Yes, sir.

12 Q. Because I've never seen anything remotely
13 ambiguous about that application. Maybe. And if so, I'll
14 ask you to tell the jury how, in your opinion, anyone could
15 take that position from that application.

16 MS. MORALES: Objection, argumentative.

17 THE WITNESS: Would you restate your
18 question?

19 Q. (MR. NACOL) Tell the jury what from the
20 application could remotely be interpreted as an address
21 change.

22 A. I don't know how Mr. Rounsavall assumed that it
23 was an address change, but that's what his memorandum
24 stated.

25 Q. Okay. Did you call him back immediately upon

1 receipt and say, you know, "Number one, this is not what you
2 file for an address change, and, number two, there's nothing
3 in it that relates to an address change"?

4 A. No, sir.

5 Q. Why?

6 A. I wasn't furnished a copy of the application. At
7 that time all I got was the memorandum from Mr. Rounsavall.

8 Q. When did you get the application?

9 A. I think after your client filed suit I received a
10 copy of the application as an exhibit.

11 Q. Okay. So months after you were asked to review
12 the thing, you started looking at the application?

13 A. No, sir. I believe that February 23rd of 2000 is
14 when I got the memorandum from John Rounsavall and your
15 client filed suit on March 15th of 2000, approximately three
16 weeks later.

17 Q. And, of course, this presumes -- and you have
18 indicated you have no recollection of the January 4th, 1998
19 correspondence, Exhibit No. 2, to you specifically
20 addressing all these issues in detail, right?

21 A. No, sir.

22 Q. Pardon me just a second here. These exhibits are
23 not organized because they're new. Do this the hard way.
24 Now, when, again, did you indicated to me was the first time
25 that you knew that an application was being filed by Mr.

1 Rodriguez in Grady Lawson's location?

2 MS. MORALES: Objection. Asked and answered.
3 You can answer.

4 THE WITNESS: I believe it was when I got the
5 letter from Mr. Mallard, the attorney representing the
6 Rodriguezes or Lawsons.

7 Q. (MR. NACOL) What was the date of that?

8 A. I believe it was March 14th, if I'm not mistaken.
9 If you'll let me refer to the exhibit. It was March 14th of
10 2000.

11 Q. Okay. Take a look at Rounsavall Exhibit No. 6,
12 which is a memorandum to you from John Rounsavall. We'll
13 have to look together here.

14 A. Yes, sir.

15 Q. Does that refresh your recollection of maybe some
16 indication you had of a sooner request by Mr. Rodriguez?

17 A. No, sir. It's the same one. That --

18 Q. So when he says, "The old store wants to continue
19 to sell liquor and this location cannot. What next," that
20 doesn't tell you that they're both wanting a license?

21 A. No. No, sir. It doesn't refer to Mr. Rodriguez,
22 so I had no way of knowing who he was talking about.

23 Q. But you did have an indication that somebody there
24 was trying to sell -- trying to seek a license, didn't you?

25 A. The way I interpreted this memorandum was that

1 there was a problem with the application, that Mr.
2 Rounsavall had mistakenly granted it thinking it was an
3 address change only, and subsequent to that he found out it
4 was a new location.

5 Q. And did he ever call you to tell you what "what
6 next" means?

7 A. No, sir.

8 Q. Did you ever call him to ask him what "what next"
9 means

10 A. I would assume I did, but I couldn't give a date
11 or a time.

12 Q. Well, did you interpret "what next" means?

13 A. I would assume "what next" would mean where did we
14 go from here.

15 Q. Right. Give me an opinion, right?

16 A. I would assume so.

17 Q. So were you, in fact, commissioned at any time by
18 the city secretary, Mr. Rounsavall, to check on the
19 propriety and legal propriety of Mr. Rodriguez's
20 application?

21 A. I don't believe that I was. At that time we were
22 represented by counsel -- other counsel, and then I stepped
23 aside as lead counsel for the city.

24 Q. So it's your sworn testimony that Mr. Rounsavall
25 never commissioned you as the city attorney to give him an

1 opinion of the propriety of Mr. Rodriguez's application for
2 a license?

3 A. Not that I can recall.

4 Q. And you never did anything in that regard, did
5 you?

6 A. (No response).

7 Q. You never gave him an opinion, did you?

8 A. As far as Mr. Rodriguez specifically, I don't
9 believe I did. There was some discussion as to whether that
10 location was -- had previously sold alcoholic beverages and
11 whether that location was grandfathered.

12 Q. Well, you know --

13 A. I think we testified -- I testified to that
14 before.

15 Q. Right. And as before, you don't have any serious
16 legal position that there is a grandfather clause in the
17 Terrell ordinance that overcomes the laws of the State of
18 Texas with regard to a liquor license, do you?

19 MS. MORALES: Objection, argumentative.

20 THE WITNESS: No, the only -- one of the
21 things that was considered was, as stated in the letter of
22 March 14th from Mister -- I believe Mr. Rodriguez's
23 attorney, that says that under the Texas Alcoholic Beverage
24 Code, Section 109.59 A and B, it says, "If the original
25 premises satisfies the requirements regarding distances, the

1 premises shall be deemed to satisfy the distance requirement
2 for any subsequent renewals, extensions of the license or
3 permit."

4 Q. (MR. NACOL) But that's not -- Mr. Rodriguez is
5 a brand-new licensee, isn't he?

6 A. I believe the grandfather provision applies to
7 premises, not the individual. I think it applies to the
8 location.

9 Q. If the owner of the location is the licensee?

10 A. It was my understanding that it was the premises,
11 the location.

12 Q. Well, but you've testified that you didn't give
13 any of these opinions or any of these discussions to Mr.
14 Rounsavall, right?

15 MS. MORALES: Objection --

16 THE WITNESS: I said not that I --

17 MS. MORALES: -- mischaracterizes the
18 testimony given.

19 THE WITNESS: I said not that I could recall.
20 There was some discussion of reading the letter that had
21 been sent by Mr. Mallard on the 14th of March.

22 Q. (MR. NACOL) Well, I'm getting confused now.
23 Earlier you testified -- and I'll ask you now to clarify,
24 did you or did you not receive an order from the city
25 attorney to give -- the city secretary to give him, Mr.

1 Rounsavall, an opinion on Mr. Rodriguez's application?

2 A. Did I receive a written request?

3 Q. Any request. Were you commissioned to do so?

4 A. I don't recall if I was specifically commissioned
5 to do so or not. I know there were discussions.

6 Q. Okay. A moment ago you said you didn't. What has
7 happened between then and now to make it to where you don't
8 know now, but earlier you said you didn't?

9 A. I testified, I believe -- and if it was unclear,
10 I'll be happy to clear it up -- on March 14th there was a
11 letter from Mr. Mallard, the attorney representing Mr.
12 Lawson and Mr. Rodriguez, I presume, that discussed
13 grandfathering provisions and the provision of the alcoholic
14 beverage code relating to the premises. Now, at the time
15 that Mr. Rodriguez's application was considered, I believe
16 we were represented by Mr. Marshall, and there were
17 discussions with regard to locations, the 307 Ninth Street
18 location and the 305 Ninth Street location. So I can't tell
19 you that I gave a formal written opinion. I'm sure there
20 were discussions, but as far as dates and times, I can't
21 give you those specific dates and times, Mr. Nacol.

22 Q. Okay. Objection, nonresponsive. Move that it be
23 stricken. Listen to my question. It had nothing to do with
24 what other lawyers do. Were you commissioned -- were you
25 requested by Mr. Rounsavall to give an opinion on Grady

1 Lawson through Mr. Rodriguez's application for a permit?

2 MS. MORALES: Objection. Asked and answered.

3 THE WITNESS: I was not asked to make a
4 ruling on Mr. Rodriguez's specific application.

5 Q. (MR. NACOL) Okay. Did you because of that March
6 letter do some analysis of the Rodriguez location, the one
7 you're referring to?

8 A. Did I do some legal research? Did I -- What are
9 you referring to?

10 Q. Did you work on that application?

11 A. No, I did not work on that specific application.

12 Q. Okay. So whatever decision-making went into the
13 granting of Mr. Rodriguez's application was in the purview
14 of Mr. Rounsavall. Is that a fair statement?

15 MS. MORALES: Speculation. You can answer.

16 THE WITNESS: I don't know.

17 Q. (MR. NACOL) He didn't ask your opinion, right?

18 A. It was discussed, but I did not give a formal
19 opinion.

20 Q. Right. He wasn't waiting on you?

21 A. I don't know.

22 Q. Well, did he ever call you up or do anything to
23 indicate he was waiting on you?

24 A. I don't think so.

25 Q. Now, you would agree with me that somewhere

1 between January the 4th and January the 11th you became
2 aware of the Beeler application, correct?

3 A. No, sir.

4 Q. When do you say you became aware of it?

5 A. It was --

6 MS. MORALES: Objection, asked and answered.

7 THE WITNESS: -- February 23rd, 2000.

8 Q. (MR. NACOL) Okay. And we've already been over
9 Mr. Wortham's letters in March that gave you certain
10 information, correct?

11 A. Yes, sir.

12 Q. When were you made aware of -- Well, I guess it's
13 not relevant. Strike that. The actual permit effective in
14 September was granted for Mr. Beeler on the 27th of July,
15 correct?

16 A. I'd have to look at the actual permit to be sure
17 of the date.

18 Q. Okay. Go ahead.

19 MS. MORALES: I don't think it's in her
20 exhibits, is it?

21 MR. NACOL: No, no -- Yeah, it's in there.

22 MS. MORALES: Are you talking about his
23 withdrawal?

24 MR. NACOL: The actual permit is in
25 September, but --

1 MS. MORALES: Yeah, and I think --

2 MR. NACOL: -- but the -- I think the 27th
3 was his withdrawal --

4 MS. MORALES: Okay.

5 MR. NACOL: -- of July.

6 MS. MORALES: Yeah, because I think we just --

7 MR. NACOL: But go ahead and confirm it so
8 she can tell -- I want to get testimony on it.

9 THE WITNESS: Ask your question again,
10 please.

11 Q. (MR. NACOL) When was Mr. Beeler's permit issued?

12 MS. MORALES: Objection, speculation.

13 THE WITNESS: I don't know.

14 MR. NACOL: When was it authorized by the
15 city?

16 MS. MORALES: Speculation.

17 THE WITNESS: The city withdrew the letter of
18 protest on July 27th of 2000.

19 Q. (MR. NACOL) Okay. So we've got February 23rd to
20 July the 27th. And if we look further, the actual date or
21 of the effective date of the permit is in September, is it
22 not?

23 A. I don't know. I'll have to take your --

24 Q. Take a look --

25 A. -- word for it.

1 Q. -- and see.

2 MS. MORALES: It's not in these documents.

3 Q. (MR. NACOL) I'll just give it to you here so you
4 can -- Take a look at that right there. What does that
5 tell you?

6 A. It is a beer and wine retailer's off-premise
7 permit dated September the 12th of 2000 through September
8 the 12th, 2001.

9 Q. So September the 12th of 2000, that was the old
10 permit, correct?

11 A. No, sir, I believe that would be the one that was
12 the subject of this lawsuit.

13 Q. That's correct. That's correct. You are
14 absolutely correct. So February the 23rd you started
15 looking at it, correct?

16 A. Yes, sir.

17 Q. And September the 12th of 2000 it was granted,
18 right?

19 A. According to the permit. That's when the permit
20 was issued, the effective date.

21 Q. And July the 27th is when the protest of the city
22 was withdrawn after your opinion, correct?

23 A. The protest of the city was withdrawn as a result
24 of the litigation, I believe.

25 Q. You mean y'all decided -- the city decided to go

1 ahead and give him his permit just because you got sued?

2 A. No, sir.

3 MS. MORALES: Objection to the extent --

4 THE WITNESS: No, sir.

5 MS. MORALES: -- it calls for attorney-client
6 privilege.

7 MR. NACOL: Well, explain to the jury what
8 you mean.

9 MS. MORALES: I'll instruct you not to answer
10 to the extent it involves discussions with Mr. Marshall as
11 to the reasoning.

12 THE WITNESS: Okay.

13 Q. (MR. NACOL) I'm not asking for conversations with
14 your lawyer after the suit was filed. I'm just asking for
15 your conversations with Mr. Rounsavall or any other agent of
16 the city that is not a lawyer. You know, why was it
17 withdrawn, if you know?

18 A. It's my understanding that Mr. Beeler furnished
19 satisfactory proof of his sales of alcoholic beverages that
20 would exempt him from the distance requirements.

21 Q. So up until September of 2001 you were still
22 taking the position that his application violated some code,
23 correct --

24 MS. MORALES: Objection --

25 MR. NACOL: -- or law --

1 MS. MORALES: -- assumes facts not in
2 evidence.

3 MR. NACOL: -- absent some sale ratio of
4 liquor to exempt him from that?

5 THE WITNESS: I'm not clear what you're
6 asking.

7 Q. (MR. NACOL) Okay. If the only reason that y'all
8 granted him the license, the city did, was due to proof of
9 sales as an exemption, that would exempt him from a law,
10 correct? Isn't that what an exemption is, to exempt someone
11 from existing law?

12 MS. MORALES: Legal conclusion.

13 THE WITNESS: An exemption would be an
14 exception.

15 Q. (MR. NACOL) Okay. Tell the jury what law up to
16 the date of your withdrawal of protest you were relying on
17 which would require him to have an exemption.

18 MS. MORALES: Speculation.

19 THE WITNESS: The reason that -- We were
20 relying on our city ordinances.

21 Q. (MR. NACOL) All right. And you read all Mike
22 Wortham's letters, right?

23 A. Yes, sir.

24 Q. You read all his cases, right?

25 A. I don't know that he furnished me any case law,

1 but I read his letters.

2 Q. You don't recall any cases in the letters?

3 A. Yes, I do recall some cases.

4 Q. Okay. And you read those cases, didn't you?

5 A. Yes, sir.

6 Q. So you knew that information --

7 A. Yes, sir.

8 Q. -- correct? And so with all those letters and
9 that information, it took until July to decide that he had
10 to have an exemption before you would give him a license,
11 correct?

12 A. No, sir.

13 Q. You would give him a license without the
14 exemption?

15 A. No, sir.

16 Q. Why did you give the license based on the
17 exemption?

18 A. Mr. Nacol, Mr. Wortham filed a lawsuit in March of
19 2000, filed a suit for declaratory judgment and injunction.
20 That suit was dismissed, I believe, in April. In June he
21 filed another lawsuit -- in May he filed another lawsuit, a
22 suit for writ of mandamus, and that suit was resolved, I
23 believe, in July. And then this federal lawsuit was filed
24 in November. During the times of those lawsuits the city
25 was represented by another attorney, an attorney from TML,

1 Mr. Marshall, and we were in litigation during those times
2 and had many discussions with Mr. Wortham. At the time that
3 we were represented by other counsel, I stepped aside as
4 lead counsel, and a lot of the conversations that you're
5 referring to were between Mr. Wortham and Mr. Marshall.

6 Q. Okay. Well, I'm concerned with your statement
7 earlier that the protest was withdrawn because you received
8 a letter stating an amount of sales -- proof of sales which
9 exempted him from the statute. Regardless of the lawsuit,
10 that's why you gave the permit, isn't it?

11 MS. MORALES: Speculation.

12 THE WITNESS: I believe that the city
13 withdrew its protest based on Mr. Beeler's counsel
14 furnishing proof that showed that he would be exempt from a
15 portion of the city ordinance.

16 Q. (MR. NACOL) Okay. Now, tell the jury at this
17 time between the time you became acquainted with Mr.
18 Lawson's case -- Mr. Lawson-Rodriguez case, i.e. -- Strike
19 all that. Tell the jury at this time what analysis you did
20 with regard to the Grady Lawson-Rodriguez application for
21 permit and what exemption they established for you.

22 MS. MORALES: I'll instruct you to answer
23 only what exemption they established for you. I don't want
24 you to testify about any process -- thought process you had.

25 MR. NACOL: Let the record reflect that

1 opposing counsel is again answering the questions, tailoring
2 the witness and --

3 MS. MORALES: I have given my client --

4 MR. NACOL: -- predicates --

5 MS. MORALES: -- instruction. Okay. And the
6 instruction, I believe, is clear on the record. If I
7 coached you in any way, please let me know that. I'm giving
8 you an instruction and I would request that you abide by
9 that instruction.

10 THE WITNESS: Would you repeat your question?

11 Q. (MR. NACOL) From the date you discovered the
12 Grady Lawson-Rodriguez application to date it was granted,
13 what analysis did you do with regard to any exemption to the
14 statute you've been discussing?

15 A. Mr. Nacol, we received notice -- I received a
16 letter from Mr. Lawson/Rodriguez's attorney on March the
17 14th. The suit was filed against the City of Terrell the
18 next day by Mr. Beeler. At that point the case was turned
19 over to the counsel representing the City of Terrell, which
20 was Mr. Marshall.

21 Q. Okay. Mr. Lawson's-Rodriguez's application was
22 granted in early April, correct? April the 2nd?

23 A. I don't know.

24 Q. Well, I'm going to tell you it's April the 2nd of
25 2000. Okay? I want you to assume. If it's wrong, then

1 we'll throw the deposition out. But I'm going to ask you to
2 assume that. Okay? Did you do any analysis prior to April
3 the 2nd of 2000 on the Grady Lawson-Rodriguez application
4 with regard to an exemption to this statute that you're
5 referring to?

6 A. As I stated, Mr. Marshall was representing us at
7 that time, the office of Peter Smith, and I would presume he
8 handled that.

9 Q. Was he charged with the responsibility by the city
10 to make a decision on the permit?

11 A. I don't know.

12 Q. You're just assuming all that?

13 A. No, I don't think he would have that obligation.
14 I think that that would go back through the office of the
15 city secretary.

16 Q. Yeah. And you never --

17 A. All permits are filed through the office of the
18 city secretary.

19 Q. And you never resigned?

20 A. No, sir.

21 Q. You never submitted a resignation?

22 A. No, sir.

23 Q. And you weren't fired?

24 A. No, sir.

25 Q. So you were still on the job?

1 A. Yes, sir.

2 Q. While you were on the job did you ever look at how
3 many feet it was from Grady Lawson's property to any
4 schools?

5 MS. MORALES: Asked and answered.

6 MR. NACOL: Or athletic fields?

7 MS. MORALES: Asked and answered.

8 THE WITNESS: Did I specifically?

9 Q. (MR. NACOL) Yes.

10 A. Not other than in regard to both locations, 305
11 Ninth and 307 Ninth.

12 Q. What do you mean "other than in regard to both"?
13 Did you request that they both be checked?

14 A. Yes, sir.

15 Q. You did some work on that application, didn't you?

16 A. I did do work on the app -- I didn't do work on
17 Grady Lawson or Rodriguez's application specifically. I did
18 work on the 305 location, which was Jon Beeler's.

19 Q. Well, then why did you just tell the jury that you
20 checked both locations for distance?

21 A. They're next door to each other.

22 Q. Well, why would you check the other one unless you
23 were doing work on that location?

24 A. I did work on 305, 305 Ninth Street.

25 Q. Why did you just state that you checked both

1 locations?

2 A. They're next door to each other. I don't know
3 what the distance between the two locations are, but they're
4 as far as the fact of the change of address on February the
5 23rd, of course I would know they were next door to each
6 other, because that's what Mr. Rounsavall had done in error.

7 Q. So in order to get a license to either, you'd have
8 to check the distance to both, correct?

9 A. I didn't deal with Mr. Rodriguez or Mr.. Lawson's
10 license --

11 Q. Objection --

12 A. -- again.

13 Q. -- nonresponsive. Move that it be stricken. If
14 you were to give a license -- the city was to give a license
15 to either one of them, they would both have to be checked,
16 wouldn't they?

17 MS. MORALES: Objection, speculation.

18 THE WITNESS: I would presume so, but I -- I
19 would presume so.

20 Q. (MR. NACOL) Well, why are you just presuming it?
21 Do you have any doubt --

22 A. Because you're asking --

23 Q. -- on that?

24 A. I did not --

25 MS. MORALES: Objection, argumentative.

1 THE WITNESS: I didn't specifically check it --
2 check the Rodriguez. As I've told you numerous times, I was
3 not asked to do anything on the Rodriguez application.

4 Q. (MR. NACOL) Great. Okay. So --

5 A. The Grady Lawson application.

6 Q. Okay. So --

7 A. Because after we got the letter on March 14th, the
8 lawsuit was filed and the matter was being handled by the
9 other attorney.

10 Q. Okay. So can you -- But you did -- Did you or
11 did you not have any awareness of what the distance was
12 between Grady Lawson's location and the field?

13 MS. MORALES: Asked and answered.

14 THE WITNESS: I don't know.

15 Q. (MR. NACOL) Okay. So let's see if I can this get
16 straight. You're called by the city attorney -- by the --
17 Strike that. You were called by the city secretary. The
18 secretary commissions you, as we've seen here, to resolve
19 this issue of Mr. Beeler's application, correct? Give me an
20 opinion.

21 A. He sent the 23rd memo to me, yes.

22 Q. Right. And it's your sworn testimony that he
23 didn't discuss anything with you prior to February the 23rd?

24 A. Not that I remember.

25 Q. Okay. So from January the 6th or January the 11th

1 or January the 16th through February 23rd, for that six
2 weeks, he never discussed Mr. Beeler's application with you?

3 MS. MORALES: Compound.

4 THE WITNESS: I'm sorry?

5 MS. MORALES: You can answer. Compound --
6 Objection, compound.

7 THE WITNESS: Not that I remember.

8 Q. (MR. NACOL) Okay. And Mr. Rounsavall -- you
9 have no recollection of him coming to you and telling you
10 that Mr. Lawson had shown up in his office -- in his
11 reception room complaining about the fact that he wanted to
12 make sure he was going to get his license, too?

13 A. Do I have a recollection of that?

14 Q. Yes.

15 A. No, sir, I don't have a recollection of that.

16 Q. Okay. You would agree with me that these
17 locations are right next to each other?

18 A. Yes, sir.

19 Q. I mean, you can almost spit on one from the other
20 one, can't you?

21 A. I don't know if they're that close, but they're
22 close.

23 Q. Well, their lines touch, don't they? I was there
24 yesterday and it looked to me like the property line was
25 right between them.

1 A. They're on the same side of the street.

2 Q. Okay. And so there wouldn't be any rational basis
3 for granting one and not granting the other legally, would
4 there?

5 MS. MORALES: Objection, legal conclusion.
6 Argumentative.

7 THE WITNESS: That depends.

8 Q. (MR. NACOL) Depends on what?

9 A. Well, the location at 307 has had a permit for a
10 number of years. I don't even know how far the permit goes
11 back from that location.

12 Q. All right. And I've asked you in the last
13 deposition, and I'll ask you for the last time now, present
14 to the jury now any ordinance, statute, scrap of paper,
15 memorandum, resolution, note from a council meeting,
16 anything which supports the position that it is the owner of
17 the land rather than the seeker of the permit that would be
18 entitled to any type of grandfathering clause.

19 MS. MORALES: Objection, asked and answered.
20 Argumentative.

21 THE WITNESS: It's my understanding of the
22 law that it's the location that is the grandfather.

23 Q. (MR. NACOL) But you don't have anything to
24 support that, do you?

25 A. Nothing other than that provision in the alcoholic

1 beverage code, without going to the law.

2 Q. Okay. Why did it take you five months to give
3 your opinion to Mr. Rounsavall?

4 MS. MORALES: Objection, asked and answered.

5 THE WITNESS: It didn't take me five months
6 to give my opinion.

7 Q. (MR. NACOL) Well, you knew about it sometime
8 around late January, early February, didn't you?

9 A. No, sir. I knew about it February 23rd, as I've
10 testified.

11 Q. Okay. And you don't remember ever receiving the
12 letter in '98 from Mr. Beeler?

13 A. No, sir.

14 MS. MORALES: Asked and answered.

15 Q. (MR. NACOL) And you don't ever remember Mr.
16 Beeler coming in and talking to you?

17 A. At what time?

18 Q. Prior to January of 2000.

19 A. Not that I remember. Mr. Beeler did come to my
20 office, but I don't believe it was prior to that.

21 Q. Okay. What did he discuss with you when he came
22 to your office?

23 A. Mr. Beeler came to my office and stated, to the
24 best of my recollection, that he was -- he had had a
25 disagreement with Mr. Lawson and was no longer -- Mr. Lawson

1 was increasing his rent, and that he was not doing to stand
2 for it and he was going to try to set up a business
3 somewhere else and he thought he was going to move next
4 door. That's my best recollection.

5 Q. And that's just about what's in that '98 letter,
6 isn't it?

7 MS. MORALES: Objection, best evidence.

8 Q. (MR. NACOL) Take a look at the '98 letter. Tell
9 me if you didn't just pretty much just paraphrase the
10 letter.

11 MS. MORALES: Objection. Best evidence,
12 argumentative.

13 THE WITNESS: The letter says that he owns
14 the Handy Mart at 307 Ninth Street, and I don't believe he
15 was the owner. I think he is a renter at 307 Ninth. At
16 least that's what he told me --

17 MR. NACOL: Let me have my --

18 THE WITNESS: -- in 2000.

19 MR. NACOL: -- copy there.

20 MS. MORALES: Uh-huh.

21 MR. NACOL: What exhibit is that?

22 MS. MORALES: Two.

23 Q. (MR. NACOL) Okay. Go ahead.

24 A. He said he had several -- two locations he was
25 looking at, one was on Houston Street in Terrell and one was

1 at 305 Ninth Street.

2 Q. And that -- you don't recall him telling you that
3 he was going to move to 305 Ninth Street?

4 A. In 2000 he told me that's where he would like to
5 move.

6 Q. Okay. When in 2000?

7 A. I don't remember when he came to my office.

8 Q. Well, it was before we all had lawyers fighting
9 each other, wasn't it?

10 A. I don't know. I don't know if he was represented
11 by Mr. Wortham then or not.

12 Q. Wasn't it before he made his application for the
13 new permit?

14 A. I don't think so.

15 Q. To talk to you about schools and distances and
16 things of that nature?

17 A. I don't recall the specific date, but I don't
18 think so.

19 Q. Well, was it in January of 2000?

20 A. I don't remember.

21 Q. Was it in December of 2000?

22 A. I don't think so.

23 Q. Was it in December of '99?

24 A. I don't remember Mr. Beeler ever coming in until
25 after 2000, and I believe it was after -- it was when the

1 discrepancy was discovered in the application, so that would
2 have been after February.

3 Q. Do you have a -- do you keep a calendar?

4 A. I do. I keep an appointment calendar.

5 Q. Okay. Do you have your -- do you keep your -- Do
6 you have your 2000 appointment calendar?

7 A. No, I don't.

8 Q. Where is it?

9 A. I don't know where it is?

10 Q. Do you throw them away at the end of the year?

11 A. Sometimes I do.

12 Q. And do you have your '99 calendar?

13 A. I doubt it. I might, but I doubt it.

14 Q. Does the city keep a calendar for you?

15 A. No.

16 Q. So understanding that you're an attorney -- You
17 understand that, don't you?

18 A. Yes, I understand that.

19 Q. And you understand you can be sued for
20 malpractice?

21 A. Yes, sir.

22 Q. And you understand you could be audited?

23 A. Sure.

24 Q. And you throw away your calendars annually?

25 A. I didn't say I threw it away. I just don't know

1 where it is.

2 Q. It's just missing?

3 A. No, I don't know that it's missing. I just don't
4 have it with me.

5 Q. Okay. Can you produce it?

6 A. If I have it, I can.

7 Q. Okay. Do you keep your telephone records?

8 A. Only as they relate to specific cases, and I keep
9 those in my file.

10 Q. Do you -- I don't understand.

11 Yes.

12

13 (Unidentified person entered the room and
14 discussion off the record from 10:19 to
10:19)

14

15 MR. NACOL: Read the last question.

16 THE REPORTER: You only had part of a

17 question. "Do you keep your telephone records?"

18 MR. NACOL: Do you keep telephone records?

19 MS. MORALES: Asked and answered.

20 Q. (MR. NACOL) No. You --

21 A. Only as they relate to specific cases.

22 Q. So you cut up your telephone records at the end of
23 the month and put the phone messages in each of the files?

24 A. Yes.

25 Q. The record you get from the -- whatever utility --

1 What's your phone company?

2 A. I'm not sure. I think it's AT&T, but I'm not
3 sure.

4 Q. Okay. We don't know our phone company. Do you
5 have any idea --

6 A. It changes repeatedly.

7 Q. Okay. But for the year '99 and the year 2000, are
8 you telling the jury and the judge that when you get your
9 monthly phone bill you cut off each little number and put it
10 in each file?

11 A. No, sir.

12 Q. All right. Where is the phone bill?

13 A. My telephone bill?

14 Q. Yeah.

15 A. Oh, I don't know.

16 Q. Do you keep your telephone bills?

17 A. No, sir.

18 Q. You throw them away?

19 A. I suppose. I don't know where my '99 telephone
20 bills are.

21 Q. Where do you keep your closed files?

22 A. My retired files are kept in my office.

23 Q. Well, don't you keep your phone-a-grams and your
24 calendars and phone bills for tax audit purposes for a
25 period of time as required by the code of professional

1 responsibility of --

2 A. I don't know --

3 Q. -- the State of Texas?

4 A. I don't know if my office staff keeps those or
5 not.

6 Q. Well, how would you find that out?

7 A. I can find out in my office.

8 Q. Do you have to go ask somebody on the staff where
9 the phone bills are?

10 A. Yes.

11 Q. Do you bill for your time?

12 A. Yes.

13 Q. Do you bill for your telephone time -- telephone
14 calls?

15 A. Yes, sir.

16 Q. How do you establish that billing record?

17 A. By my time -- by my time slips. That's my program
18 I use for my billing.

19 Q. Did you ever -- did Mr. Grady Lawson ever sue you?

20 A. No, sir.

21 Q. Did Mr. Humberto Rodriguez ever sue you?

22 A. No, sir.

23 Q. All right. Did you relate to Attorney Marshall
24 with regard to the propriety of the Rodriguez application?

25 MS. MORALES: Objection, ambiguous.

1 THE WITNESS: Please restate your question.
2 I don't understand.

3 Q. (MR. NACOL) Okay. All the things you're working
4 on for Beeler, distance to the schools, churches, day cares,
5 athletic fields, how much do you sell in liquor, all the
6 analysis you were doing for your opinion, did Marshall
7 discuss any of those issues with you with regard to Mr.
8 Rodriguez's application?

9 MS. MORALES: I'll instruct you not to answer
10 to the extent it calls for attorney-client privileged
11 information.

12 Q. (MR. NACOL) Well, I don't want to know your
13 discussions with him. But if he's hired by the city -- Was
14 he hired by the city for that purpose?

15 A. No, sir, he's hired by the Texas Municipal League
16 under the terms of our insurance.

17 Q. Okay. So he is not the city attorney for that
18 purpose?

19 A. He represents the city, yes.

20 Q. I understand in a potential claim, but he is not
21 the attorney -- in-house attorney like you for the purpose
22 of giving opinions when they're requested by the city
23 secretary, correct?

24 A. Correct.

25 Q. All right. Did you perform any duties with him

1 with regard to analysis of the claim of Mr. Rodriguez?

2 A. I don't recall.

3 Q. Do you recall whether Mr. Rodriguez -- you were
4 aware of when the decision was made to grant Mr. Rodriguez
5 his application?

6 A. No.

7 Q. So you didn't know anything about that?

8 A. No, I didn't say I didn't know anything about it.
9 Your specific question was, do I know when it was granted
10 and my answer was no.

11 Q. Did you know in advance when it was going to be
12 granted?

13 A. No, sir.

14 Q. Did Mr. Rounsavall ever ask you your opinion on
15 when it should be granted?

16 MS. MORALES: Asked and answered.

17 THE WITNESS: I believe I testified we
18 discussed it, but I don't remember anything specific --

19 MR. NACOL: He never asked you to do work on
20 it?

21 MS. MORALES: Asked and answered.

22 THE WITNESS: As I said, we discussed it.

23 Q. (MR. NACOL) You just had cordial conversation
24 about it, but it wasn't like Mr. Beeler where he says, "I
25 want an opinion," right?

1 MS. MORALES: Objection, asked and answered.

2 THE WITNESS: I don't think a formal opinion
3 was requested.

4 Q. (MR. NACOL) Okay. Do you have any idea why Mr.
5 Rodriguez got his permit in 27 days --

6 A. No, sir.

7 Q. -- instead of seven months?

8 A. No, sir.

9 Q. Do you have rational basis for that distinction?

10 MS. MORALES: Objection, legal conclusion.

11 THE WITNESS: I don't know.

12 Q. (MR. NACOL) Do you know of any rational legal
13 basis for Mr. Rodriguez getting his in 27 days and my
14 client, Mr. Beeler, getting his in seven months?

15 MS. MORALES: Objection, legal conclusion.
16 Asked and answered.

17 THE WITNESS: I don't know.

18 Q. (MR. NACOL) You don't know of any opinion?

19 A. No, sir, I don't --

20 Q. You don't know of any basis?

21 A. I don't have any information on it.

22 Q. And you are the city attorney?

23 A. Yes, sir.

24 Q. Did you ever know Mr. Lawson?

25 A. Yes, sir.

1 Q. Before the application you knew him?

2 A. I knew that he was the owner of that store.

3 Q. Did you ever know him personally?

4 MS. MORALES: Asked and answered.

5 THE WITNESS: I've been in the store.

6 Q. (MR. NACOL) Okay. Do you buy liquor from him?

7 A. No, sir.

8 Q. What do you buy from him?

9 A. It's been a while since I've been in there, but
10 years ago I'd go in to -- it's a quick stop convenience
11 store.

12 Q. Is it on the way -- You live in Dallas, Texas,
13 don't you?

14 A. No, sir.

15 Q. Where do you live?

16 A. In Rockwall.

17 Q. Is it on the way to Rockwall?

18 A. No, sir.

19 Q. Why would you go there then?

20 A. I grew up in Terrell, and I've stopped at that
21 convenience store and many others throughout the city.

22 Q. Okay. When you stopped in, would you have
23 conversations with him?

24 A. I assume I would as I paid for whatever I bought.

25 Q. Does your husband know his wife?

1 A. I don't know.

2 Q. Have y'all ever been out socially or anything like
3 that?

4 A. No, sir.

5 Q. How many times did you speak to Grady Lawson in
6 the year 1999?

7 A. I couldn't answer that. I don't know. I don't
8 know that I spoke to him at all.

9 Q. Can you recall any one occasion when you spoke
10 him?

11 A. No, sir.

12 Q. How many times did you talk to him in 2000?

13 A. I can't tell you specifically. Probably not over
14 two.

15 Q. When was the first time?

16 A. With regard to this particular situation?

17 Q. I want to know every conversation --

18 A. Well, I may have --

19 Q. -- no matter what regard.

20 A. -- seen him on the street. I might have passed
21 him in city hall. Specifically he came to my office I know
22 one time. But as far as where and the subject of the
23 conversations, other than saying "hello," I couldn't tell
24 you.

25 Q. Okay. So --

1 A. I don't see him very often.

2 Q. But you saw him at least twice, but you can't
3 recall anything y'all talked about?

4 A. I didn't say that.

5 Q. Well, you did say two times.

6 A. Yes, sir.

7 Q. Well, tell the jury everything you recall
8 discussing with him.

9 A. Mr. Lawson came to my office and wanted to discuss
10 the situation with Mr. Beeler.

11 Q. When was this?

12 A. I don't remember.

13 Q. Was it in January --

14 A. No, sir.

15 Q. -- of 2000?

16 A. I don't -- No, as I've testified, I don't recall
17 being aware of the situation until after that time.

18 Q. Was it in February of 2000?

19 A. I don't know specifically.

20 Q. It could have been February?

21 A. It could have been February or March.

22 Q. February or March. All right. And what did he
23 say to you in that meeting?

24 A. Stated that he and Mr. Beeler had had a parting of
25 the ways.

1 Q. And --

2 A. And I can't remember the exact text of the
3 conversation, but I referred him to city hall.

4 Q. Why did you do that?

5 A. Because he wanted to discuss a beer and alcohol
6 permit, and I said, "That's handled at city hall."

7 Q. Okay. So in February and/or March you were aware
8 from him directly that he was seeking a beer or alcohol
9 permit?

10 A. I was already aware. Mr. Beeler had already been
11 in.

12 Q. All right.

13 A. So I was aware of the situation between those two.

14 Q. And when, again, did Mr. Beeler come in?

15 A. Sometime around the same time period.

16 Q. Okay. How long did the conversation last with Mr.
17 Grady Lawson?

18 MS. MORALES: Asked and answered.

19 THE WITNESS: Very short. I don't even know
20 if I ever --

21 Q. (MR. NACOL) Five minutes, 10 minutes?

22 A. I don't even know if I ever sat down when he
23 walked in the office. May have stayed five minutes.

24 Q. And you told him he needed to go see the city
25 council?

1 A. No, sir, the city secretary.

2 Q. Didn't you say city council earlier?

3 A. No, sir, I did not. I said city secretary. If I
4 did say city council, I meant city secretary.

5 Q. Okay. Did you relate to him that based on your
6 theory of the law he had a lifetime exemption?

7 A. No, sir.

8 Q. Did you believe it at the time he came in that he
9 had a lifetime exemption?

10 A. No, sir.

11 Q. When was the second time he came to see you?

12 A. I don't remember the exact date or time.

13 Q. Where was it?

14 A. I think I saw him at city hall, as I was coming
15 in.

16 Q. Well, what did he say?

17 A. I don't remember what he said, but it was just a
18 passing conversation.

19 Q. You can't recall one word he said to you in that
20 meeting?

21 MS. MORALES: Asked and answered.

22 THE WITNESS: No, sir, not really. Not with
23 any specificity.

24 Q. (MR. NACOL) Well, generally what did he discuss
25 with you?

1 MS. MORALES: Asked and answered.

2 THE WITNESS: I think he discussed -- We
3 said "hello" as I was passing, and I asked what he was
4 doing, and he said he was over checking on a permit. I
5 don't even know if it was the beer and wine permit.

6 Q. (MR. NACOL) Do you recall a meeting with Mr.
7 Beeler at your office on March the 2nd of 2000?

8 A. No, sir.

9 Q. Would that be a date that would be within the area
10 that would you consider as to when you probably talked to
11 Mr. Beeler?

12 A. Possibly.

13 Q. Did you indicate to him at that time any time
14 period within which the permit would probably be granted?

15 A. No, sir.

16 Q. Did you say anything to him with regard to a time
17 line for the granting of a permit?

18 A. I don't think so.

19 Q. But you don't recall specifically, do you?

20 A. No, I don't think I would, because I wouldn't know
21 that.

22 Q. I'm not asking you what you're presuming you would
23 do under the same or similar circumstances. I'm asking what
24 you have present knowledge of right now. Do you recall
25 right now from your current memory whether you did or did

1 not say anything with regard to when he would get his
2 permit?

3 A. I did not.

4 Q. Okay. Tell me everything you did say in that
5 conversation.

6 MS. MORALES: Objection, asked and answered.

7 THE WITNESS: I don't recall any specifics.

8 Q. (MR. NACOL) Then how can you recall that you
9 didn't say that?

10 A. Because I would not give anyone a time line,
11 because that is out of my control. That is handled at city
12 hall. I don't know what the backup is in Mr. Rounsavall's
13 office. I don't know what the state of his application was.
14 So I would not have given him any kind of a time frame.

15 Q. So did you tell him, "I can't give you a time
16 frame"?

17 A. I don't recall what I specifically said --

18 Q. You don't recall --

19 A. -- to him.

20 Q. -- what you said.

21 A. But I know I wouldn't give him a time frame,
22 because I wouldn't know that.

23 Q. You would know that you -- it would not be logical
24 to you today to make such a statement, correct?

25 A. I would not make such a statement as to a time

1 frame.

2 Q. But if you don't have a recollection of what you
3 said, how can you know whether you said it or not?

4 MS. MORALES: Objection, asked and answered.

5 THE WITNESS: I didn't give him a time frame,
6 Mr. Nacol.

7 Q. (MR. NACOL) Have you told the jury about every
8 conversation that you had, to your recollection, with Mr.
9 Beeler or Mr. Lawson?

10 A. Yes, sir.

11 Q. Did you have any conversations with Mr. Rodriguez?

12 A. I've never met Mr. Rodriguez.

13 Q. Who was your secretary in early 1998?

14 A. I'm not sure. I'm not sure if my current
15 secretary was there in '98 or not.

16 Q. On or about January the 4th of '98 who was your
17 secretary?

18 A. I'm not sure.

19 Q. Well, who are all the secretaries that were about
20 that time that you had?

21 A. I had a secretary named Denise Yeakley.

22 Q. Denise, D-e-n-i-s-e?

23 A. Yes, sir.

24 Q. Last name?

25 A. Yeakley, Y-e-a-k-l-e-y.

1 Q. Okay.

2 A. I had a secretary named Lisa Hughes.

3 Q. Okay.

4 A. I had a secretary named April Delacruz, and I'm
5 not sure if she was there in April of '98.

6 Q. Okay. Is it a fair statement one of these were
7 probably the secretary in January of '98?

8 A. Probably, unless I've forgotten somebody.

9 Q. Okay. How long did Denise Yeakley work for you?

10 A. About 12 years.

11 Q. How long --

12 A. I think it was about 12 years.

13 Q. How long did Lisa Hughes work for you?

14 A. Lisa was there off and on probably for two to
15 three years. Probably two years.

16 Q. And April Delacruz?

17 A. She's been there about a year, maybe a year and a
18 half. Maybe not that long. As one came on when another one
19 left.

20 Q. Okay. Why did Denise quit?

21 A. Her husband got another job.

22 Q. Where is she located now?

23 A. New Mexico.

24 Q. Do you have her phone number?

25 A. No, sir.

1 Q. Do you have her address?

2 A. No, sir.

3 Q. Okay. What about -- Did she leave -- She left
4 in '98?

5 A. I don't know when she left. It may have been
6 before '98. I'm just not sure of the dates.

7 Q. Did she go directly to New Mexico?

8 A. Yes, sir.

9 Q. How did you get her her W-2?

10 A. Her mother lives in Dallas, or used to live at
11 Dallas.

12 Q. What's her mother's name?

13 A. I don't know. I can provide that.

14 Q. All right. If leave a blank in the deposition,
15 would you fill that in?

16 A. Uh-huh. Her first name is Jerry.

17 Q. Okay.

18 A. I just don't remember her last name.

19 Q. Leave a blank in the deposition.

20 A. Jerry Turk

21 Q. Do you have her phone number?

22 A. No, sir.

23 Q. And why did Lisa Hughes leave?

24 A. Lisa --

25 MS. MORALES: Objection. You can answer.

1 THE WITNESS: She got a job in Dallas.

2 Q. (MR. NACOL) Is she in Dallas now?

3 A. Yes.

4 Q. Is that her name now? Is she married or anything?

5 A. No, that's her name.

6 Q. Do you have her phone number?

7 A. I do.

8 Q. What's her phone number?

9 A. I don't know.

10 Q. If we leave a blank, will you put that number in
11 there?

12 A. Sure.

13 Q. Okay. Leave a blank there.

14 A. 972-932-7044

15 Q. And April Delacruz?

16 A. She's there now.

17 Q. She's your secretary now?

18 A. Uh-huh.

19 Q. Okay.

20 A. Yes.

21 Q. Well, you can just ask her if she was there during
22 that time period.

23 A. Yes, sir.

24 Q. What's her phone number?

25 A. Just my office number.

1 Q. Well, I can't call your office.

2 A. 972 --

3 Q. It violates the -- No, I can't call your office.

4 That's against the law.

5 A. I'll be happy to ask her if she were there, if you
6 want a specific date. I just don't remember if she was then
7 or not.

8 Q. Okay. Can you put in a blank for her home phone
9 number in there?

10 A. Okay.

11 Q. Okay. Put a blank there.

12 A. 972-551-0547

13 Q. Do you know whether or not Rounsavall ever
14 protested the Grady Lawson-Rodriguez application the way he
15 did Beeler's?

16 MS. MORALES: Objection, argumentative.

17 THE WITNESS: Restate your question.

18 MR. NACOL: How is that argumentative?

19 MS. MORALES: What do you mean "the way he
20 did" his?

21 MR. NACOL: The way he did it.

22 MS. MORALES: What did you mean "the way the
23 did it"?

24 Q. (MR. NACOL) With a letter. Did he ever send a
25 letter to anybody to protest -- to the TABC to protest Mr.

1 Rodriguez's application the way he did Mr. Beeler's?

2 MS. MORALES: Speculation.

3 THE WITNESS: I don't know.

4 Q. (MR. NACOL) Has he ever told you if he did or
5 not?

6 A. No, sir.

7 Q. Have you ever seen any document to that effect?

8 A. No, sir.

9 MR. NACOL: Thank you, ma'am.

10 THE WITNESS: Can we take a short break?

11 MS. MORALES: A bathroom break.

12 THE WITNESS: Yeah.

13 MR. NACOL: Sure. You bet.

14 (Recess from 10:38 to 10:45)

15 Q. (MR. NACOL) Okay. We're back on the record. Did
16 Mr. Rounsavall tell you anything that you haven't told me so
17 far in this deposition that he told either Mr. Grady or Mr.
18 Rodriguez or Mr. Beeler?

19 A. Mr. Lawson? You said "Mr. Grady."

20 Q. I mean Mr. Grady Lawson, Mr. Rodriguez and Mr.
21 Beeler.

22 A. Not that I can remember.

23 Q. Were any of these matters ever presented to the
24 city council?

25 MS. MORALES: Speculation.

1 THE WITNESS: I don't think they were.

2 Q. (MR. NACOL) Are you at the city council meetings?

3 A. Yes.

4 Q. And you're there in person?

5 A. Yes, sir.

6 Q. So it wouldn't be speculation for you to know what
7 happened there if you're there, would it?

8 A. No.

9 Q. Okay. While you were there, were any of these
10 permit matters ever discussed or brought up or put on the
11 agenda?

12 A. No.

13 Q. Okay. Without having all the statutes here, can
14 you cite to me the grandfather clause of the City of
15 Terrell?

16 A. No, sir.

17 Q. There is not one, is there?

18 MS. MORALES: Objection, asked and answered.

19 THE WITNESS: I don't know that there's a
20 grandfather clause specifically for the City of Terrell.

21 Q. (MR. NACOL) Can you cite me to the code -- TABC
22 code that would have such a grandfathering effect?

23 A. I believe it was in one of the exhibits. 109.59.

24 Q. Exhibit 109 point --

25 MS. MORALES: No, we're looking at 23.

1 MR. NACOL: Oh, okay.

2 THE WITNESS: Sorry, 23.

3 MR. NACOL: I started to say --

4 THE WITNESS: We added a few when you weren't
5 looking.

6 Q. (MR. NACOL) Okay. And what page of the letter --

7 A. The first page of the letter.

8 Q. Can you tell the jury how A possibly refers to a
9 new and original permit when it specifically states, "The
10 premises shall be deemed to satisfy distance requirements
11 for all subsequent renewals of the license or permit"?

12 MS. MORALES: Asked and answered.

13 THE WITNESS: Would you ask your question
14 again?

15 Q. (MR. NACOL) What is your legal basis for equating
16 renewals to an original, new permit?

17 MS. MORALES: Legal conclusion. I'll
18 instruct you not to answer to the extent it calls for any
19 work product.

20 MR. NACOL: What does that mean?

21 MS. MORALES: That means if you're asking for
22 her thought processes as to why she believes that, then I
23 think that's work product. Was something unclear about --

24 MR. NACOL: What --

25 MS. MORALES: -- what I said? What's your

1 question, Mr. Nacol?

2 MR. NACOL: I'm asking her, she's in charge
3 of the city to give opinions, and in her opinion how could
4 she -- how does she equate a renewal to a new permit.

5 THE WITNESS: I think the --

6 MS. MORALES: You can answer.

7 THE WITNESS: I think that the section 109.59
8 states that if the premises satisfies the requirements from
9 the distance at the time the original permit is issued, then
10 it's deemed to satisfy the distance requirements for all
11 subsequent renewals of the license or permit.

12 Q. (MR. NACOL) And you knew -- you knew at the time
13 you read this that Mr. Beeler was not a renewal, didn't you?

14 MS. MORALES: Objection, asked and answered.

15 THE WITNESS: I think at the time I read
16 this, which would be sometime after March 14th, which is the
17 date of the letter, I was aware that Mr. Beeler -- that
18 there was a problem with Mr. Beeler's application in the
19 mind of John Rounsavall with regard to the location.

20 Q. (MR. NACOL) Okay. I'm not asking you to
21 speculate on the mental processes of another. I'm asking
22 you, with all the letters you'd received up to this date and
23 all the conversations you had and the fact that you, quote,
24 lived there all your life and used to frequent these
25 locations -- I'm asking you, you as a lawyer know the

1 difference between a renewal and an original application, do
2 you not?

3 A. Right.

4 MS. MORALES: Asked and answered.

5 THE WITNESS: Yes, sir.

6 Q. (MR. NACOL) Then how could you possibly have a
7 rational basis for denial of a permit when you know it's not
8 a renewal?

9 MS. MORALES: Objection, legal conclusion.
10 You can answer.

11 THE WITNESS: Section B on the top of the
12 next page states, "On the sale or transfer of the premises
13 or the business on the premises in which an original license
14 or permit is required, the premises shall be deemed to
15 satisfy any distance requirements as if the issuance of the
16 original, new permit were a renewal of the previously held
17 license or permit."

18 Q. (MR. NACOL) And that doesn't apply to either
19 Humberto Rodriguez or Mr. Beeler at 305, does it?

20 A. It doesn't apply to Mr. Beeler. And I believe
21 that this was -- You asked me with regard to 307, which was
22 Mr. Lawson's location, if I understood your question
23 correctly.

24 Q. But you understand -- you know as a lawyer who
25 does this for a living that Mr. Humberto Rodriguez is not

1 Grady Lawson, is he?

2 MS. MORALES: Objection, asked and answered.

3 THE WITNESS: I don't know what the
4 relationship -- the business relationship between know Mr.
5 Lawson and Mr. Rodriguez was, whether they were going to be
6 landlord-tenant or whether it was an option to purchase or
7 whether it was a purchase.

8 Q. (MR. NACOL) They're not the same person, are
9 they?

10 A. No, sir.

11 Q. And the license is carried by the person, is it
12 not, not the location?

13 MS. MORALES: Legal conclusion. You can
14 answer.

15 THE WITNESS: The permit is granted to the
16 person.

17 Q. (MR. NACOL) Correct. All right. Please go to
18 Exhibit No. 6.

19 A. I'm there.

20 Q. When you received this letter from Michael
21 Wortham, did you read Rogers versus Texas Liquor Control
22 Board, 449 Southwest Second 292?

23 A. I presume I did.

24 Q. What does it say?

25 A. I don't remember specifically.

1 Q. How many hours did you spend analyzing Rodriguez
2 versus Texas Liquor Control Board?

3 A. I don't remember.

4 Q. Did you spend over five minutes on it?

5 A. I'm sure I read the case. I don't remember the
6 period of time, Mr. Nacol.

7 Q. What was your conclusion after reading it?

8 A. I don't recall. I don't have the case in front of
9 me.

10 Q. Did you ever call Mr. Wortham to give him your
11 opinion?

12 A. I called Mr. Wortham numerous times and Mr.
13 Wortham called me also.

14 Q. Did you return all of his calls?

15 A. As far as I know --

16 MS. MORALES: Asked and answered.

17 THE WITNESS: As far as I know I did.

18 Q. (MR. NACOL) After reading Rogers versus Texas
19 Liquor Control Board, did you have an opinion as to whether
20 or not an athletic field is a public school?

21 MS. MORALES: Asked and answered.

22 THE WITNESS: I don't remember.

23 Q. (MR. NACOL) What was your conclusion to your
24 opinion to Mr. Rounsavall?

25 A. I believe my opinion to Mr. Rounsavall was stated

1 in my memorandum to him. I don't have the date of it, but
2 it's an exhibit.

3 Q. All right. Point it out to me.

4 A. Excuse me?

5 Q. Point it out to me.

6 A. I believe it was in a copy of a letter to Mike
7 Worth dated March 17th of 2000.

8 Q. What exhibit are you looking at?

9 MS. MORALES: We're looking at 8.

10 THE WITNESS: 8.

11 Q. (MR. NACOL) So it was your opinion after reading
12 Rogers versus Texas Liquor Control Board that an athletic
13 field is a public school?

14 MS. MORALES: Asked and answered.

15 THE WITNESS: No, sir.

16 Q. (MR. NACOL) Well, I'm not asking you about other
17 schools or the Easter Bunny or anything else. I'm asking
18 about this request, the original statement that it was near
19 an athletic field. What was your conclusion with regard to
20 the athletic field? Is it a public school?

21 MS. MORALES: Asked and answered.

22 THE WITNESS: I don't recall my specific
23 opinion with regard to the athletic field.

24 Q. (MR. NACOL) So you don't have an opinion -- as
25 you sit here today you don't have an opinion?

1 A. I remember we researched it and I remember I had
2 numerous conversations with Mr. Wortham.

3 Q. Well, you dropped the demand, didn't you?

4 MS. MORALES: Asked and answered.

5 Q. (MR. NACOL) After this letter you dropped the
6 claim that an athletic field is a public school, didn't you?

7 A. I don't recall -- I don't recall if and when I put
8 forth that opinion. This says -- this is just information
9 from Mr. Wortham.

10 Q. So it's your position here today that you never
11 had a position that Ordinance No. 1939 of the City of
12 Terrell required that no permits be issued within 1000 feet
13 of an athletic field or a day care center? That's your
14 position here today?

15 MS. MORALES: Objection, asked and answered.

16 THE WITNESS: I don't -- Would you repeat
17 your question? I don't understand what you're asking.

18 Q. (MR. NACOL) Well, it is our understanding that
19 you had clearly taken the position that you couldn't sell
20 alcoholic beverages within 1000 feet of an athletic field
21 and a day care facility. That's why he's sending you the
22 case to show you the law. Are you stating now that you
23 never took that position to begin with?

24 A. We looked at the ordinance, and we looked at the
25 Texas Alcohol Beverage Code, and we discussed lots of

1 different things that might apply to these different
2 locations.

3 Q. Objection, nonresponsive. Did you or did you not
4 take the position that an athletic field and a day care
5 facility violates 1939?

6 A. It was probably one of the things that we
7 discussed.

8 Q. And you took that position originally with Mr.
9 Beeler, didn't you?

10 MS. MORALES: Objection, asked and answered.

11 THE WITNESS: I don't recall.

12 Q. (MR. NACOL) Who is "we"? Who is "we discussed"?

13 A. Probably Mr. Wortham and I.

14 Q. Mr. Wortham didn't take the position that it
15 violated an athletic field and a day care facility, did he?

16 A. No, sir.

17 Q. When you said, "we reviewed this, we discussed it
18 and we" --

19 A. No, I said, "we discussed it," meaning Mr. Wortham
20 and I.

21 Q. Okay. Why were you even --

22 A. He is the "we."

23 Q. Okay. Why, if we're trying to get a permit, would
24 Mr. Wortham even be talking about it unless you said it
25 applied?

1 MS. MORALES: Objection, speculation.

2 THE WITNESS: I don't know.

3 Q. (MR. NACOL) Did you ever after this March 30th,
4 2000 letter, receipt of it, change your opinion with regard
5 to an athletic field or day care facility being violative of
6 1939?

7 A. Repeat your question.

8 Q. Did you ever after receipt of this letter continue
9 to take the position that 1000 feet of an athletic field or
10 day center is violative of Ordinance 1939?

11 MS. MORALES: Asked and answered.

12 THE WITNESS: I can't say with certainty,
13 because I don't know that I ever took that position.

14 Q. (MR. NACOL) So Mike's writing this letter to you
15 just to have an intellectual conversation?

16 A. I don't know. I know that we discussed Ordinance
17 1939. He asked for copies of all our city ordinances. I
18 furnished them to him, and then we had numerous discussions
19 with regard to the alcoholic beverage code, the city
20 ordinances, any number of things that possibly could apply
21 to this location.

22 Q. Okay. How did you reach the second opinion,
23 Exhibit 8, that now the ordinance is violated because
24 Terrell Christian Academy is within 1000 feet of it?

25 MS. MORALES: Objection, assumes facts not in

1 evidence.

2 THE WITNESS: I presume that it's because --
3 I don't know that it was my second opinion first --

4 Q. (MR. NACOL) Okay.

5 A. -- in answer to your question. But in
6 interpreting our city ordinances.

7 Q. You don't know if it was your interpretation or
8 not?

9 A. No, that's not what I said. You said how did I
10 reach my second opinion. And I take issue with that. I
11 don't know that it was my second opinion. You're
12 characterizing that as my second opinion.

13 Q. Whatever opinion, why did you take the opinion
14 that it was violative of the ordinance?

15 A. Because that's what our city ordinances state.

16 Q. Okay. And did Mike Wortham respond to that the
17 same day?

18 A. Yes. By letter.

19 Q. Okay. Did you read that letter?

20 A. Yes, sir.

21 Q. Did that letter clear up your second -- did it
22 clear up your opinion with regard to private schools being
23 within 1000 feet?

24 A. Mr. Wortham had already filed a lawsuit two days
25 prior to this that was pending in district court in Kaufman

1 County with regard to this issue. He'd filed a suit for
2 declaratory judgment and injunction. And we had already
3 sent that lawsuit to Texas Municipal League. I don't recall
4 if I even answered this letter, based on the litigation.

5 Q. In point of fact, Mr. Wortham also said that my
6 client would prefer to resolve this matter short of
7 litigation, but the issues need to be addressed promptly,
8 did he not?

9 A. Which paragraph are you referring to?

10 Q. Next-to-the-last on the second page.

11 A. It says he would like to resolve this short of
12 litigation, but he'd already had a hearing set for a
13 temporary restraining order on March 29th.

14 Q. Did you ever call him back to discuss the logic
15 and the cases in this letter to establish the lack of legal
16 basis for your position?

17 A. I don't remember if I did or not.

18 Q. And you knew as early as early March that this man
19 had bought a brand-new business and was suffering damages if
20 he didn't have his license. You knew that, didn't you?

21 MS. MORALES: Objection, argumentative.

22 THE WITNESS: I knew that he had told me or
23 told someone with the city -- I can't remember if it was me
24 specifically, but I had information that --

25 Q. (MR. NACOL) Well, it was you. Look at Exhibit 6.

1 MS. MORALES: Can she finish her answer?

2 THE WITNESS: May I finish?

3 Q. (MR. NACOL) All right. Go ahead.

4 A. He told someone -- I don't remember if it was me --
5 that he had purchased the building, but I don't remember if
6 I'd seen any copy of any contract or deed or anything --

7 Q. Okay. Aside from --

8 A. -- at that time.

9 Q. Aside from this collateral information you had to
10 that effect, on March the 3rd of 2000, you did not know
11 that, quote, Mr. Beeler desires to open his store for
12 business Tuesday, March the 7th and needs a permit to sell
13 alcoholic beverage at that time?

14 MS. MORALES: You're on six?

15 MR. NACOL: Six, the last paragraph.

16 THE WITNESS: Yes, I got a copy of the letter
17 March 3rd.

18 Q. (MR. NACOL) So you had it in writing and you had
19 it from collateral sources, correct?

20 A. No, I don't know that I had information that he
21 had purchased the business on March the 7th. I don't
22 remember when I got that information.

23 Q. Well, you had some information that he couldn't
24 sell his alcoholic beverages without the permit. You had
25 that, didn't you?

1 THE WITNESS: Oh, I'm sorry. I didn't know
2 you were waiting on my answer.

3 Q. (MR. NACOL) Yeah.

4 A. I'm sorry. Would you restate your question?

5 Q. I'll go to the next question. This was on March
6 the 17th of 2000 that you got this letter asking you to
7 please review this law, look at it, and that he'd be willing
8 to resolve the issue, correct?

9 MS. MORALES: Objection, best evidence.

10 THE WITNESS: He said that he would prefer to
11 resolve the matter short of litigation, but is requesting
12 that I enter into -- the city enter into certain
13 stipulations to avoid having to subpoena Tim Maloney for the
14 hearing.

15 Q. (MR. NACOL) All right. It says "but" -- I don't
16 think you read that correctly -- "matter short of
17 litigation," comma, "but issues need to be addressed
18 promptly" --

19 A. Correct.

20 Q. -- correct? Did you promptly address these
21 issues?

22 MS. MORALES: Objection, best evidence.

23 THE WITNESS: Again, the lawsuit was filed,
24 the hearing was set for March the 29th at 9:00 o'clock, we
25 had sent this on to our insurer for coverage, and at that

1 point it was referred over.

2 Q. (MR. NACOL) At this point in time had you ever
3 taken the position with Mr. Rounsavall that the location
4 that you used to frequent growing up was a residence? Had
5 you ever taken that position?

6 A. That it was a residence?

7 Q. Yeah.

8 A. No, sir.

9 Q. All right. Please look at the next exhibit, No.
10 10. Do you have any idea how Mr. Rounsavall in his
11 affidavit, you know, protesting the original grant states
12 that it does not comply with the ordinances of the City of
13 Terrell for the sale of alcoholic beverages in a residential
14 area if you had never even thought of that up to this point?

15 A. I don't know the mind-set of Mr. Rounsavall, no,
16 with regard to that.

17 Q. Did you give him any information in your opinion
18 to him to this point to establish that basis for his
19 conclusion?

20 A. Did I give any legal opinion? Is that your --

21 Q. Yes.

22 A. -- question?

23 Q. Yes.

24 A. Not that I remember.

25 Q. Did you call him and say, "Oh, by the way, besides

1 the athletic field and day care centers and all that stuff,
2 besides a Christian private school, this is a residence" --

3 A. No, sir.

4 Q. -- protesting -- You never did that?

5 A. No, and I don't think that's what it says.

6 Q. But there was no doubt in your mind on the 25th --
7 on the 17th of March and on the 21st of Martha that 305
8 Ninth Street is not in a residential area, is it? It is
9 zoned retail and you knew it, didn't you?

10 A. It's in a residential area, but it's --

11 Q. It is zoned retail.

12 A. -- zoned retail.

13 Q. And I'm not going to belabor all this, but in the
14 last deposition all you've got to do is go down to the city
15 to figure all that out?

16 A. Correct.

17 Q. It doesn't take lawyers --

18 A. And we talked about that last time.

19 Q. It doesn't take lawyers, doesn't take any thought
20 process. You just go look it up and see it, right?

21 A. You can get the information from the city.

22 Q. And since the city attorney -- city secretary is
23 in charge of all the records, he wouldn't have any problem
24 getting that information, would he?

25 MS. MORALES: Argumentative, objection.

1 THE WITNESS: I would presume not.

2 Q. (MR. NACOL) Okay. Now, on March the 21st of 2000
3 you received very specific information with regard to the
4 sale of alcohol at Handy Mart, did you not, from Mr. Beeler
5 through Mr. Wortham, his attorney.

6 A. I received a letter dated March 21st, yes.

7 Q. And that one sets out the total beer and wine
8 purchases, right?

9 MS. MORALES: Objection, best evidence.

10 THE WITNESS: It appears to.

11 Q. (MR. NACOL) And it also shows that for the same
12 period there was almost \$900,000 in sales, correct?

13 MS. MORALES: Best evidence.

14 THE WITNESS: No, it says 879,154.68

15 Q. (MR. NACOL) Excuse me. Instead of 80 percent, 70
16 percent of the sales are nonalcoholic based on these
17 numbers, correct?

18 MS. MORALES: Best evidence.

19 THE WITNESS: If your percentages are
20 correct.

21 Q. (MS. MORALES) And you attachments to that letter,
22 didn't you, very specifically setting out what the sales
23 were? Computer printouts, conclusions and totals both for
24 1999 and 1998, did you not?

25 MS. MORALES: Best evidence.

1 THE WITNESS: I presume that they were
2 attached.

3 Q. (MR. NACOL) And you had a December 31st, 1999
4 financial statement of Handy Mart, did you not, that gives
5 all their expenses and net profit and loss and all the
6 issues, correct?

7 MS. MORALES: Best evidence.

8 THE WITNESS: If it was attached.

9 Q. (MR. NACOL) Are telling the court you never
10 received this attachment?

11 A. No, sir. I'm saying that if it was attached, then
12 I got it.

13 Q. Okay. I got this out of your file.

14 A. Then I assume it was there.

15 MS. MORALES: Well --

16 Q. (MR. NACOL) Okay. And if it was there, you read
17 it, didn't you?

18 MS. MORALES: I'm going to object that it
19 mischaracterizes the evidence and assumes facts not in
20 evidence. I think this is one of your documents. I don't
21 know. JB. We're looking at --

22 MR. NACOL: This is your exhibits. These are
23 your exhibits.

24 MS. MORALES: These have your Bates stamp
25 numbers, Mr. Nacol, JB. I didn't put JB on mine. Mine just

1 have numbers.

2 Q. (MR. NACOL) Okay. Are you telling the federal
3 judge that this via telefax never happened and you never got
4 this letter and these attachments? Yes or no?

5 MS. MORALES: Tell us what you're looking at.

6 THE WITNESS: I don't know what you're
7 looking at.

8 Q. (MR. NACOL) Exhibit No. 11, the letter with the
9 attachments, or enclosures as it referred to in the letter.

10 A. And you're saying I got that by fax?

11 Q. By fax and by mail, and by the way, so did Mr.
12 Rounsavall. It's in his exhibits.

13 A. It says --

14 MS. MORALES: And let me just for record say,
15 we're not disputing that. My problem was that you're saying
16 that document came from our file, and it's your file. I
17 just wanted that cleared up. So you can go ahead and
18 answer.

19 THE WITNESS: It say "via telefax" --

20 MR. NACOL: Wait, stop. I sent a duces
21 tecum. You produced this document.

22 MS. MORALES: You produced these. These are
23 from your -- these are from your -- No, we didn't produce
24 these to you. You gave these to me in initial disclosures.
25 I'll show you. I have your --

1 MR. NACOL: Well, then --

2 MS. MORALES: And you brought those along,
3 and then whatever has written numbers, that's what I gave
4 you without the JB --

5 MR. NACOL: Okay.

6 MS. MORALES: -- on the stuff that I gave
7 you.

8 Q. (MR. NACOL) Did you send this letter to Mr.
9 Rounsavall, the copy that you got of it?

10 A. I don't recall specifically if I did or not.

11 Q. Okay. But you're not denying you got this letter,
12 are you? That you had conversations with Mr. Wortham
13 following this letter about this letter?

14 A. I can't say specifically that I had conversations
15 with Mr. Wortham about this particular letter. I had
16 conversations with Mr. Wortham, yes. And I presume that the
17 letter says what it says. It says "via telefax." Well, I'm
18 not disputing that I got it, but if you ask if I got this
19 particular letter with these particular attachments and I
20 talked to Mr. Wortham about this particular letter, I can't
21 say that with 100 percent certainty.

22 Q. Okay. Do you have a recollection as we sit here
23 whether you read this letter and analyzed these financials
24 on or about March the 21st of 2000?

25 MS. MORALES: This is your file. Yeah, let

1 me just -- Okay. Here we go.

2 THE WITNESS: What's the number of your
3 exhibit again?

4 MS. MORALES: Well, you might read the Bates
5 stamp for the record.

6 THE WITNESS: Mark, what's the number of your
7 exhibit again?

8 MR. NACOL: 11.

9 THE WITNESS: 11. Is that it?

10 MS. MORALES: Those are our originals, yes.

11 THE WITNESS: Okay. Yes.

12 Q. (MR. NACOL) All right. Thank you. Did you call
13 Mr. Wortham immediately knowing that this business was
14 trying to start up and explain -- and tell him, "Well,
15 regardless of whether any of this law actually applies,
16 there's obviously an exemption. You're exempted. We're
17 going to grant the permit"?

18 A. Did I call Mr. Wortham and make that specific --

19 Q. Yeah.

20 A. -- statement? I don't remember.

21 Q. Why?

22 A. Why do I not remember?

23 Q. No. You don't recall whether you did or not?

24 A. No, I don't.

25 Q. Okay. Did you tell Mr. Rounsavall that?

1 A. Not that I remember.

2 Q. Do you think you should have done that in the
3 exercise of your duties?

4 A. As I said, at this time in March -- on March the
5 21st we were in litigation and we were represented by other
6 counsel, so --

7 Q. What happens when you're in litigation?

8 A. At that point everything goes to the lawyer
9 representing us.

10 Q. And the city has to spend money, doesn't it --

11 A. I presume so.

12 Q. -- on lawyers and take up time and hurt the
13 taxpayer? All that stuff happens in litigation, doesn't it?

14 MS. MORALES: Argumentative.

15 THE WITNESS: Yes, sir.

16 Q. (MR. NACOL) Right. And that's what -- On March
17 the 21st you knew that you had the wrong position in this
18 lawsuit, didn't you?

19 A. No, sir.

20 Q. Then why in the world did you eventually withdraw
21 the protest -- why did the city do that, based on these very
22 numbers and reciting this conclusion?

23 MS. MORALES: Objection. I'll instruct you
24 not to answer to it extent it involves discussions with Mr.
25 Marshall and/or Pete Smith or anyone from our firm, for that

1 matter.

2 THE WITNESS: Then I can't answer that. We
3 were represented by another attorney at that time.

4 Q. (MR. NACOL) Okay. Forget the attorney.

5 A. So I don't know.

6 Q. Why didn't you -- why didn't you call Mr. Wortham
7 instantly or call Mr. Rounsavall and say, "Look, we're
8 hurting this man. This is hurting this man. We want to
9 settle" -- "We're wrong. Give him his permit"?

10 MS. MORALES: Objection, asked and answered.

11 THE WITNESS: As I stated, Mr. Nacol, we were
12 in litigation. Your client already filed suit against the
13 city, and this matter was referred to the attorney
14 representing the city.

15 Q. (MR. NACOL) But you knew that when you got this
16 letter your position was wrong, didn't you?

17 A. No, sir.

18 Q. Okay. Tell the jury right now what was right
19 about your position on March the 21st of 2000.

20 MS. MORALES: Asked and answered, and same
21 instruction.

22 THE WITNESS: As I said, I referred this over
23 to the attorney representing the city at that point.

24 Q. (MR. NACOL) Okay. I don't want to know about
25 referrals. In your mind what possible defense is there to

1 this lawsuit at this time?

2 MS. MORALES: Legal conclusion.

3 THE WITNESS: Mr. Nacol, my opinion was that
4 the location was in violation of the ordinance.

5 Q. (MR. NACOL) On March the 21st?

6 A. Yes, sir, the ordinance --

7 Q. Did you think these --

8 A. -- 1939 was still on the books and --

9 Q. Well, did you think that --

10 A. -- still stands.

11 Q. -- these numbers were fraudulent?

12 A. No, I didn't think they are fraudulent. I didn't --

13 Q. Well, if they're not fraudulent --

14 A. -- know if they were correct or not correct. As I
15 said, I referred them over the attorney, and I assume he had
16 conversations with Mr. Wortham.

17 Q. Please go to the next exhibit, No. 12. Now, this
18 is two days after March the 21st, correct?

19 A. Yes.

20 Q. And it's via telefax, too, correct?

21 A. Yes, it says the same thing.

22 Q. And the sentence says, "Thank you for sending me
23 the latest ordinance on the city in relying on the protest
24 of the application of Mr. Beeler's off-premise permit at 305
25 Ninth Street, Terrell Texas," correct?

1 A. Yes, sir.

2 Q. Why are you -- If you sent all this to that
3 lawyer, why are you now sending ordinances to --

4 A. Because this is --

5 MS. MORALES: Best evidence.

6 THE WITNESS: This was requested by an open
7 records request that was sent prior to us knowing that your
8 client had filed suit. He filed suit on March the 15th of
9 2000. The open records request, I believe, came in before
10 that, and the city was complying with open records request --

11 MR. NACOL: Why --

12 THE WITNESS: -- as we're required to do.

13 Q. (MR. NACOL) Why on March the 23re are you now
14 saying this is a residence?

15 A. I'm not saying that. Mr. Wortham is saying that.
16 This is a letter from Mr. Wortham to me.

17 Q. That's right, but you sent him the ordinance,
18 correct?

19 A. Someone sent this ordinance in response to --

20 Q. And that was --

21 A. Let me finish my answer, please.

22 Q. Okay.

23 A. -- in response to an open records request.

24 Q. And you don't know why that happened?

25 MS. MORALES: Asked and answered.

1 THE WITNESS: Why what happened? I don't
2 understand your question.

3 Q. (MR. NACOL) That request was sent.

4 A. The open records request?

5 Q. Yeah.

6 A. No, I don't know.

7 Q. You don't have any idea?

8 A. You'd have to ask Mr. Wortham, I presume.

9 Q. Well, did Mr. Wortham ask you? Did you not confer
10 with him with regard to that you thought this was a
11 residence?

12 A. Not that I recall.

13 Q. Did Mr. Rounsavall ever discuss with you before
14 sending the affidavit in protest the propriety of claiming
15 that this was a residence?

16 MS. MORALES: Asked and answered.

17 THE WITNESS: I don't know that the position
18 was ever taken that it was a residence, Mr. Nacol.

19 MR. NACOL: Have you ever looked at the
20 affidavit that was on file here for the protest?

21 MS. MORALES: What exhibit are you looking
22 at?

23 MR. NACOL: Okay. Look at Exhibit B to his
24 deposition, Mr. Rounsavall. Read to the jury the third
25 paragraph. Please read to the jury the third paragraph.

1 MS. MORALES: Best evidence.

2 THE WITNESS: "The application for the
3 business came in as a change of address. I was not told it
4 was a change in the physical location of the business. It
5 was approved in error upon learning of the location change a
6 protest" -- "and upon learning of the location change, a
7 protest was filed."

8 Q. (MR. NACOL) Okay. Maybe I was wrong here.
9 Forget the original. I want you to read --

10 A. The second paragraph --

11 Q. -- one, two, three.

12 A. No. One, two, three. The second paragraph?

13 Q. Yes, ma'am.

14 A. Okay.

15 Q. Second paragraph.

16 A. "The application of Handy Mart" -- "for Handy Mart
17 No. 1 submitted by Jon Beeler does not comply with the
18 ordinances of the City of Terrell regarding the sale of
19 alcoholic beverages in residential areas."

20 Q. Did you ever tell Mr. Rounsavall to file a protest
21 based on the fact that this in a residence?

22 A. No, sir. It didn't comply -- it didn't appear to
23 comply with the ordinances of the City of Terrell.

24 Q. That's right. That's the subject, but there's a
25 predicate to every sentence. Regarding the sale of

1 alcoholic beverages in residential areas, that's very
2 specific, isn't it?

3 MS. MORALES: Objection, best evidence.

4 THE WITNESS: No, sir.

5 MS. MORALES: Argumentative.

6 THE WITNESS: I disagree with you.

7 MS. MORALES: Asked and answered.

8 Q. (MR. NACOL) Okay. You never called Mr.
9 Rounsavall and gave him a legal opinion or in any way told
10 him, "Protest this license because it may be in a
11 residence"?

12 A. No.

13 Q. And to do so would have been capricious, wouldn't
14 it?

15 A. That was a store.

16 MS. MORALES: Objection, legal conclusion.

17 THE WITNESS: A convenience store.

18 Q. (MR. NACOL) And you knew it wasn't in a
19 residential area, didn't you?

20 A. It was not in a residence, no.

21 Q. Do you have any idea why he would block this
22 application on such a specious argument?

23 MS. MORALES: Objection. Argumentative,
24 speculation.

25 THE WITNESS: I don't know.

1 Q. (MR. NACOL) Do you know when you sent Mr.
2 Rounsavall a copy of the previous Exhibit No. 11? And I
3 will tell you he had this in his production yesterday.

4 A. Do I know a date?

5 Q. Yeah.

6 A. No, I don't know a specific date.

7 Q. Do you customarily do it at or near the time you
8 receive it?

9 A. Customarily, yes.

10 Q. And it's important for him to know what you're
11 getting so y'all can relate to each other, isn't it?

12 A. No, sir. I don't know if this came to him through
13 Mr. Marshall or whether it came through me. At this time we
14 were represented by counsel.

15 Q. Okay.

16 A. Other counsel.

17 Q. Do you know any rational basis for waiting from
18 March the 21st to July the 27th to withdraw the letter of
19 protest?

20 MS. MORALES: Objection, legal conclusion.

21 THE WITNESS: As I've testified before, we
22 were involved in litigation, actually two district court
23 cases, that had been filed by Mr. Beeler between that period
24 of time -- in that period of time.

25 Q. (MR. NACOL) And the first one was just a

1 mandamus, wasn't it?

2 A. It was a writ of mandamus.

3 Q. To get you to --

4 A. No, the first one was a suit for declaratory
5 judgment and injunction, which was filed on March 15th.

6 Q. All right.

7 A. And then it was dismissed in April. And the
8 second suit was a writ of mandamus --

9 Q. Why did the judge say the case was moot at the
10 hearing?

11 A. I don't know.

12 Q. Was it because you changed your position?

13 A. No, sir.

14 Q. You didn't change your position --

15 A. You'd have to ask Mr. Wortham --

16 Q. -- at the time when you --

17 A. -- that. He's the one that agreed to the
18 voluntary dismissal.

19 Q. I'm asking you as city attorney if the city
20 changed its position at that hearing.

21 MS. MORALES: Asked and answered.

22 THE WITNESS: I don't believe we did. We
23 were represented by Mr. Marshall.

24 Q. (MR. NACOL) Have you even read the pleadings?

25 A. Yes, sir, I've read the pleadings.

1 Q. If -- You're a lawyer, aren't you?

2 A. I think you've asked me that several times.

3 Q. And as a lawyer you know that if there is an
4 actual case and damages are churning it behooves you to
5 protect your client by mitigating those damages, does it
6 not?

7 A. Yes, sir.

8 Q. Well, can you tell the jury why you didn't call
9 Mr. Rounsavall on the 21st or 22nd or 23rd or a week after
10 March the 21st or anytime before July the 27th and say, "We
11 don't have a case. We've got to grant this permit and we're
12 depriving this man of his ability to make a living "?

13 MS. MORALES: Objection, argumentative.

14 Q. (MR. NACOL) Why didn't you do that?

15 A. Why didn't I do what?

16 Q. Why didn't you do that? Why didn't you call Mr.
17 Rounsavall and explain to him as the lawyer for the city
18 that we are wrong?

19 A. I was not the lawyer for --

20 MS. MORALES: Objection, mischaracterizes the
21 testimony.

22 THE WITNESS: I was not the lawyer for the
23 city at that time. The city was being represented by Mr.
24 Marshall.

25 Q. (MR. NACOL) You were not the lawyer --

1 A. I was not the --

2 Q. -- in charge of the litigation?

3 A. Correct.

4 Q. But you're still the city attorney?

5 A. That's correct.

6 Q. And you are today, aren't you?

7 A. Yes.

8 Q. You're concerned, no matter what lawsuit is going
9 on, that the city is being damaged, aren't you?

10 A. Absolutely.

11 Q. Then why didn't you call him and tell him, "Not
12 only are you subjecting the city to liability, but we're
13 hurting this man, our citizen who pays ad valorem taxes,"
14 alerting him?

15 MS. MORALES: Objection.

16 MR. NACOL: Why didn't you do that?

17 MS. MORALES: Argumentative.

18 THE WITNESS: Again, Mr. Nacol, we were
19 involved in litigation and the lead counsel was Mr.
20 Marshall, and any decisions that were being made in
21 discussions between Mr. Marshall and Mr. Wortham were
22 ongoing.

23 Q. (MR. NACOL) Did Mr. Rounsavall ever tell you why
24 he waited from March the 21st until July the 27th to
25 withdraw that application?

1 A. No, sir.

2 Q. Did you discuss Mr. Beeler's application with
3 anyone, any other city official, that you haven't told me
4 about here today?

5 A. Not that I remember.

6 Q. You can't remember specific conversation with any
7 person in the entire City of Terrell, Texas, that you
8 haven't told me about today?

9 A. Not that I recall.

10 Q. I notice in your file you had letters that Mike
11 sent you, memos from Rounsavall, miscellaneous items with
12 the TABC, et cetera. I didn't see any notes, briefing,
13 memorandums -- legal memorandums. Did you do any work on
14 this case?

15 A. Yes, sir, I did.

16 Q. Did you do any of it in writing?

17 A. Everything that I did on this case was in my file.

18 Q. So you didn't look up one case?

19 A. No, sir, I didn't say that. I said any written
20 memorandum or any written research would be in my file.

21 Q. How many cases did you look up without writing
22 down a note about them?

23 A. I read the cases that Mr. Wortham referred me to.
24 I did some independent research. I can't state with
25 specificity how many cases and which ones. I reviewed the

1 city ordinances, as I've testified. I had numerous
2 conversations with Mr. Wortham, with our counsel, and also
3 with the TABC.

4 Q. You don't have one note in your file, do you?

5 A. I don't say -- I don't know. Whatever is there
6 is there.

7 Q. Well, you produced it.

8 A. Yes, sir.

9 Q. And there's nothing in it. Show me any notes --

10 MS. MORALES: We produced what's responsive,
11 just so you're clear. We produced what's responsive to your
12 request, so --

13 MR. NACOL: Well --

14 MS. MORALES: -- if you asked for it, we went
15 through the file and produced it.

16 Q. (MR. NACOL) Is there any -- Do you have any notes
17 on this case that you have not produced?

18 A. Not that I'm aware of.

19 Q. Do you have any cases that have been Xeroxed or
20 e-mailed down or copied in your file that have not been
21 produced in this case?

22 A. Not that I am aware of.

23 Q. Do you have any chronology or time line or event
24 analysis reduced to writing that you have not produced in
25 this case?

1 A. Not that I'm aware of.

2 Q. Is there any e-mails -- any of the documents I
3 referred to in the last four questions on your computer that
4 you -- that exist today?

5 A. No, sir.

6 MS. MORALES: And I'd like the record to be
7 clear that if such documents do exist, certainly a
8 chronology, anything that would be work product, we've made
9 proper objections for that.

10 MR. NACOL: Work product?

11 MS. MORALES: You're asking her for --

12 MR. NACOL: Before the suit was filed it --

13 MS. MORALES: Before the suit was filed.

14 You're asking her what's in her whole file.

15 MR. NACOL: That's right.

16 MS. MORALES: Okay. So there could be notes
17 and processes and time lines or whatever.

18 MR. NACOL: Your lawyer now is testifying,
19 but you --

20 MS. MORALES: I'm not testifying. I'm making
21 an objection. I'm making --

22 MR. NACOL: I'm interested in --

23 MS. MORALES: -- it clear for our objection.

24 Q. (MR. NACOL) I'm asking you, you have testified
25 you have no such notes, you have no chronology, no time

1 lines, you have no e-mails, you have no computer data on
2 disk. You have nothing that you haven't produced; is that
3 correct?

4 A. Without going back to my file, I can't tell you
5 with certainty, but I've produced everything that you've
6 asked for.

7 Q. Okay. Have you withheld anything other than those
8 letters to your lawyers and stuff that's on your log?

9 A. Not that I'm aware of.

10 Q. Then there can't be anything else, can there?

11 A. I don't know.

12 Q. Do you have a photographic memory?

13 A. No, sir.

14 Q. Well, how can you recall all these issues on a
15 case like this without writing down one word in your file?

16 A. I don't understand what you're asking me, Mr.
17 Nacol.

18 Q. You have six letters here itemizing these laws and
19 cases. How can you rationally represent the city and do
20 what you're supposed to do without taking a note?

21 MS. MORALES: Legal conclusion,
22 argumentative.

23 THE WITNESS: I didn't say that I could do it
24 without taking a note.

25 Q. (MR. NACOL) Then you didn't do it? You didn't

1 rationally analyze the case?

2 A. No, sir, that's not what I'm saying.

3 Q. But you don't have any notes.

4 A. I said I don't recall any specific note that
5 you've asked for. Everything that you've asked for out of
6 my file has been produced.

7 Q. Is there anything in your file other than what's
8 on your log that exists that hasn't been produced whether I
9 asked for it or not?

10 MS. MORALES: Asked and answered.

11 THE WITNESS: I don't know. This has been
12 two years ago.

13 Q. (MR. NACOL) Mike Wortham called you over 20 times
14 without a return phone call, didn't he?

15 A. No, sir.

16 Q. How many calls did you not return?

17 A. Mr. Nacol, I testified previously the three other
18 times you've asked me that to the best of my knowledge it's
19 my practice to return phone calls.

20 Q. Is it your sworn testimony today that you returned
21 Mike Wortham's phone calls?

22 A. To the best of my recollection, yes.

23 Q. Every one of them, correct?

24 A. Every one I got I returned.

25 Q. How promptly?

1 A. I don't know.

2 Q. Within an hour?

3 A. No, probably not.

4 Q. Within a day?

5 A. Probably within a day. I do my best to get them
6 returned within a day.

7 MR. NACOL: Pass the witness.

8 (Time: 11:32)

9 FURTHER EXAMINATION

10 QUESTIONS BY MS. MORALES:

11 Q. I have a couple of follow-up questions just to
12 make sure I'm understanding correctly. Did Mr. Wortham
13 contact you after counsel -- outside counsel had been hired
14 on this case, to your recollection?

15 A. Yes.

16 Q. You testified that you had entered the store that
17 Mr. Lawson had owned, I believe you said, as you grew up in
18 Terrell. I don't know. But, nevertheless, did you frequent
19 Mr. Grady's store any more than any other stores that you
20 would go to in Terrell?

21 MR. NACOL: Objection, leading.

22 THE WITNESS: I probably have not been in
23 that store on Ninth Street in probably 15 years.

24 MR. NACOL: Objection, nonresponsive.

25 THE WITNESS: In the last 15 years.

1 MR. NACOL: Objection, nonresponsive.

2 Q. (MS. MORALES) Okay. Approximately how many
3 times, if you can recall, did you go into Mr. Lawson's
4 store?

5 A. Previously?

6 Q. Right.

7 A. Maybe once a month, once every six weeks. But, as
8 I said, that's been over 15 years ago.

9 MR. NACOL: Objection, nonresponsive.

10 Q. (MS. MORALES) When was the last time you went
11 into Mr. Lawson's store --

12 A. I can't even remember the last time.

13 Q. Do you have any personal vendetta against Mr.
14 Lawson?

15 MR. NACOL: Objection, leading.

16 THE WITNESS: Against Mr. Lawson, no.

17 Q. (MS. MORALES) Do you have any personal vendetta
18 against Mr. Lawson?

19 MR. NACOL: Objection leading.

20 THE WITNESS: No.

21 Q. (MS. MORALES) Do you have any personal vendetta
22 against Mr. Beeler?

23 MR. NACOL: Objection, leading.

24 THE WITNESS: No.

25 Q. (MS. MORALES) Do you have any ill feelings

1 toward Mr. Lawson?

2 MR. NACOL: Objection, leading.

3 THE WITNESS: No.

4 Q. (MS. MORALES) Do you have any ill feelings toward
5 Mr. Beeler?

6 A. No.

7 MR. NACOL: Objection, leading.

8 MS. MORALES: How is that leading?

9 MR. NACOL: Because it's a leading question.
10 This is your direct testimony. You can ask her how does she
11 feel about someone. You can ask about facts, but you can't
12 ask conclusions in a leading fashion.

13 MS. MORALES: I'm not asking her to agree
14 with my statement. I'm asking her whether she has a
15 personal vendetta.

16 MR. NACOL: The judge can rule on the
17 objection.

18 Q. (MS. MORALES) Okay. How do feel about Mr.
19 Lawson?

20 A. I don't feel anything one way or the other. I
21 just know who he is.

22 Q. How do you feel about Mr. Beeler?

23 A. The same. I just know who he is. I wasn't even
24 aware that he was operating the store on Ninth Street for
25 Mister -- had rented from Mr. Lawson. That's how long it's

1 been since I've been in there.

2 MR. NACOL: Objection, nonresponsive to the
3 question asked.

4 Q. (MS. MORALES) Do you know why Mr. Wortham was
5 contacting you instead of Mr. Marshall after Mr. Marshall
6 had been hired?

7 A. No, I do not.

8 Q. Do you know whether or not Mr. Marshall -- Strike
9 that. And to your recollection the case by Mr. Beeler, the
10 first case, was filed on March 15th, 2000?

11 A. Yes.

12 MR. NACOL: Objection, leading.

13 Q. (MS. MORALES) And do you recall when you hired
14 Mr. Marshall -- the city hired Mr. Marshall?

15 A. When we received notice of the lawsuit.

16 Q. When you received letters after Mr. Marshall was
17 hired, did you give those letters to Mr. Marshall?

18 A. Yes.

19 MS. MORALES: Okay. We'll reserve the --
20 Wait one second. We'll reserve the rest for trial.

21 MR. NACOL: Thank you, ma'am, very much.

22 THE WITNESS: You're welcome.

23 (Deposition concluded at 11:36 a.m.)

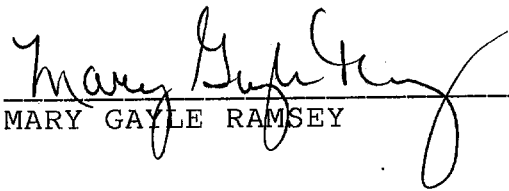
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I, MARY GAYLE RAMSEY, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.


MARY GAYLE RAMSEY

1 THE STATE OF TEXAS)

2 Before me Jennifer Gowin, on this day personally
3 appeared MARY GAYLE RAMSEY, known to me (or proved to me on
4 the oath of _____ or through _____
5 (description of identity card or other document) to be the
6 person whose name is subscribed to the foregoing instrument
7 and acknowledged to me that he executed the same for the
8 purposes and consideration therein expressed.

9 Given under my hand and seal of office this 2nd
10 day of November, A.D., 2001.

11
12 Jennifer Gowin
13 Notary Public in and for the State of Texas



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

1	JON BEELER,) (
2) (
3	Plaintiff,) (
4	VS.) (CIVIL ACTION
5) (NO. 3:00CV2441-M
6	JOHN ROUNSAVALL, ET AL) (
7) (
8	Defendants.) (

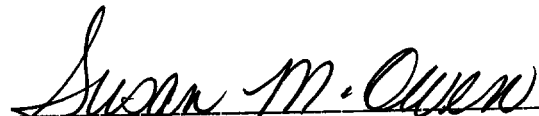
DEPOSITION OFFICER'S CERTIFICATE
PURSUANT TO RULE 30(f), FRCP

I, SUSAN M. OWEN, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that there came before me on the 2nd day of October, A.D. 2001, at 9:35 a.m., at the offices of Nacol, Wortham & Associates, 990 S. Sherman Street, Richardson, Texas, following named person, to-wit: MARY GAYLE RAMSEY, who was by me duly sworn to testify to the truth and nothing but the truth of her knowledge touching and concerning the matters in controversy in this cause; that she was thereupon carefully examined upon her oath and her examination reduced to typewriting with the aid of Computer-Assisted Transcription; and that the deposition is a true record of the testimony given by the witness; that it was requested that the witness review the transcript; and that the transcript was submitted on Oct. 17, 2001, to the attorney for the witness for his review, and changes, if any, in form or substance made

1 by the deponent during the 30-day period allowed are
2 appended hereto.

3 I further certify that I am neither attorney nor counsel
4 for, nor related to or employed by any of the parties to the
5 action in which this deposition is taken, and further that I
6 am not a relative or employee of any attorney or counsel
7 employed by the parties hereto or financially interested in
8 the action.

9 IN WITNESS WHEREOF I have hereunto set my hand on this
10 the 17th day of October, A.D. 2001.

11
12
13 
14 SUSAN M. OWEN, Certified Short-
15 hand Reporter in and for the
16 State of Texas.
17 Certificate No. 2013
18 Certificate expires 12/31/02
19 3767 Forest Lane
20 Suite 124, #1110
21 Dallas, Texas 75244-7100
22 972/317-9911
23
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