

**Written Statement of Testimony From:**

Scott S. Weltman  
Managing Shareholder, Weltman, Weinberg & Reis Co., LPA

**Prepared For:**

Chairwoman Maxine Waters  
The U.S. House Committee on Financial Services

**Session:**

March 7, 2019  
"Putting Consumers First? A Semi-Annual Review of the Consumer Financial Protection Bureau"

Chairwoman Waters, Ranking Member McHenry, and Members of the Committee, thank you for inviting me today. My name is Scott Weltman. I am the Managing Shareholder of Weltman, Weinberg & Reis Co., LPA, a creditors' rights law firm headquartered in Cleveland, Ohio that has been in business since 1930. I am grateful for the opportunity to share our firm's experience with the Consumer Financial Protection Bureau ("CFPB").

Our case with the CFPB was the epitome of an effort to legislate through misguided enforcement instead of by rulemaking. We encountered overzealous enforcement attorneys with the power of the U.S. Government behind them. Our nearly four year ordeal included an extensive Civil Investigative Demand ("CID") process – with which we fully cooperated, albeit at great expense – followed by a lawsuit that we won. Our law firm incurred nearly \$2 million dollars in attorney's fees. And, as a direct result of being sued, numerous clients of the firm fired us, and over 100 employees (out of a total of 650) lost their jobs.

Our story with the CFPB, however, began before the Bureau was formed. In 2009, our law firm was hired by Ohio Attorney General Richard Cordray as Special Counsel, which meant that our law firm was directly responsible for collecting the State of Ohio's debts. Mr. Cordray not only significantly vetted our firm and condoned exactly how we did business, he also required that our letters be written precisely to his specifications. And after observing firsthand how we did business, he hired us a second time. My written testimony includes the Certificates verifying those appointments.

Once he became Director of the CFPB, however, Mr. Cordray then approved a lawsuit against us claiming that virtually identical letters violated the law. And he authorized a press release accusing us of this illegal behavior, which was subsequently reprinted by every major national, local and industry news agency. This makes Mr. Cordray's deposition testimony in our case all the more troubling, since he admits, "You know, I don't know what the state of the law was then. I'm not sure what the state of the law is now." He was a former State Attorney General, the Director of the CFPB, and had no clue what the law was or is? I have included the full transcript of his deposition in my written testimony, for those of you who would like to review it. I have also submitted, and encourage you to read, the final Opinion in our lawsuit from Judge Donald Nugent (who, I would like to point out, was a Democratic Presidential appointee). The Judge specifically wrote that, "Despite requiring similar indications and disclosures of attorney involvement in the debt collection letters used on behalf of the State of Ohio, Richard Cordray, when he became head of the CFPB, authorized this lawsuit against Weltman...."

The singularly most offensive part of the lawsuit against our firm was the aggressiveness with which we were pursued by the CFPB despite the complete absence of any consumer harm. The CFPB continually insisted that our firm provide consumer redress, but never once identified a single consumer harmed by any of our alleged illegal conduct. And in the Opinion, the Judge stated that the CFPB, “offered no evidence to show that any consumer was harmed....”

Our firm provided the CFPB with over 1 million call recordings for its review. How many did it play at trial? None. It claimed that our phone calls violated the law, but it dismissed that portion of the lawsuit – half of its original claims – on the first day of trial. It never had any evidence. In my written testimony, I have provided a letter from the CFPB enforcement attorneys threatening to pursue us for more than \$95 million dollars in “ill-gotten gains” and over \$13 million dollars in civil monetary penalties. This claim of “ill-gotten gains,” called disgorgement, was also dismissed by the CFPB on the first day of trial. Again, it never had any evidence.

I implore the Committee to question the CFPB’s goals when it made its allegations against us in a very public lawsuit and press release; allegations with no facts behind them, which damaged our firm’s reputation and, ultimately, which cost 100 of our employees their jobs. Additionally, I hope the Committee will investigate just how much money was spent by the CFPB to pursue our firm’s case; more than a year’s worth of time and travel. The expenses also included the hiring of an expert, a marketing professor from Georgetown whose “discounted” rate was \$750 dollars per hour, and whose testimony the Judge deemed not credible.

And when the case was over, and our firm had won; when the CFPB decided not to appeal and was ordered to pay our firm about \$10,000 in out-of-pocket costs, what happened? The CFPB asked if we would take a credit card for the \$10,000.

Before I wrap up, I would be remiss if I did not touch on rulemaking. When the CFPB was established in 2011, its power to make rules in the debt collection area was welcomed. To this day, however – 7 ½ years after its formation – how many rules has it published? None. If it made rules, then it would lose its ability to regulate through enforcement.

On January 23, 2018, former Interim Director Mulvaney sent an email to every employee of the CFPB which stated, “It is not appropriate for any government entity to ‘push the envelope’ when it comes into conflict with our citizens. The damage that we can do to people could linger for years and cost them their jobs, their savings, and their homes. If the CFPB loses a court case because we ‘pushed too hard,’ we simply move on to the next matter. But where do those that we have charged go to get their time, their money, or their good names back? If a company closes its doors under the weight of a multi-year Civil Investigative Demand, you and I will still have jobs at CFPB. But what about the workers who are laid off as a result? Where do they go the next morning?”

I can tell you this. For our firm and for our employees who lost their jobs, those are empty words.

Thank you very much.



**RICHARD CORDRAY**  
OHIO ATTORNEY GENERAL

This certifies that  
**Alan H. Weinberg**

Has been appointed as  
**Special Counsel**

I take great pleasure in appointing you Special Counsel to the Attorney General of Ohio to provide legal services to the State as assigned by me and on my behalf through June 30, 2010.

This appointment reflects my highest confidence in your legal expertise, integrity, and ability. Therefore, I have affixed my name and the Seal of the Attorney General.



*Richard Cordray*

July 1, 2009  
Date



**RICHARD CORDRAY**  
OHIO ATTORNEY GENERAL

This certifies that

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I take great pleasure in appointing you Special Counsel to the Attorney General of Ohio to provide legal services to the State as assigned by me and on my behalf through June 30, 2011.

This appointment reflects my highest confidence in your legal expertise, integrity, and ability. Therefore, I have affixed my name and the Seal of the Attorney General.



*Richard Cordray*

July 1, 2010  
Date

**DEFENDANT'S  
TRIAL EXHIBIT**  
Civil Action No. 1:17-cv-00817  
**D-001**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

CONSUMER FINANCIAL  
PROTECTION BUREAU,

Plaintiff

v.

Weltman, Weinberg & Reis Co.,  
L.P.A.,

Defendant.

Civil Action No.

COMPLAINT

*Electronically Filed*

**COMPLAINT**

Plaintiff, the Consumer Financial Protection Bureau (“Bureau”), alleges the following against Weltman, Weinberg & Reis Co., L.P.A. (“Weltman”).

**INTRODUCTION**

1. The Bureau brings this action under Sections 807(3), 807(10), and 814(b)(6) of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692e(3), (10), and 1692l(b)(6); and Sections 1031(a), 1036(a)(1), 1054, and 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a), 5536(a)(1), 5564, and 5565.

2. The Defendant engages in unlawful collection activities by misrepresenting the level of attorney involvement in demand letters and calls to consumers.

### **JURISDICTION AND LEGAL AUTHORITY**

3. This Court has subject-matter jurisdiction over this action because it is “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

4. Venue is proper in this District because the Defendant does business here and a substantial part of events or omissions giving rise to the claims occurred here. 12 U.S.C. § 5564(f); 28 U.S.C. § 1391(b).

### **PARTIES**

5. The Bureau is an independent agency of the United States that is authorized to take enforcement action to address violations of Federal consumer financial law, 12 U.S.C. §§ 5511(c)(4), 5512(a), 5563, 5564, including the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and the CFPA, 12 U.S.C. §§ 5531, 5536(a)(1).

6. Respondent Weltman, Weinberg & Reis Co., L.P.A. (“Weltman” or “the Firm”) is a law firm, organized under the laws of Ohio that has offices in this district.

7. Weltman regularly collects or attempts to collect, directly or indirectly, consumer debts, including debts from credit cards, installment loan contracts, mortgage loan deficiencies, and student loans. Weltman collects such debts on behalf of original creditors and debt buyers who purchase portfolios of defaulted consumer debt.

8. Weltman is therefore a “debt collector” under the FDCPA, 15 U.S.C. § 1692a(6), and it is a “covered person” under the CFPA, 12 U.S.C. § 5481(5), (6), (15)(A)(i), (15)(A)(x), because it collected debt related to credit extended to consumers.

### **STATEMENT OF FACTS**

9. Since at least July 21, 2011, the Firm has regularly collected or attempted to collect debts on behalf of original creditors and debt buyers.

10. These alleged debts included the following types of debt: credit card; installment loan contract; mortgage loan deficiency; and student loan.

11. The alleged debts have been incurred by consumers primarily for personal, family, or household purposes.

12. When Weltman acquires the rights to collect on a new debt portfolio, the Firm's representatives (which may or may not include an attorney) discuss the portfolio's attributes with the creditor, including prior collection efforts and the age of the debts in the portfolio.

13. As part of the initial intake process, Weltman attorneys may review a sample of individual accounts within a portfolio of debts from the creditor for whom Weltman is collecting the debt. But non-attorneys may perform this review.

14. As part of its debt collection efforts, Weltman sends letters to consumers requesting payment ("demand letters").

15. If a consumer does not respond to an initial demand letter, then Weltman frequently sends a follow-up demand letter reiterating its request for payment or offering to settle the debt for a reduced amount.

16. The vast majority of the time, Weltman generates these demand letters through an automated process. Specifically, consumer account information provided by Weltman's clients is populated into a form letter template and printed by a third-party vendor.

17. Weltman's demand letters are printed on the Firm's letterhead, which states "WELTMAN, WEINBERG & REIS Co., LPA" at the top of the first page, and directly underneath the Firm's name, "ATTORNEYS AT LAW." In almost all versions of this template, the name of the Firm and the phrase "ATTORNEYS AT LAW" are in bold type.

18. "Weltman, Weinberg & Reis Co., L.P.A." appears in type-face in the signature line of nearly all of Weltman's demand letter templates.

19. Weltman's form letters typically include a detachable payment remission slip indicating that payments should be sent to Weltman, Weinberg & Reis Co., L.P.A., and provide a mailing address.

20. Since at least July 21, 2011, some of Weltman's form letters have included the following language: "Failure to resolve this matter may result in continued collection efforts against you or possible legal action by the current creditor to reduce this claim to judgment."

21. Since at least July 21, 2011, Weltman's form letters have also sometimes included the following language: "This law firm is a debt collector attempting to collect this debt for our client and any information obtained will be used for that purpose."

22. Since at least July 21, 2011, at times some form letters stated: "Please be advised that this law firm has been retained to collect the outstanding balance due and owing on this account."

23. When Weltman sends demand letters, Weltman attorneys generally have not reviewed a corresponding consumer's individual account file to reach a professional judgment that sending the letter is appropriate because, for example, the information in the letter is accurate and the debt is due and owing.



24. In most cases, Weltman attorneys do not review any individual account information or any other aspects of a consumer's file before Weltman sends a demand letter.

25. None of the subject demand letters include any disclaimer notifying consumers that an attorney has not reviewed the consumer's file or formed an independent professional judgment about the subject debt.

26. Weltman's demand letters misrepresent that attorneys at the firm have reviewed the consumer's file and determined that the consumer owes the amount demanded, when in fact no such review has occurred.

27. Rather, at the time a consumer receives a demand letter, Weltman is acting as a collection agency.

28. Weltman has sent millions of demand letters to consumers since July 21, 2011. Consumers have paid millions of dollars after Weltman sent a given demand letter but before Weltman filed any related collection lawsuit.

29. In addition to sending demand letters, Weltman also attempts to collect debts through outbound telephone calls to consumers.

30. These calls are generally handled by non-attorney collectors who are part of Weltman's "Pre-Legal" Department.

31. In addition, consumers sometimes call Weltman after receiving a demand letter from Weltman, and are routed to these collectors. During these inbound calls, the collectors similarly request payment on the consumer's alleged debt.

32. From at least July 21, 2011 through as late as July 2013, it was Weltman's practice and policy to identify Weltman as a law firm during these collection calls. Some training materials and collection scripts instructed Weltman collectors to tell

consumers: “This law firm is a debt collector attempting to collect this debt for our client and any information will be used for that purpose.”

33. Even after July 2013, at times collectors continued to refer to Weltman as a law firm during calls with consumers. Sample statements made to consumers by collection agents that referred to Weltman’s law firm status included that Weltman was the “largest collection law firm in the United States,” an account was forwarded to “the collections branch of our law firm,” and that the account has been “placed here with our law firm.”

34. When such calls occurred, however, Weltman attorneys generally had not reviewed a corresponding consumer’s individual account file to reach a professional judgment regarding whether the consumer owed the debt.

35. Consumers were typically not cautioned that an attorney had not reviewed their account information or formed an independent professional judgment about the subject debt.

36. Weltman’s statements to consumers during collection calls implied that attorneys at the firm reviewed the consumer’s file and determined that the consumer owed the amount demanded, when in fact no such review had occurred.

## **VIOLATIONS**

### **Count I**

#### **(FDCPA) - Letters**

37. The allegations in paragraphs 1-28 are incorporated by reference.

38. As described above, Weltman’s demand letters were sent on its law firm letterhead, which prominently features the name of the firm and the phrase

“ATTORNEYS AT LAW” at the top. The law firm was also the signatory of the letters. Furthermore, many demand letters have explicitly referred to Weltman as a “law firm.”

39. The Firm thus misrepresented that the letters were from attorneys and that attorneys were meaningfully involved, when in most cases the attorneys were not meaningfully involved in preparing and sending the letters.

40. This practice was material because it had the potential to influence consumers to pay an alleged debt when they would not have otherwise.

41. The Firm’s acts and practices constituted violations of sections 807(3) and 807(10) of the FDCPA, 15 U.S.C. § 1692e(3), (10).

### **Count II**

#### **CFPA - Letters**

42. The allegations in paragraphs 1-28 are incorporated by reference.

43. Defendant’s FDCPA violations, as described in Count I, constitute violations of section 1036(a)(1)(A) of the CFPA, 12 U.S.C. § 5536(a)(1)(A).

### **Count III**

#### **CFPA (Deception) - Letters**

44. The allegations in paragraphs 1-28 are incorporated by reference.

45. As described above, the demand letters sent to consumers by Weltman before a suit was filed represented, directly or indirectly, expressly or by implication, that attorneys were meaningfully involved in preparing and deciding to send the demand letters.

46. In fact, this was misleading to a reasonable consumer because demand letters sent by Weltman were prepared and sent without meaningful attorney involvement.

47. This practice was material because it had the potential to influence consumers to pay an alleged debt when they would have not otherwise.

48. The Firm's representations as set forth in paragraphs 17-22 therefore constituted deceptive acts and practices, in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a)(1), 5536(a)(1)(B).

#### **Count IV**

##### **FDCPA – Telephone Communications**

49. The allegations in paragraphs 1-13 and 29-36 are incorporated by reference.

50. Weltman routinely placed phone calls to consumers in an attempt to collect alleged debts from them, and also responded to phone inquiries from consumers regarding its debt collection efforts.

51. Weltman's collection agents frequently referred to Weltman as a law firm during these calls. But in most instances, attorneys had not actually reviewed the consumer's file and formed an independent professional judgment that making the collection call was warranted or about whether the consumer owed the amount requested.

52. The Firm thus misrepresented by implication that attorneys were meaningfully involved in the assessment of an alleged debt's validity before a collection call took place.

53. The Firm's acts and practices constituted violations of sections 807(3) and 807(10) of the FDCPA, 15 U.S.C. § 1692e(3), (10).

**Count V**

**CFPA - Telephone Communications**

54. The allegations in paragraphs 1-13 and 29-36 are incorporated by reference.

55. Defendant's FDCPA violations, as described in Count IV, constitute violations of section 1036(a)(1)(A) of the CFPA, 12 U.S.C. § 5536(a)(1)(A).

**Count VI**

**CFPA (Deception) – Telephone Communications**

56. The allegations in paragraphs 1-13 and 29-36 are incorporated by reference.

57. By referring to Weltman as a "law firm" during collection calls, Weltman collection agents implied that attorneys had formed an independent professional judgment that making the collection call was warranted or that the individual consumer owed the alleged debt.

58. This was misleading to a reasonable consumer because Weltman attorneys generally had not evaluated individual accounts at the time of the collection calls.

59. This practice was material because it had the potential to influence consumers to pay an alleged debt when they would have not otherwise.

60. The Firm's representations as set forth in paragraphs 29-36 constituted deceptive acts and practices, in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

**PRAYER FOR RELIEF**

Wherefore, as permitted by 12 U.S.C. § 5565 *et seq.*, the Bureau requests an Order granting:

- A. an injunction that permanently prohibits Weltman from committing future violations of the FDCPA and CFPA;
- B. restitution against Weltman to compensate consumers harmed by Weltman's unlawful practices;
- C. disgorgement of ill-gotten revenue against Weltman, in an amount to be determined at trial;
- D. civil money penalties against Weltman;
- E. recovery of costs in connection with prosecuting the instant action; and
- F. any other legal or equitable relief deemed just and proper.

Dated: April 17, 2017

Respectfully submitted,

Attorneys for Plaintiff  
Consumer Financial Protection Bureau

ANTHONY ALEXIS  
Enforcement Director

DEBORAH MORRIS  
Deputy Enforcement Director

MICHAEL G. SALEMI  
Assistant Litigation Deputy

/s/ Sarah Preis

---

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*Enforcement Counsel*



# CFPB Files Suit Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts

## CFPB Alleges Weltman, Weinberg & Reis Deceived Consumers with Misleading Calls and Letters

APR 17, 2017

WASHINGTON, D.C. – Today, the Consumer Financial Protection Bureau (CFPB) filed a lawsuit in a federal district court against the debt collection law firm Weltman, Weinberg & Reis for falsely representing in millions of collection letters sent to consumers that attorneys were involved in collecting the debt. The law firm made statements on collection calls and sent collection letters creating the false impression that attorneys had meaningfully reviewed the consumer's file, when no such review has occurred. The CFPB is seeking to stop the unlawful practices and recoup compensation for consumers who have been harmed.

"Debt collectors who misrepresent that a lawyer was involved in reviewing a consumer's account are implying a level of authority and professional judgement that is just not true," said CFPB Director Richard Cordray. "Weltman, Weinberg & Reis masked millions of debt collection letters and phone calls with the professional standards associated with attorneys when attorneys were, in fact, not involved. Such illegal behavior will not be allowed in the debt collection market."

Weltman, Weinberg & Reis, based in Cleveland, Ohio, regularly collects debt related to credit cards, installment loan contracts, mortgage loans, and student loans. It collects on debts nationwide but only files collection lawsuits in seven states: Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, and Pennsylvania.

The CFPB alleges that the firm engaged in illegal debt collection practices. In form demand letters and during collection calls to consumers, the firm implied that lawyers had reviewed the veracity of a consumer's debt. But typically, no attorney

had reviewed any aspect of a consumer's individual debt or accounts. No attorney had assessed any consumer-specific information. And no attorney had made any individual determination that the consumer owed the debt, that a specific letter should be sent to the consumer, that a consumer should receive a call, or that the account was a candidate for litigation.

The CFPB alleges that the company is violating the Fair Debt Collection Practices Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act. Since at least July 21, 2011, the law firm has sent millions of demand letters to consumers. Specifically, the CFPB alleges that the law firm:

- **Sent collection letters falsely implying they were from a lawyer:** Weltman, Weinberg & Reis sent letters on formal law firm letterhead with the phrase "Attorneys at Law" at the top of the letter and stated the law firm's name in the signature line. The letters also included a payment coupon indicating that payment should be sent to the firm. Some demand letters referred to possible "legal action" against consumers who did not make payments. Despite these representations, the vast majority of the time, no attorneys had reviewed consumer accounts or made any determination that the consumer owed the debt, that a specific letter should be sent to the consumer, or that the account was a candidate for litigation before these letters were sent.
- **Called consumers and falsely implied a lawyer was involved:** Weltman, Weinberg & Reis's debt collectors told consumers during collection calls that they were calling from a law firm. Specifically, sometimes they told consumers that it was the "largest collection law firm in the United States," or that the debt had been placed with "the collections branch of our law firm." This implied that attorneys participated in the decision to make collection calls, but no attorney had reviewed consumer accounts before debt collectors called consumers.

The Bureau is seeking to stop the alleged unlawful practices of Weltman, Weinberg & Reis. The Bureau has also requested that the court impose penalties on the company for its conduct and require that compensation be paid to consumers who have been harmed.

The Bureau's complaint is not a finding or ruling that the defendant has actually violated the law.

The full text of the complaint can be found at:

[http://files.consumerfinance.gov/f/documents/201704\\_cfpb\\_Weltman-Weinberg-Reis\\_Complaint.pdf](http://files.consumerfinance.gov/f/documents/201704_cfpb_Weltman-Weinberg-Reis_Complaint.pdf) 

###



The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit [consumerfinance.gov](http://consumerfinance.gov).

**Topics:** • DEBT COLLECTION • ENFORCEMENT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - - - -

Consumer Financial :  
Protection Bureau, :  
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Plaintiff, :  
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vs. : Case No. 1:17-cv-817  
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Weltman, Weinberg & :  
Reis Co., L.P.A., :  
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Defendant. :  
 :  
 :

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DEPOSITION OF RICHARD CORDRAY, ESQ.

- - - - -

Taken at Jones Day  
325 John H. McConnell Boulevard, Ste. 600  
Columbus, OH 43215  
December 19, 2017, 8:59 a.m.

- - - - -

Spectrum Reporting LLC  
333 Stewart Avenue, Columbus, Ohio 43206  
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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552  
By Thomas McCray-Worrall, Esq.  
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Steven Bressler, Esq.

ON BEHALF OF DEFENDANT:

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Ryan A. Doringo, Esq.

ON BEHALF OF THE WITNESS:

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500 South Front Street, Ste. 1200  
Columbus, OH 43215  
By Andy Douglas, Esq.

ALSO PRESENT:

Scott Weltman, Esq.  
Sue Douglas, Paralegal

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Tuesday Morning Session

December 19, 2017, 8:59 a.m.

- - - - -

S T I P U L A T I O N S

- - - - -

It is stipulated by counsel in attendance that the deposition of Richard Cordray, a witness herein, called by the Defendant for cross-examination, may be taken at this time by the notary pursuant to notice and subsequent agreement of counsel that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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I N D E X

Examination By	Page
Mr. Wooley - Cross	5
Exhibits	Page
Exhibit A - Prepared Remarks of CFPB Director Richard Cordray at the National Association of Attorneys General	16
Exhibit B - Certificate, 7-1-09	46
Exhibit C - Ohio Attorney General's Office RFQ for Special Counsel, 5-18-09	55
Exhibit D - Certificate, 7-1-10	79
Exhibit E - Ohio Attorney General's Office RFQ for Special Counsel, 5-27-10	81
Exhibit F - Fiscal Year 2010 Retention Agreement Collections Special Counsel	85
Exhibit G - Complaint	97
Exhibit H - CFPB Files Suite Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts press release	102
Exhibit I - Letter, 12-14-17	112
Exhibit J - Letter, 9-22-14	118

(Original exhibits returned to Mr. Woley.)

1 RICHARD CORDRAY, ESQ.

2 being first duly sworn, testifies and says as  
3 follows:

4 CROSS-EXAMINATION

5 BY MR. WOOLEY:

6 Q. Could you please state your full name  
7 and spell your last name for the reporter, please.

8 A. Richard Adams, plural, Cordray,  
9 C-O-R-D-R-A-Y.

10 Q. Mr. Cordray, thank you for making time  
11 for us today for your deposition. Am I correct  
12 that you're represented by counsel today?

13 A. I am.

14 Q. All right. And that is Mr. Douglas?

15 A. Justice Andrew Douglas, yes.

16 MR. WOOLEY: Okay. And, Justice, would  
17 you prefer I referred to you as Justice Douglas?

18 MR. DOUGLAS: I'd be happy for you to  
19 call me Andy and I can call you Jim.

20 MR. WOOLEY: That will be fine. I  
21 don't have that history, so I have no title  
22 associated with my history, unless you want to  
23 call me assistant district attorney.

24 MR. DOUGLAS: I don't know. It says

1 lead counsel here, so I suspect --

2 MR. WOOLEY: Okay.

3 MR. DOUGLAS: Whatever you're  
4 comfortable with is fine with me.

5 MR. WOOLEY: Okay. I just wanted to  
6 make sure --

7 MR. DOUGLAS: I was raised in the  
8 system, too, where I still call my friends judge.

9 MR. WOOLEY: All right. And do you  
10 have the appearances for the CFPB on the record as  
11 well?

12 THE REPORTER: Yes.

13 MR. WOOLEY: Okay. We won't bother  
14 with that.

15 BY MR. WOOLEY:

16 Q. Okay. What did you do to prepare for  
17 your deposition today, Mr. Cordray?

18 A. I reviewed the subpoena and spoke with  
19 my counsel.

20 Q. Anything else?

21 A. No.

22 Q. Did you speak to anybody from the CFPB?

23 A. I don't believe that I did.

24 MR. DOUGLAS: Better speak up so



1 everybody can hear you.

2 A. I don't believe that I did. I received  
3 an e-mail from them indicating that they were  
4 aware that I had a subpoena and if I was  
5 represented by counsel, that they would like to  
6 talk with my counsel, and from there I think  
7 counsel and they may have spoken. But I did not.

8 Q. All right. Did you review any  
9 documents besides the subpoena?

10 A. I believe I reviewed the motion for  
11 sanctions briefly --

12 Q. All right.

13 A. -- in the case.

14 Q. And did someone bring that to your  
15 attention besides your lawyer? I have no interest  
16 in your conversations with your lawyer. But did  
17 someone bring that to your attention besides your  
18 lawyer?

19 A. No.

20 Q. All right. Did you review the  
21 complaint?

22 A. I did not.

23 Q. Okay. It's a complaint that you  
24 approved to be filed in this case, correct?

1 A. Correct.

2 Q. You reviewed it back then, didn't you?

3 A. Correct.

4 Q. All right. And it was filed with your  
5 approval of course?

6 A. Correct.

7 Q. All right. So other than perhaps  
8 reviewing the motion for sanctions and speaking to  
9 your lawyer -- which I won't get into -- and  
10 looking at the subpoena, that's pretty much what  
11 you did to prepare for your deposition?

12 A. Yes.

13 Q. All right. Thank you.

14 Briefly on your background, you were  
15 the Attorney General from January 2009 to January  
16 2011; is that correct?

17 A. Correct.

18 Q. Okay. And I know you were the director  
19 of the CFPB. But I don't know, sir, the exact  
20 tenure of your directorship.

21 A. I was first appointed by recess  
22 appointment in January of 2012. I was confirmed  
23 by the Senate thereafter and served until I  
24 resigned November, I believe, 24th, 2017, a little

1 less than a month ago.

2 Q. Okay. And what did you do between -- I  
3 see there's a gap that I was not aware of --  
4 January 2011 and your appointment to the  
5 directorship of the CFPB?

6 A. I was chief of the enforcement team for  
7 the CFPB.

8 Q. All right. As the director of the  
9 CFPB, what responsibility did you have with  
10 respect to lawsuits that would be brought by the  
11 CFPB?

12 A. I had ultimate responsibility but  
13 delegated much of the actual work and could not  
14 personally be involved in it. But I had decision  
15 making authority --

16 Q. All right.

17 A. -- over major junctures in cases and  
18 investigations.

19 Q. All right. So with respect to the  
20 filing of the complaint, that's something that you  
21 would have actually seen and signed off on; is  
22 that correct?

23 A. Correct. It would have been a  
24 recommendation memo that I would have signed,

1 perhaps modified.

2 Q. Okay.

3 A. But, yes, ultimately approved.

4 Q. And if a complaint referred to  
5 documents such as demand letters from a collection  
6 firm, would you have reviewed the supporting  
7 document before approving the complaint as well?

8 MR. MCCRAY-WORRALL: Objection. To the  
9 extent this calls for privileged information, I  
10 would instruct Mr. Cordray not to respond.

11 MR. WOOLEY: You're instructing him not  
12 to respond?

13 MR. MCCRAY-WORRALL: Well, we're  
14 certainly asserting the Bureau's privilege.

15 MR. WOOLEY: I understand. But I  
16 believe the only person that could probably  
17 instruct him is him or his lawyer. But you're  
18 asserting a privilege with respect to what he  
19 reviews before he files a case?

20 MR. MCCRAY-WORRALL: To the  
21 decision-making process by which he comes to  
22 approve a matter, yes.

23 MR. WOOLEY: Okay.

24 A. I think I can answer the question

1 generally.

2 Q. All right.

3 A. Typically when a recommendation --

4 MR. DOUGLAS: Sir, would you restate  
5 the question because I think he should answer it.  
6 Go ahead.

7 MR. WOOLEY: Would you mind if you --  
8 just digging it out for me?

9 A. Let me just answer the question. When  
10 a recommendation memorandum would come to me there  
11 would be a package of documents including the  
12 complaint. The package of documents would vary  
13 from case to case. I have no particular  
14 recollection of what package of documents would  
15 have come with the complaint in this matter.

16 Q. All right. Okay. When did you resign  
17 from the CFPB?

18 A. So I believe it was -- it was the day  
19 after Thanksgiving, so it was November 24th, 2017.

20 Q. And why did you resign?

21 A. You can check that date to make sure  
22 it's correct, but I believe that's the correct  
23 date.

24 Q. And why did you resign, sir?

1 MR. DOUGLAS: Objection. You may  
2 answer.

3 A. I determined that it was time for me to  
4 leave.

5 Q. Anything more to it than that?

6 MR. DOUGLAS: Objection.

7 A. I don't think that I can --

8 MR. DOUGLAS: A recollection of that  
9 makes really no difference to this case. It's not  
10 designed to -- to help your defense any. Under  
11 401(b) I think it's not relevant.

12 MR. WOOLEY: Justice Douglas, every  
13 witness that they've deposed they've asked them  
14 detailed questions about their background, why  
15 they move from this job to that job, what was the  
16 reason for every career move. I'm just asking  
17 some questions about career moves.

18 MR. DOUGLAS: Okay. Well, he has no  
19 reason not to answer the question except that I'm  
20 not going to let you explore about his resignation  
21 because I don't think it's relevant to this case.

22 MR. WOOLEY: And you're instructing him  
23 not to answer on the grounds of relevance?

24 MR. DOUGLAS: I am.

1 MR. WOOLEY: To not answer?

2 MR. DOUGLAS: I am.

3 MR. WOOLEY: As opposed to preserving  
4 the record?

5 MR. DOUGLAS: I understand the record.  
6 Now, if you are comfortable answering that and  
7 want to answer it, you may.

8 A. I resigned because I determined that it  
9 was time for me to leave.

10 Q. Okay. That's it?

11 A. I think that's why people resign from  
12 any job.

13 Q. Okay. When did you inform the staff  
14 that you were going to resign?

15 A. When did I inform the staff  
16 specifically when I was going to resign, that it  
17 was going to be on November 24th?

18 Q. Yeah.

19 A. I think I informed the staff that  
20 afternoon.

21 Q. Did you tell anybody on the staff prior  
22 to that time?

23 A. I had indicated and it had become known  
24 publically that I was likely to step down by the

1 end of the month earlier in the month. I believe  
2 that was in the press and can be verified.

3 Q. All right. I can certainly read the  
4 press. I'm asking about things that maybe I can't  
5 read in the press. Did you tell the staff earlier  
6 to that report that you were going to resign?

7 MR. BRESSLER: Objection as to  
8 relevance to this line of questioning.

9 A. I've already answered the question.

10 Q. Pardon me?

11 A. I already answered the question.

12 Q. Okay. That's the best answer to that  
13 question?

14 A. Yeah. As I said, it was not until the  
15 24th that I informed people that I was going to  
16 resign on the 24th.

17 Q. All right.

18 A. I had generally indicated earlier in  
19 the month that I would likely step down. It  
20 wasn't specific, it wasn't a promise, but I would  
21 likely step down by end of the month.

22 Q. Okay. And so that would have been  
23 earlier in November? I'm just nailing the time  
24 frame down.



1 A. I believe so, yes.

2 Q. Okay. Did you speak to Ms. Preis about  
3 it?

4 A. Who?

5 MR. MCCRAY-WORRALL: Objection. Calls  
6 for privileged information.

7 MR. WOOLEY: A conversation about his  
8 resignation is privileged?

9 MR. MCCRAY-WORRALL: It may have.  
10 Ms. Preis is an attorney on this case. It may  
11 have been subject to attorney/client privilege.  
12 To the extent that --

13 THE WITNESS: Okay. I'll answer it.

14 A. I did not speak to Ms. Preis about  
15 that.

16 Q. All right. Mr. Watson?

17 A. Well --

18 Q. Ms. Watson. I apologize.

19 MR. MCCRAY-WORRALL: Same objection.

20 A. I didn't speak to any of the attorneys  
21 in this case about that. I did generally a couple  
22 days before I actually resigned made a tour of the  
23 office to meet with as many people as I could just  
24 to simply say good-bye to have pictures taken.

1 Again, I did not specify exactly when I would  
2 resign.

3 Q. Okay. When you were the Attorney  
4 General for Ohio, one of your responsibilities was  
5 to collect debts owed to the State; is that  
6 correct?

7 A. That is correct.

8 Q. All right. And what kind of debts?

9 A. A wide variety of debts.

10 Q. Like taxes? Student debt?

11 A. Yes. Yes.

12 Q. Overpayments from benefit plans like  
13 Medicaid?

14 A. Yes.

15 Q. All right. On February 26th, 2014 --  
16 Exhibit A. I'll tell you what, I will just need  
17 two all the time -- off the record.

18 (A short recess is taken.)

19 - - - - -

20 Thereupon, Exhibit A is marked for  
21 purposes of identification.

22 - - - - -

23 MR. DOUGLAS: Thank you.

24 Q. Mr. Cordray, do you recognize

1 Exhibit A? Take your time.

2 A. So I don't have a particular  
3 recognition of Exhibit A, but I'm -- what I'm  
4 reading here seems to be a copy of prepared  
5 remarks that I would have delivered at the  
6 National Association of Attorneys General in  
7 February of 2014. And they seem familiar enough  
8 to me that I could verify that I did deliver these  
9 remarks in roughly this form.

10 Q. All right. If you could look at the  
11 third page --

12 A. Uh-huh.

13 Q. -- of it. After the break --

14 A. Yep.

15 Q. -- there are paragraphs relating to  
16 debt collection.

17 A. Yep.

18 Q. Do you see those?

19 A. I do.

20 Q. Okay. And I think I asked you what you  
21 looked at before. But you didn't look at this  
22 before you testified today, did you, to prepare  
23 for your deposition?

24 A. I did not.

1 Q. All right. The first paragraph there  
2 that starts with, "Debt collection is another  
3 example that shows how your work reverberates."  
4 Do you see that? I'd like you to tell me when  
5 you're done reading that first paragraph because I  
6 have a couple of follow-up questions, please.

7 A. Okay. I'm done reading the first  
8 paragraph.

9 Q. All right. When you were the Attorney  
10 General, the Weltman firm, Alan Weinberg and the  
11 Weltman firm assisted you in collecting debts. Do  
12 you recall that?

13 A. I believe that's so, yes.

14 Q. Yeah. They were your special counsel  
15 collecting debts.

16 A. They were one of many --

17 Q. Do you recall that?

18 A. -- special counsel collecting debts,  
19 yes.

20 Q. Who in this paragraph are you referring  
21 to as an "unscrupulous debt collectors"?

22 A. Well, over my time as Attorney General,  
23 we saw a number of people that we thought were  
24 violating the law and we would take steps to

1 remedy that when we saw it occurring.

2 Q. Okay. Do you recall who any of those  
3 firms or people were, sir?

4 A. I don't recall offhand. But there were  
5 a number of such matters. At times they were even  
6 collectors who had been collecting on behalf of  
7 the State.

8 Q. Okay. Do you recall the names of any  
9 collectors that you --

10 A. Not offhand, no.

11 Q. All right. If you took a minute, could  
12 you perhaps think of one?

13 A. If I went back through the record and  
14 read press reports --

15 Q. Okay.

16 A. -- I'm sure I could come up with a  
17 number of them, yes.

18 Q. Do you recall thinking that Weltman,  
19 Weinberg & Reis was an unscrupulous debt  
20 collector?

21 A. I have no particular recollection of  
22 that, no.

23 Q. Okay. Do you recall having any problem  
24 at all with the way they collected debt for the

1 State?

2 A. I do not recall any particular  
3 problems, no.

4 Q. All right. Read the next paragraph,  
5 please. And tell me when you've finished it.

6 A. I don't know that my recollection is  
7 complete or accurate. But that is what I recall  
8 as I sit here.

9 Q. Well, when you approved the complaint  
10 in this case, you saw the name of the firm,  
11 correct?

12 A. I would have, yes.

13 Q. Right. And did any part of you then  
14 say, ah, this is the firm that I had problems with  
15 when I was at the State?

16 A. I would say no part of me said either  
17 that I did or did not remember any problems that  
18 would have occurred.

19 Q. Okay. If you had problems with a  
20 special counsel when they were collecting debt for  
21 you, would somebody have escalated that to you,  
22 somebody who was directly dealing with them?

23 A. Probably. Not necessarily, but  
24 probably.

1 Q. Do you recall --

2 A. There are many firms that collect debt  
3 on behalf of the State.

4 Q. Do you recall anybody on your staff  
5 escalating to you any concerns whatsoever with  
6 respect to the way the Weltman, Weinberg & Reis  
7 firm collected debt for the State?

8 A. Again I do not recall that that  
9 happened, nor do I recall that that did not  
10 happen. I do not recall, period.

11 Q. Okay. What sorts of records would we  
12 need to subpoena to determine whether or not there  
13 was some record of a complaint regarding Weltman,  
14 Weinberg & Reis?

15 A. I wouldn't know the answer to that  
16 question. That would be for you to determine.

17 Q. Well, who would know that worked on  
18 your staff if there was such a problem?

19 A. People who worked there at the time.

20 Q. They have names. Who are their names?

21 A. You know, I don't know who would have  
22 worked with Weltman and Weinberg. I honestly  
23 don't know.

24 Q. You have no idea?

1 A. I don't have any particular  
2 recollection of that, no.

3 Q. What lawyer in your office was involved  
4 with the debt collection process?

5 A. There were a number of lawyers in my  
6 office. There were a number of nonlawyers in my  
7 office. And there were a number of debt  
8 collection firms.

9 Q. Okay. Do you have any names?

10 A. Names? What do you mean "names"?

11 Q. People that would have dealt with  
12 Weltman, Weinberg & Reis?

13 A. I would not know who had dealt Weltman,  
14 Weinberg & Reis.

15 Q. Who were the people that could have  
16 dealt with Weltman, Weinberg & Reis?

17 A. I believe you could go back through  
18 personnel files of the Attorney General's Office  
19 and determine that. I don't know offhand who  
20 would have dealt with this firm.

21 Q. You're unable to recall anybody?

22 A. I'm not able to recall who dealt with  
23 Weltman, Weinberg & Reis, that is correct.

24 Q. Okay. And you're not able to recall



1 even a list of people who may have? You just  
2 can't come up with a name?

3 A. Look, I could throw out names. In  
4 response to your question, I do not know whether  
5 they would be the ones, so --

6 Q. Okay.

7 A. -- in specific response to your  
8 question, I do not recall specifically.

9 Q. All right. I got sidetracked. I'm  
10 sorry. Read this second paragraph, please.

11 A. Okay. Okay.

12 Q. Fast reader.

13 In that second paragraph it says,  
14 quote, and tell me if I'm reading this correctly,  
15 "this market is one that attorneys general know  
16 backwards and forward...." Is that correct?

17 A. That's what it says.

18 Q. Yeah. Well, it's your statement. And  
19 were you one of the attorneys general that knew  
20 debt collection backward and forward?

21 A. I would say I think I knew it. I think  
22 other attorneys general knew it. Who knew it  
23 better than others, I would not know.

24 Q. Okay. And then in the middle it says,

1 "When you collect debts owed to the state  
2 government, or to state universities, you learn as  
3 I did that this work can and should be done the  
4 right way." Do you see that?

5 A. I do.

6 Q. All right. And you certainly had an  
7 understanding of what "the right way" is?

8 A. I had some understanding. Might not  
9 have been a comprehensive understanding.

10 Q. Okay. What's the right --

11 A. Would have been -- would have been an  
12 understanding based on the laws that stood as I  
13 understood it, mostly state law but perhaps  
14 federal law. Eight, nine years ago, yes.

15 Q. Well, the speech is in 2014.

16 A. Okay.

17 Q. So you certainly had some understanding  
18 of the federal law, too, at that time?

19 A. Well, what I'm saying is "the right  
20 way" as I would have understood it at the time I  
21 was a state attorney general, which is what I was  
22 understanding you to ask about is law that's eight  
23 years now, yes.

24 Q. Okay. What's "the right way" to make

1 an initial demand?

2 MR. DOUGLAS: Objection. Draws a  
3 conclusion. There's an issue in this case and I  
4 really don't think it is relevant. And I've let  
5 this go on for a long time, as I told you I would.  
6 But in the end, even if the Attorney General's  
7 Office did it wrong, that doesn't affect your  
8 client. Your client might have done it wrong,  
9 too, or may not have done it wrong. But I think  
10 that's a conclusion that the judge has to draw in  
11 this case. And I'm going to let him answer a few  
12 more questions and then --

13 Q. What's the right --

14 MR. DOUGLAS: And then I will instruct  
15 him not to answer.

16 Q. What's "the right way" to make an  
17 initial demand?

18 MR. MCCRAY-WORRALL: Objection. Vague  
19 and calls for speculation.

20 A. I don't know quite how to answer that  
21 question. I don't know whether you're talking  
22 about in writing, in person.

23 Q. An initial demand letter.

24 MR. DOUGLAS: If you know.

1 A. Well, I would say "the right way" to  
2 make a demand is to present truthful, accurate  
3 information, and that would be the way in which I  
4 would assume is "the right way" to present a  
5 demand.

6 Q. Does a law firm that's a debt collector  
7 need to have a lawyer look at account level  
8 detail?

9 MR. DOUGLAS: Objection. You're  
10 instructed not to answer that. That's a  
11 conclusion to be drawn in this case.

12 MR. WOOLEY: Well, I'm going to go  
13 ahead and ask the question then, all right?

14 MR. MCCRAY-WORRALL: I'll make the same  
15 objection. Calls for a legal conclusion.

16 Q. Okay. Does a law firm that's a debt  
17 collector need to have a lawyer look at account  
18 level detail before sending a demand letter?

19 A. I'm not sure what you mean when you say  
20 need to do something. Do you mean because the law  
21 requires it, because it's better practice, because  
22 it would be --

23 Q. Oh, I --

24 A. You know, what -- what are you asking?

1 Q. This is --

2 A. I'm not clear.

3 Q. I'm unpacking your statement about you  
4 learn as I did this can and should be done "the  
5 right way." I'm not asking you about the law; I'm  
6 asking about your statement about "the right way."  
7 These are your words.

8 MR. WOOLEY: They're his words.

9 Q. So I'd like to know what do you mean --  
10 what's "the right way" for someone to send an  
11 initial demand?

12 A. So the speech that you're reading from  
13 does not speak to initial demand letters. It  
14 doesn't say anything about initial demand letters.  
15 It talks about debt collection generally. You're  
16 now wanting me to tell you what is "the right  
17 way." I assume you mean the legal way. I'm not  
18 sure what you mean by the right way to send a  
19 demand letter. I'm not quite sure what you're  
20 asking and therefore how to respond.

21 Q. All right. I'm asking what you meant  
22 by "the right way." I'm asking do you know the  
23 right way to send a demand letter?

24 A. The right way to collect debts was not

1 -- the speech was not about demand letters  
2 specifically.

3 Q. Okay. Then --

4 A. Is there any mention of demand letters  
5 in the speech that you are reading from?

6 Q. Then tell us what you meant by "the  
7 right way." When you stand up in front of the  
8 attorneys general and say I know this backwards  
9 and forwards, "this can and should be done the  
10 right way." What's "the right way"?

11 A. The right way is to proceed on truthful  
12 and accurate information and be candid with those  
13 you're dealing with and to also operate within the  
14 parameters of federal law, such as calling  
15 restrictions and other things that are meant to  
16 prevent harassment.

17 Q. Okay.

18 A. There's a number of pieces to that.

19 Q. How many debts did the AG's office  
20 attempt to collect each year? I mean how active  
21 were you in this?

22 A. Many.

23 Q. Can you ballpark it at all?

24 A. Not really. It would have been very,

1 very many.

2 Q. How many attorneys were in your office  
3 that worked on debt collection matters?

4 A. In the Attorney General's Office?

5 Q. Yes, sir.

6 A. I don't know offhand. There were a  
7 number.

8 Q. Was it handled through a particular  
9 division? I know, you know, attorneys generals  
10 have different divisions set up. Was it a  
11 particular division?

12 A. I believe it was, yes.

13 Q. And did the division have a name?

14 A. I don't recall the name. But it  
15 probably had something to do with revenue  
16 collection or collection or debt collection or  
17 something of the type.

18 Q. Okay. Was it a large division, a small  
19 division?

20 A. Well, it's all relative I suppose.  
21 There were 1,800 people in the Attorney General's  
22 Office, so some pieces were larger, some pieces  
23 were smaller, some pieces were completely internal  
24 to the office, some pieces as this one was also

1 included people external to the office who were  
2 working on our behalf such as this law firm.

3 Q. Headcount-wise, how many people in the  
4 office worked on debt collection?

5 MR. DOUGLAS: Objection.

6 A. I don't recall.

7 MR. DOUGLAS: Asked and answered. He  
8 told you he doesn't know.

9 Q. 10?

10 A. I don't recall. But you could  
11 certainly look at the Attorney General's Office  
12 organizational structure and find that out.

13 Q. 1,800? You knew that number. I'm  
14 asking how many people worked on debt collection?

15 A. I'm not sure -- I'm not sure what your  
16 point is. It was more than 10, less than 1,800.

17 Q. More than 10 and less than 1,800. And  
18 there's no way you can narrow that for us? So  
19 your sworn testimony is there's more than 10, less  
20 than 1,800? I --

21 A. My sworn testimony is I don't recall  
22 exactly how many people worked in that part of the  
23 office.

24 Q. Okay.



1 A. And you're trying to ask me something  
2 that I do not remember.

3 Q. How many of them were lawyers?

4 A. I do not know.

5 Q. No idea?

6 A. I don't recollect at this point.  
7 That's correct. Do I need to say it many times  
8 for you or just a few times?

9 Q. Would it have been five lawyers?

10 A. I don't recollect. You can ask it  
11 again.

12 Q. Could it have been 200 lawyers?

13 A. I don't recollect.

14 Q. Okay. Were you personally involved in  
15 trying to collect debt?

16 A. I'm not sure what you mean by  
17 "personally involved." I was ultimately  
18 responsible. I was not working files myself.

19 Q. All right. Who was working the files  
20 then?

21 A. People in the office and people from  
22 outside the office who are on contract with the  
23 office.

24 Q. And within the office, that included

1 lawyers and nonlawyers, correct?

2 A. That is correct.

3 Q. All right. Did you review the  
4 circumstance at the account level detail like down  
5 to the individual debtor, the student that didn't  
6 pay the fees at Ohio State? Did your office  
7 review those details at the account level before  
8 seeking to collect any debt?

9 MR. DOUGLAS: Are you asking if he  
10 personally did it?

11 Q. Well, I'll -- thank you. I'll break it  
12 down. You personally, I'm sure the answer is no,  
13 right?

14 A. Well, it would depend. There might  
15 have been accounts that were important enough that  
16 I personally would have reviewed the details.  
17 There may have been others where others did that  
18 in a delegated basis.

19 Q. Okay. But you believe somebody in your  
20 office would have reviewed the -- each account  
21 before somebody would have been sent an initial  
22 demand letter?

23 A. I believe that would be the case, yes.

24 Q. Okay. Somebody in your office would

1 have looked -- on a tax case, let's just -- and  
2 said before we write this person a letter, we're  
3 going to look at the W-2, we're going to look at  
4 the checks, we're going to look at the tax return  
5 and verify that it's a valid debt before we write  
6 a letter; is that correct?

7 A. I don't believe I would know the  
8 details of that, so I -- so I don't know is the  
9 answer.

10 Q. Okay. Well, is it something that you  
11 think lawyers did or nonlawyers did?

12 A. It would depend on the matter and it  
13 would depend on the situation.

14 Q. Okay. Are there circumstances in which  
15 you know lawyers did not look at the --

16 A. I don't have that kind of microscopic  
17 knowledge of how delegated activity was handled in  
18 my office.

19 Q. All right. Well, let me just ask some  
20 general questions. The people that did this work  
21 in your office who you -- can you recall one name?

22 A. Could I understand the relevance of  
23 this?

24 Q. Can you recall one name?

1 A. Could I understand the relevance of  
2 this to the -- to the case that we're here on?

3 Q. Well, one day maybe you'll take my  
4 deposition, but now I'm asking you. Can you  
5 recall the name of one person that worked on debt  
6 collection in your office?

7 MR. DOUGLAS: And I'm going to object  
8 to that again and a continuing objection. That's  
9 not relevant to whether or not your client  
10 violated the law. And I think it violates the  
11 relevancy section. More than that, he's already  
12 -- been asked that at least five times by my  
13 notes, and I think he answered it every time.  
14 He'll answer it one more time and then I'm going  
15 to instruct him not to answer.

16 Q. Can you recall the name?

17 A. What name?

18 Q. Of anybody in your office that worked  
19 on debt collection?

20 A. I don't recall anybody who would have  
21 worked on debt collection with this firm. There  
22 were people in the office who worked on debt  
23 collection, and I could go and refresh my memory,  
24 but I don't offhand recall who --

1 Q. Anybody?

2 A. -- the people were who were the players  
3 on that. I'm sure you can find that out  
4 separately.

5 Q. Okay. So no name. All right.

6 When you were --

7 MR. MCCRAY-WORRALL: I'm sorry. Could  
8 you clarify? Was that a question, Counselor?

9 Q. When you --

10 MR. MCCRAY-WORRALL: Counsel, you said  
11 "no name." Was that a question or was that a  
12 statement for the record?

13 MR. WOOLEY: Here's what I'm not here  
14 to do: Answer your questions.

15 Q. When you were --

16 MR. MCCRAY-WORRALL: Counsel, I'm  
17 asking for a clear record.

18 Q. When you were in the AG's office, did  
19 anybody ever complain to you, that escalated up to  
20 you, about the way in which the AG was collecting  
21 debt?

22 A. I believe so, yes.

23 Q. Okay. Tell me what you recall about  
24 that, sir.

1 A. I recall at some point, and I don't  
2 recall specifics or who was involved, that there  
3 would have been complaints being made and we  
4 needed to review whether certain collectors,  
5 whether law firms or otherwise or both had  
6 violated the law. And I believe at some point  
7 along the way maybe multiple points along the way  
8 one or another of those might have been people who  
9 were currently collecting debts for the State of  
10 Ohio as well, which I would consider and did  
11 consider to be a problem.

12 Q. Okay. Well, do you recall any specific  
13 instance?

14 A. I do not.

15 Q. All right. I'm just thinking if I can  
16 unpack that to maybe trigger recollection.

17 Do you recall the names of any law  
18 firms that might have been implicated or mentioned  
19 in those conversations?

20 A. I do not.

21 Q. Okay.

22 A. If we brought action, they would have  
23 been public and you could find those records.

24 Q. Right.

1 A. But I don't recall offhand.

2 Q. Yeah. Well, do you remember suing any  
3 of your collection law firms?

4 A. I believe we may have, but I don't  
5 recall offhand.

6 Q. All right.

7 A. We may also have terminated collection  
8 agents.

9 Q. Yeah.

10 A. And I'm sure we did that at times, so.

11 Q. So, look, my request for the name is if  
12 there's somebody who might recall these things  
13 better than you --

14 A. I understand that.

15 Q. -- then that's maybe somebody I should  
16 talk to.

17 A. Look, I'm not resisting you on this.  
18 But if you're asking me for information and I  
19 don't have it, then I can't provide it to you.

20 Q. Right.

21 A. You'll have to find it elsewhere.

22 Q. Appointment of special counsel. Okay.  
23 Can you describe that process for us, please, when  
24 you were in the AG, how did that work?

1 A. Well, we set up a fairly elaborate  
2 process to ensure that special counsel were  
3 qualified, had experience, had the ability to  
4 collect debts on behalf of the State effectively.  
5 And there was a process around that, of which I  
6 don't recall the specific details but it was not  
7 negligible.

8 Q. It was -- I'm sorry?

9 A. Not negligible.

10 Q. That's your description of the process,  
11 it was not negligible?

12 A. It was substantial.

13 Q. Substantial. Okay.

14 Do you recall that it involved an RFQ  
15 process?

16 A. Very likely, although I don't recall  
17 the specifics.

18 Q. All right. What's the purpose of an  
19 RFQ?

20 A. I believe it is to obtain qualified  
21 services that will be effective to fulfill the  
22 purpose for which the State is contracting.

23 Q. All right. And were you directly  
24 involved in that process?



1 A. I would have been on a delegated basis.  
2 I would have approved the process, made sure I  
3 thought it was sufficient, and then ultimately  
4 probably accepted the recommendations in terms of  
5 appointments.

6 Q. Understood. I mean -- understood.

7 So the people to whom you delegated  
8 this -- and I just need this on the record. But  
9 I'm sure there's people whose judgment and  
10 experience you trusted?

11 A. I would have thought so, yes.

12 Q. Okay.

13 A. I wouldn't have delegated to people  
14 that I didn't trust.

15 Q. I understand.

16 A. Although I will say that I delegated  
17 many matters in the Attorney General's Office to  
18 many attorneys with whom I was not all that  
19 familiar, especially retained attorneys who had  
20 been hired before.

21 Q. So the process for hiring special  
22 counsel to collect debt, did you have any direct  
23 involvement with the counsel themselves perhaps  
24 even as a final interview when it got down to a --

1 you know, a select few that were in the running?

2 A. I don't recall. I'm not sure that I  
3 did.

4 Q. Do you think you might have?

5 A. I think I might have, but I don't  
6 recall doing that. So I -- so I can't say for  
7 sure.

8 Q. So nothing stands out?

9 A. Not particularly.

10 Q. You don't remember some particular  
11 riveting interview with Scott Weltman?

12 A. If we had had one, I'm sure I would  
13 have recalled it. No. I don't recall.

14 Q. How many special counsel were hired to  
15 collect debt at any given time? How many were  
16 working with the AG on a contract basis?

17 A. A considerable number. And I don't  
18 have -- I know you want specifics. I don't have  
19 specifics. I'm sure those records could be  
20 obtained.

21 Q. Right. And I understand your  
22 reluctance to try to give a number if you can't  
23 recall it. Sometimes a ball park is helpful for  
24 us so we understand how much more work we have to

1 do.

2 A. I understand. I've been on your side  
3 of the table before.

4 Q. Yeah. But sometimes it's helpful  
5 information. And we're in discovery.

6 Was it five, was it 500?

7 A. Firms?

8 Q. Yeah.

9 A. Law firms or nonlaw firms? We used  
10 both I believe.

11 Q. All right.

12 A. I wouldn't know. I would certainly  
13 think more than five, I would certainly think less  
14 than 500. What the number was, I don't recall.

15 Q. All right. Did you understand though  
16 that there was a process by which your office  
17 would vet applicants to be special counsel,  
18 perhaps do some background on them and --

19 A. Yes.

20 Q. Okay. And have them submit  
21 applications?

22 A. Yes.

23 Q. And then somebody would go and contact  
24 references and sort of verify the bonafides of the

1 applicants?

2 A. Yeah. That was my intention.

3 Q. That makes sense, yeah.

4 A. Yeah.

5 Q. Okay. Did you understand that once  
6 special counsel were appointed that there was an  
7 ongoing review of their performance as well?

8 A. I believe that's correct, yes. And  
9 there was also a general period of which they  
10 would be renewed, so there would have been a  
11 review at that point.

12 Q. Do you know who conducted the review?

13 A. I don't recall names offhand. But it  
14 would have been people who worked in that section,  
15 yes.

16 Q. So I understand your answer is about  
17 names, and I'm going to back off that for a  
18 second.

19 A. Uh-huh.

20 Q. Is it the same people that were  
21 involved in collecting the debt, were they the  
22 same ones involved in assessing the special  
23 counsel who would collect the debt and then also  
24 reviewing their performance? Am I talking about

1 one bucket of people?

2 A. I believe so. There may have been  
3 different relationships in the office. But  
4 roughly yes.

5 Q. All right. Do you recall any -- were  
6 you direct -- were you involved in any of the  
7 ongoing reviews of special counsel once hired?

8 A. I may have been, but it wouldn't have  
9 commanded a great deal of my time.

10 Q. All right. Do you recall any instance  
11 in which somebody brought to your attention a  
12 particularly alarming or disturbing report about  
13 the performance of a special counsel?

14 A. That may well have been the case. I  
15 don't recall any specific instances.

16 Q. Okay. Do you recall -- and I apologize  
17 if I've already asked this. But I'm just putting  
18 a bracket on this.

19 A. That's fine.

20 Q. Do you recall anybody ever coming to  
21 you saying our special counsel is behaving in a  
22 way that I think may violate the law?

23 A. I believe that may well have happened;  
24 although, I can't recall any specific instances.

1 Q. All right. Had that happened, you  
2 certainly would have been concerned about that?

3 A. I would have taken notice, yes, I would  
4 have.

5 Q. And what sort of action would you have  
6 taken if it was determined that they violated the  
7 law?

8 A. It would have depended on the  
9 circumstances. But, you know, there are very  
10 minor, technical violations of the law, there are  
11 very substantial violations of the law. You know,  
12 it would have depended on the facts and  
13 circumstances.

14 Q. Okay. If we were to -- through other  
15 sources to sort of establish that no special  
16 counsel were discharged while you were the AG,  
17 would it be a fair conclusion for us to draw that  
18 you didn't find any substantial violations of the  
19 law by any of your special counsel?

20 A. I'm not sure what to tell you about  
21 that. I think that if we had found that, and we  
22 may have, I'm not recalling offhand whether we did  
23 or didn't, I believe that appropriate steps would  
24 have been taken. That would have certainly been

1 my intention.

2 Q. Do you ever recall an instance in which  
3 your office either fired or reprimanded special  
4 counsel for making false or misleading  
5 communications with debtors?

6 A. I don't recall, but it's entirely  
7 possible that it happened.

8 Q. Entirely possible. All right.

9 A. Uh-huh. I think that -- look, the  
10 short story you're aiming at here is I have no  
11 reason to think that my Attorney General's Office  
12 was perfect in this regard. If I knew of  
13 imperfections that I thought were more serious  
14 problems, we would have dealt with them.

15 Q. Right.

16 A. I don't have any particular  
17 recollection of instances.

18 Q. Yeah. And I appreciate your sort of  
19 anticipating, and you're right. I am kind of  
20 curious about that. At the same time it strikes  
21 me, though, that someone as rigorous as you are in  
22 your thinking would recall a particularly  
23 problematic situation. If somebody says this law  
24 firm is misleading debtors, it strikes me, sir,

1 that you'd remember that.

2 A. There were times when I would and  
3 perhaps times I wouldn't. There are many, many  
4 matters that cross my desk as Attorney General.  
5 Many matters that cross my desk as head of the  
6 CFPB. Some of them I recall, some of them I  
7 don't. I don't have the same recollection now  
8 that I did 30 years ago, unfortunately, or  
9 fortunately perhaps, so.

10 Q. Yeah. Well, I appreciate -- nobody  
11 does 30 years ago. I'm talking about 2010, 2011?

12 A. Uh-huh.

13 Q. Yeah.

14 THE WITNESS: You do. But I don't any  
15 more.

16 Q. Yeah. All right.

17 MR. WOOLEY: Give me one second. I got  
18 my loose leaf stuff out of order here.

19 Okay. I got it.

20 Q. You appointed Alan Weinberg of Weltman,  
21 Weinberg & Reis -- well, we'll mark this as  
22 Exhibit B.

23 - - - - -

24 Thereupon, Exhibit B is marked for



1 purposes of identification.

2 - - - - -

3 Q. Exhibit B I've handed you is a  
4 certificate dated July 1, 2009. Do you recognize  
5 that document?

6 A. Not in particular. Although I've seen  
7 documents like it I believe.

8 Q. All right. And what is it?

9 A. Well, it appears to be a copy of a  
10 certificate that the Attorney General's Office  
11 would have issued in this instance to Alan H.  
12 Weinberg who was appointed as special counsel  
13 providing legal service to the State of Ohio. It  
14 has a signature that appears to me to be my  
15 signature. And it's dated July 1st, 2009, has the  
16 seal of the Attorney General in the bottom left  
17 corner.

18 Q. Okay. Do you recall how many of these  
19 certificates you would have signed in a given  
20 year?

21 A. I do not, although it would have been  
22 many.

23 Q. All right. 10? 20? When you use the  
24 word "many," I mean, I think a fair question is --

1 A. In this case --

2 Q. -- what do you mean by "many"?

3 A. In this case, certainly more than 20.  
4 I don't know if it was hundreds. Could have been  
5 hundreds even. I'm not sure.

6 Q. Okay. Looking at this, do you recall  
7 any conversations at all about Mr. Weinberg and  
8 his firm in connection with this particular  
9 appointment?

10 A. Do I recall any conversations about  
11 this appointment?

12 Q. Yeah. Somebody brought you this to  
13 sign I assume; is that correct?

14 A. I do not. I do not. I do not recall  
15 any specific conversations, no.

16 Q. Okay. And can you read for the record  
17 the second paragraph -- the second sentence on  
18 there, please.

19 A. "I take great pleasure...." Is that  
20 the one you're looking for?

21 Q. No. No. I'm sorry. The narrative?

22 A. "This appointment...."

23 Q. Yeah. The narrative.

24 A. Okay. "This appointment...." Is that

1 where you want me to be?

2 Q. Yes, sir.

3 A. "This appointment reflects my highest  
4 confidence in your legal expertise, integrity, and  
5 ability. Therefore, I have affixed my name and  
6 the Seal of the Attorney General." This is in  
7 reference to Alan H. Weinberg being appointed as  
8 special counsel for the Attorney General.

9 Q. Right. And when you signed it, you  
10 certainly believed that was true, correct?

11 A. I did.

12 Q. Based on what?

13 A. Based on work that had been done by my  
14 staff and perhaps myself to provide assurance that  
15 Mr. Weinberg would be an effective special counsel  
16 on behalf of the State and would deliver quality  
17 service to the State.

18 Q. What part of the perhaps yourself --  
19 you said perhaps yourself. What perhaps might  
20 have you done?

21 A. Again, you asked earlier about the  
22 process for vetting and approving special counsel.  
23 I would have had some involvement in that process,  
24 both in terms of approving the process generally,

1 perhaps had some involvement in -- in the  
2 evaluations that were made. I don't recall in  
3 particular whether that was true in this case, but  
4 it might have been.

5 Q. Do you recall ever having met  
6 Mr. Weinberg?

7 A. I do. But I don't recall it clearly.

8 Q. Would it have been in connection with  
9 his role as special counsel or in some other  
10 setting?

11 A. I don't know offhand. I might have met  
12 him a number of times. I'm not sure.

13 Q. Okay. You say you do recall though.  
14 So what do you recall about meeting him?

15 A. I believe I do. I mean, I certainly  
16 don't mean to say that I was unaware of  
17 Mr. Weinberg or any of my special counsel.

18 Q. My question is a little more specific.  
19 And it's a follow-up to what you said, you said  
20 you believed you met him?

21 A. I --

22 Q. Under what circumstances do you believe  
23 you met him?

24 A. I don't know the circumstances.

1 Q. Okay. Did you know that he was the  
2 Weinberg in Weltman, Weinberg & Reis?

3 A. I believe I would have understood that,  
4 but I don't recall specifically.

5 Q. Okay. Had you heard of that firm at  
6 the time that they were appointed special counsel?

7 A. Well, I would have heard of all the  
8 firms that were appointed special counsel because  
9 I would have approved and signed their  
10 certificates and --

11 Q. So had you heard of Weltman, Weinberg &  
12 Reis?

13 A. Here's a certificate that I signed  
14 appointing them special counsel. Yes, I was  
15 aware.

16 Q. Okay. And had you heard anything about  
17 their reputation?

18 A. I don't recall specifics that I would  
19 have heard. But what I would have heard I assume  
20 would have been sufficient to determine that they  
21 should be appointed as special counsel among many  
22 applicants.

23 Q. All right. Do you recall ever meeting  
24 Bob Weltman?

1 A. I don't recall specifically. I may  
2 have.

3 Q. You may have.

4 A. I may have.

5 Q. Yeah. I mean, in what context?

6 A. I don't know.

7 Q. Okay. What was the process for placing  
8 debts with Mr. Weinberg and his firm for  
9 collection?

10 A. Well, there was a process in the office  
11 for placing debts that were in need of collection,  
12 and some of those would have gone to Mr. Weinberg,  
13 others would have gone to others.

14 Q. What do you not understand about the  
15 process?

16 A. Well, there was a process. There might  
17 have been specific expertise that was appropriate  
18 in certain types of collection matters such as  
19 bankruptcy or student loans or other types of  
20 matters. Apart from that, there would have been  
21 simply a division of work because everybody could  
22 only handle so much work probably effectively and  
23 that would have all been part of the calculation I  
24 suppose. Would have perhaps been regional in

1 nature, although I think that's less important in  
2 this day and age where most of the collection is  
3 not done in person.

4 Q. Well, what information would your  
5 office provide to Mr. Weinberg and his firm to  
6 collect debt on behalf of the State? How did that  
7 happen? How did that work?

8 A. Well, there would have been a provision  
9 of the debts at issue, the source of the debt,  
10 information about the debt, amounts at issue, all  
11 the usual particulars of a debt collection file.

12 Q. Okay.

13 A. I would hope, hope and expect as  
14 complete as possible.

15 Q. Okay. Had lawyers in your office  
16 reviewed account level detail for each debtor  
17 before a debt would be placed with Mr. Weinberg's  
18 firm for collection, lawyers?

19 A. I think very likely, although the  
20 nature of "reviewed" covers a spectrum of possible  
21 activities.

22 Q. What do you mean by that?

23 A. Well, I mean it -- I mean just what I  
24 said.

1 Q. Well, you described a spectrum, and  
2 that's your word. What's on one end of the  
3 spectrum and what's on the other end of the  
4 spectrum?

5 A. Well, reviewed can be faster or slower,  
6 it can be word for word, or it can be reviewing  
7 documents as I did with this document you handed  
8 me. I mean, reviewed can be a lot of different  
9 things. As I'm sure you're aware in your life,  
10 you review lots of things, and that can mean a  
11 variety of different approaches.

12 Q. Did lawyers review the actual sort of  
13 source documents for each debtor's debt before it  
14 was placed with Mr. Weinberg? And I'll just give  
15 you a for instance and we can talk about this.

16 A. Okay.

17 Q. My son went to Ohio State. If he had  
18 parking tickets, he didn't pay his books, there  
19 will be invoices, there will be dates, there will  
20 be documents that relate to that debt. Did a  
21 lawyer review each of those documents before  
22 sending it to Mr. Weinberg's firm for collection?

23 A. Let the record reflect that counsel's  
24 comments about his son are hypothetical in nature,



1 so --

2 Q. No, they're not. No, they're not.

3 A. Okay. Look, that was a delegated  
4 function. I don't know exactly what was done, so  
5 I don't know that I can answer your question  
6 particularly helpfully so --

7 - - - - -

8 Thereupon, Exhibit C is marked for  
9 purposes of identification.

10 - - - - -

11 Q. All right. Exhibit C is -- it's a  
12 multi-page document, and unfortunately the  
13 paginating of it doesn't -- because it was  
14 exhibits doesn't make sense, the page numbers.  
15 But do you recognize what this is?

16 A. I see what it is. It was a Ohio  
17 Attorney's General request for qualifications for  
18 special counsel that I believe reflects a  
19 submission made by the Weltman, Weinberg & Reis  
20 law firm.

21 Q. Okay. And have you seen it before?

22 A. It's possible, but I couldn't recall  
23 offhand whether I had or have not seen it before.

24 Q. Okay. Do you recall it being a

1 practice of yours to read these submissions or was  
2 it something you delegated, sir?

3 A. I honestly do not recall. There were  
4 probably many things I should have delegated  
5 entirely that I didn't necessarily delegate  
6 entirely. But it's possible that I read this and  
7 a number of these. It's also possible I  
8 delegated. It might have depended on what the  
9 workload was at the time.

10 Q. Okay. With regard to -- and I know  
11 what he's going to say. But with respect to this  
12 function of looking at RFQ responses and  
13 delegating it, who in your office -- do you recall  
14 anybody that might have this function been  
15 delegated to? Is there a name of someone?

16 A. I --

17 MR. DOUGLAS: You're allowing me to  
18 object and say asked and answered. But he can try  
19 again.

20 A. Okay. I would not recall who this  
21 would have been delegated to. And it's also as I  
22 said entirely possible that I looked at it myself.

23 Q. Right. And, sir, to be clear -- I'm  
24 trying to be clear. I don't mean just this one in

1 particular, I mean the process. Was there  
2 somebody below you that was in charge of the  
3 process of reading through these RFQs and then  
4 making recommendations to you?

5 A. Well, there were probably a number of  
6 people, and it's not necessarily the same people  
7 who would have reviewed every single one and --  
8 and, you know, might have been a team. I don't  
9 recall.

10 Q. Right. A team of folks whose names we  
11 -- just for the record, you can't recall today?

12 A. But I'm sure you can find records that  
13 would give you that indication.

14 Q. All right. I'd like to look -- let's  
15 turn to page -- the fifth page in, it's not  
16 numbered at the bottom of the page, but it's a  
17 page that at the top says Alan Weinberg - Managing  
18 Partner. Do you see that?

19 MR. DOUGLAS: I don't. On the fifth  
20 page? Are you including the cover page,  
21 Counselor?

22 MR. WOOLEY: It looks like this.

23 A. This one?

24 Q. Yeah. Yeah.

1 A. Okay. Yep. I'm on that page.

2 Q. Yeah. So this is in response to the  
3 question for who's applying, the name of the firm.  
4 Do you see the name Alan Weinberg - Managing  
5 Partner Weltman, Weinberg & Reis? Do you see  
6 that?

7 A. I do see it.

8 Q. Okay. So the applicant here as a  
9 person is Mr. Weinberg, but it's clear from this  
10 that his firm is actually who's applying; is that  
11 correct?

12 A. It's not obvious to me from this  
13 document if it was the case, but I see that he is  
14 listed as specified and his bar number is given.  
15 There's another partner whose bar number is given.  
16 And then there's a number of partners and  
17 associates who are listed but their bar numbers  
18 are not given.

19 Q. Understood.

20 But is it a fair read of this -- if you  
21 don't recall reading it then, is it a fair read of  
22 it now that it's clear that they're saying that  
23 this firm is who's going to do this work?

24 Mr. Weinberg's name is what ends on the

1 certificate, but it's the firm that's going to do  
2 the work, correct?

3 MR. MCCRAY-WORRALL: Objection, calls  
4 for speculation.

5 A. I don't know whether Mr. Weinberg was  
6 going to do the work and have others work with him  
7 on a delegated basis or whether it was the firm  
8 that was going to do the work. It's not clear to  
9 me. I'm not clear what the difference is in your  
10 mind.

11 Q. But you didn't think Mr. Weinberg alone  
12 was going to do the work; he was going to be  
13 supported?

14 A. I just said that if he did the work  
15 himself, it would be probably with others working  
16 with him on a delegated basis.

17 Q. All right. Can you turn to the next  
18 page, please.

19 A. And the certificate you showed me was  
20 specific to him --

21 Q. Right.

22 A. -- not to the firm. So I'm honestly  
23 not sure what this represents.

24 Q. Well, I'll represent to you this is the

1 RFQ that led to you giving the certificate.

2 A. I'm aware of that.

3 Q. Yeah.

4 A. And the certificate was to him, not to  
5 the firm.

6 Q. Understood.

7 A. Correct. Okay.

8 Q. Yeah. Understood.

9 A. So you're now asking me whether this  
10 somehow indicates it's the firm rather than him.  
11 I'm not clear which it was.

12 Q. Okay. If you'd like, you can read the  
13 whole thing. Because, in fact, it talks about --

14 A. I don't know that it matters so --

15 Q. It talks about everything the firm's  
16 going to do --

17 A. That's fine.

18 Q. -- which is my point of this inquiry.

19 Look at the next -- it says, "Our  
20 firm...." The next page, "Our firm provides  
21 collection and bankruptcy representation...." Do  
22 you see that?

23 A. I see that.

24 Q. Yeah.

1 A. I'm not sure what you're driving at.  
2 If you want to give the testimony on it, you can.  
3 But I'm not clear which it is.

4 Q. Can you just read the sentence out loud  
5 for the record, please.

6 A. Which sentence?

7 Q. The first sentence on the top of that  
8 page.

9 A. Which page?

10 Q. It's weird. It says page 1 on the  
11 bottom right, but it's not page 1, but it's the --

12 MR. DOUGLAS: Page 6.

13 A. It begins "Our firm provides...."

14 Q. Yeah. Yes.

15 A. What do you want me to read, that  
16 sentence?

17 Q. I'm sorry.

18 A. "Our firm provides collection and  
19 bankruptcy representations on a very large volume  
20 of matters for the State of Ohio pursuant to a  
21 Retention Agreement for this work."

22 Q. Okay. So this RFQ reflects that they  
23 were already doing work for the State, correct?

24 A. Seems to so reflect that, yes.

1 Q. Do you recall that?

2 A. I don't recall offhand, no.

3 Q. You don't recall offhand. But looking  
4 at it now, and if you read the rest of the  
5 paragraph it will talk about the work that they've  
6 been doing, the firm's been doing. I'd ask you to  
7 take a look at that and see if it refreshes a  
8 recollection of whether you had an understanding  
9 that they were already doing work for the State.

10 A. Well, I think the document speaks for  
11 itself. If you want me to speculate about it, I  
12 can. But I think the document speaks for itself.

13 Q. Well, I'm asking you to, and it's --  
14 it's up to you. If you read it and took a second  
15 to read it, maybe -- whether it would refresh your  
16 recollection.

17 A. It doesn't.

18 Q. Okay.

19 MR. DOUGLAS: Counselor, if I may for  
20 just a moment, to shorten this so I don't have to  
21 ask questions after you're finished, would you  
22 mind if he read the next sentence that you've  
23 asked him to read here on page 6?

24 MR. WOOLEY: Uh-huh.



1 MR. DOUGLAS: Have him read the second  
2 sentence into the record now because I'm going to  
3 ask him to do that if you don't.

4 MR. WOOLEY: Sure. Go ahead.

5 MR. DOUGLAS: Page 6. Read the second  
6 sentence.

7 A. "All matters placed with Alan Weinberg  
8 and Weltman, Weinberg & Reis Co., L.P.A. have  
9 originated from the State of Ohio Office of the  
10 Attorney General Collections Enforcement Unit."

11 MR. DOUGLAS: That's enough. Thank  
12 you.

13 MR. WOOLEY: Yeah.

14 Q. All right. There you go. So now we  
15 have a name of a division. Who --

16 MR. DOUGLAS: That's right.

17 Q. Who was in the Attorney General's  
18 Collection Enforcement Unit?

19 A. Many people.

20 Q. Who ran it?

21 A. I don't recall.

22 Q. Would that have been someone who  
23 directly reported to you or would there have been  
24 an intermediate supervisor between you and that

1 person?

2 A. I don't recall. But I believe there  
3 would have been some intermediate supervisor.

4 Q. Do you know who the intermediate  
5 supervisor would have been between you and them?

6 A. I don't recall. It might have changed  
7 during my time there as well.

8 Q. All right. Go to the next page,  
9 please.

10 A. Okay.

11 Q. Look at under the paragraph that says  
12 "State Representation," please.

13 A. Okay.

14 Q. Do you see there that it says "...we  
15 have handled over 69,000 collection matters for  
16 the State...."

17 A. I see that.

18 Q. Okay. Was it your understanding that  
19 special counsel generally and in particular  
20 Weltman, Weinberg & Reis were handling high volume  
21 collection matters?

22 MR. MCCRAY-WORRALL: Objection, vague.

23 A. Well, that sentence certainly seems to  
24 indicate that, yes.

1 Q. Well, it does indicate it. I'm asking  
2 if that's your recollection as well.

3 A. What I read here is consistent with my  
4 general recollection.

5 Q. If you go up three paragraphs above  
6 that where it says, "Through the visionary  
7 leadership and Partnership and Management  
8 committee...." Do you see that paragraph?

9 A. I do.

10 Q. Do you see the reference to innovative  
11 collection technologies, custom programmed  
12 software applications, advanced dialers?

13 A. I do.

14 Q. Did you understand that in this  
15 high-volume collection practice there would be  
16 some automation involved?

17 MR. MCCRAY-WORRALL: Objection.  
18 Foundation. Assumes facts not in -- that have not  
19 yet been established.

20 MR. DOUGLAS: You can answer if you  
21 know.

22 A. Yeah. I'm not entirely sure what you  
23 mean by some automation involved. If you mean,  
24 for example, the use of computers, certainly I

1 would assume that.

2 Q. Yeah. Thank you. That was a clumsy  
3 question. Yeah. I mean that's what I mean.

4 Was there going to be technology  
5 involved, electronic information would be  
6 processed?

7 A. Certainly, yes.

8 Q. Okay. It wasn't as though there were  
9 going to be boxes of actual documents that were  
10 going to be looked at and scrubbed?

11 A. Well, I -- you know, I can't say for  
12 sure that that wasn't the case. The government  
13 was not always on the cutting edge of technology,  
14 but there might have been both. But certainly  
15 there would have been electronic methods  
16 involved --

17 Q. Okay.

18 A. -- and everybody was moving in that  
19 direction, perhaps had gotten there by this point  
20 in time, yes.

21 Q. And look at the bottom of the page  
22 where it says "Strengths."

23 A. Uh-huh.

24 Q. "We are a law firm that is structured

1 to offer in-house collection agency services." Do  
2 you see that?

3 A. I do.

4 Q. Yeah. And then if you read that  
5 paragraph all the way through you'll see that the  
6 second-to-last sentence says, "Our collection and  
7 legal representation seamlessly continues, even if  
8 the debtor has filed bankruptcy or is deceased."  
9 Do you see that?

10 A. I do.

11 Q. So did you understand or do you  
12 understand from reading this that Weltman,  
13 Weinberg & Reis is a collection firm that's housed  
14 within a law firm?

15 A. I don't know that I would have known  
16 that specifically. It's a fair inference perhaps,  
17 but I don't know that I would have ever known what  
18 the organization of the firm itself was or at  
19 least certainly my own personal impressions.

20 Q. Okay. Well, in your unit, the -- here  
21 we go. Attorney general collections enforcement  
22 unit, that included lawyers and nonlawyers,  
23 correct?

24 A. Where are we here?

1 Q. I'm just using -- we've identified your  
2 unit was called the Attorney General Collections  
3 Enforcement Unit. I'm not asking you about the  
4 document, I'm just --

5 A. Okay.

6 Q. -- using that for my own purposes.

7 A. You seem to be pointing to the  
8 document.

9 Q. No. The Attorney General Collection  
10 Enforcement Unit, there were nonlawyers in that  
11 unit?

12 A. Correct. Lawyers and nonlawyers,  
13 correct.

14 Q. And did a nonlawyer -- did a nonlawyer  
15 head it?

16 A. You know, I do not recall. And whether  
17 that would have ever been the case during my time  
18 there, I -- I don't recall offhand.

19 Q. Okay. But is it accurate to say that  
20 -- that in this high volume collection work that  
21 was being done both either within your -- your  
22 office or by special counsel, lawyers and  
23 nonlawyers were involved?

24 A. Correct.

1 Q. All right. Could you go to the next  
2 page, please.

3 A. Next page suggests I know which page we  
4 were on before.

5 Q. I'm sorry. It -- bottom of page 3.  
6 It's got a 3 at the bottom.

7 MR. DOUGLAS: It's yellow.

8 A. Yes.

9 Q. Okay. The paragraph in the middle,  
10 read that to yourself.

11 A. Which one?

12 Q. The one that says, "Due to our  
13 scale...."

14 A. Okay. All right. Uh-huh. Okay.

15 Q. There's a sentence that says, "State  
16 Clients will have access to all of our staff  
17 members, including the collectors working files,  
18 the clerical and administrative staff processing  
19 executions and typing, the supervisory staff  
20 managing the matters and the attorneys covering  
21 hearings and handling legal aspects."

22 A. Uh-huh.

23 Q. Okay. So did your office understand  
24 that what Weltman, Weinberg & Reis was bringing

1 was a staff of nonlawyers to handle the matters  
2 described and then lawyers to cover the legal  
3 aspects?

4 A. I don't know what to tell you about  
5 that. What my office would have understood is as  
6 we said earlier, we were placing matters with Alan  
7 Weinberg. He was on the certificate. Weltman,  
8 Weinberg & Reis was the law firm that he was  
9 working with. And I guess the entire firm would  
10 have worked on these matters in some manner or  
11 another in the way in which a law firm has  
12 nonlawyer staff as well as supporting lawyer  
13 staff.

14 Q. Right. I understand. But this RFQ --  
15 and you can take your time reading it -- says that  
16 the law firm is a collection firm, too. It's got  
17 a collection firm within the law firm. It's a  
18 debt collector.

19 A. If you say so.

20 Q. Okay.

21 A. I haven't read through the whole  
22 document.

23 Q. Okay. And I think the easiest way to  
24 do that is just go to the back of the document



1 and, like, the fourth page from the back there's a  
2 chart with a staff of the office.

3 MR. DOUGLAS: Do you mind if we stop  
4 here again and have him read another sentence  
5 there; otherwise, I'm going to have to ask him at  
6 the end. I'd like him to read the third sentence  
7 into the record.

8 THE WITNESS: The one that begins WWR?

9 MR. DOUGLAS: Let him -- no. Is that  
10 the third sentence or the fourth? The one that  
11 starts, "State Clients." No. Negative. The one  
12 that starts "WWR." Yes.

13 THE WITNESS: So I --

14 MR. WOOLEY: Yeah. I don't -- go  
15 ahead. Yeah.

16 MR. DOUGLAS: Okay.

17 THE WITNESS: So read this sentence  
18 that begins "WWR"?

19 MR. DOUGLAS: Yes.

20 THE WITNESS: "WWR is capable of  
21 providing reporting on request...."

22 MR. DOUGLAS: No. The one that says  
23 "WWR also maintains...." Read that one.

24 THE WITNESS: Are we on the same

1 paragraph?

2 MR. DOUGLAS: I'm not sure we are.

3 THE WITNESS: "WWR also maintains both  
4 a Compliance and Client Services Department as  
5 well."

6 MR. DOUGLAS: That's fine. Thank you.

7 MR. WOOLEY: Okay.

8 Q. And then on that chart right below it  
9 it has collections and supervisory staff. Do you  
10 see the names of those folks?

11 A. I do.

12 Q. People ready to assist, right? And  
13 there's a breakdown, some are lawyers and some are  
14 not lawyers, correct?

15 A. I guess I can assume that the two legal  
16 secretaries are not lawyers, legal secretary and  
17 legal assistant. The others, I wouldn't know --

18 Q. All right.

19 A. -- for certain.

20 Q. And then if you find your way to the  
21 back of the document, four -- there's an  
22 attachment, the fourth page from the back that's  
23 page No. 1. It looks like that.

24 A. Okay. Does it have Brooklyn Heights,

1 Chicago, Cincinnati, is that the one you're  
2 talking about?

3 Q. The chart.

4 A. Yeah. Okay.

5 Q. He's got it.

6 A. Yep.

7 Q. And it says here that they had 100  
8 attorneys. Do you see that?

9 A. I see that.

10 Q. And 227 debt collectors, collectors, do  
11 you see that?

12 A. I see that.

13 Q. And everybody else at the firm is a  
14 nonlawyer besides those 100 people, right?

15 A. If you say so. I wouldn't know that.

16 Q. Okay. Well, the grand total is 1,076  
17 employees, 100 of whom are lawyers?

18 A. That's what it seems to say. Whether  
19 any of the others are lawyers or not, I wouldn't  
20 know.

21 Q. Okay.

22 A. But I assume that if you're calling out  
23 the lawyers, then the others are not. But I  
24 wouldn't know that for sure.

1 Q. Did you or your office have an  
2 understanding -- and it -- well, I'll ask you.  
3 Did you have an understanding that before an  
4 initial demand letter would be sent out collecting  
5 a debt, seeking to collect a debt on behalf of  
6 your office, that a lawyer, one of these 100  
7 people in this high-volume practice would have  
8 looked at the account level detail before the  
9 letter went out?

10 MR. DOUGLAS: Objection. That's going  
11 to draw a conclusion that's at issue in this case,  
12 and I'm going to let him answer if he chooses to.  
13 If he chooses not to, I'm going to instruct him  
14 not to.

15 Q. Did you have an understanding of that?

16 A. I don't know that I would have known  
17 that one way or the other for sure, but it might  
18 have depended on what the wording of the letter  
19 was.

20 Q. Okay. Depends on the way the letter  
21 went out?

22 A. It might have depended on the wording  
23 of the letter in terms of what kind of demand was  
24 made and what kind of representation was made

1 about what was going to happen to the person being  
2 communicated with.

3 Q. Understood.

4 So if it were I'm going to sue you and  
5 I'm going to bring an action against you, that  
6 would be something you would expect perhaps a  
7 lawyer to have looked at the underlying detail,  
8 correct?

9 A. You know, I don't know what the state  
10 of the law was then. I'm not sure what the state  
11 of the law is now. So I don't know really how to  
12 answer that question.

13 Q. Well, I want to make sure -- you don't  
14 know the state of the law -- you didn't know the  
15 state of the law in 2000 --

16 A. I don't know now what the state of the  
17 law was in in 2009 or which courts had said which  
18 things about that, exactly what law was being  
19 followed. I don't know what the state of the law  
20 is at this moment either, so I don't know quite  
21 how to answer your question.

22 Q. All right. I'm trying to follow up on  
23 you're saying that there are circumstances under  
24 which depending on the wording of the letter you

1 would have expected a lawyer to have reviewed the  
2 underlying detail. And that depends on the exact  
3 state of the law at the time?

4 A. In terms of what could be said or could  
5 not be said by a lawyer or nonlawyer, I would  
6 imagine, yes.

7 Q. You would imagine or do you know?

8 A. I would -- I would imagine, yes.

9 Q. Well, who doesn't -- if you don't know,  
10 who does? I mean you said you were an expert at  
11 -- when you were the Attorney General and you ran  
12 the agency. Who know that's? How clear is that  
13 to the collection work --

14 A. What I'm saying is I don't recall now  
15 what the state of the law would have been at that  
16 time.

17 Q. How about now?

18 A. Well, again, I have views. But  
19 ultimately these are cases that brought and judges  
20 have to decide. So what the judges tell us is  
21 what the law is, although if judges disagree there  
22 might have to be appeals and other things.

23 Q. You approved the complaint in this case  
24 which accused the firm of misleading consumers

1 regarding the amount of lawyer involvement with  
2 respect to an initial demand. Do you recall that  
3 that's what you approved in this case?

4 A. I recall that I would have approved a  
5 complaint being filed in this case. I don't  
6 recall all the particulars.

7 Q. You don't recall looking at the demand  
8 letters that your staff brought to you and said  
9 these are the ones that Weltman, Weinberg & Reis  
10 are --

11 A. So you just --

12 Q. -- sending?

13 A. -- packed some things into that  
14 question that are assumptions --

15 MR. MCCRAY-WORRALL: Objection. Calls  
16 for a legal conclusion.

17 A. -- that I don't know that are  
18 necessarily correct. I said earlier that the  
19 package of materials that would have come to me on  
20 a recommendation would have varied from case to  
21 case. You just stated that the demand letters  
22 were part of that, and I don't know offhand  
23 whether that was so. Might have been so, might  
24 not have been so.

1 Q. All right. Well, if a letter went out  
2 from the State with your name on it to a consumer,  
3 would you have expected a lawyer would have  
4 reviewed the account level detail before it went  
5 out?

6 A. I would have expected that what was  
7 done would have been understood to be in  
8 compliance with the law at that time.

9 Q. Yeah. So a specific question, would  
10 you have expected that a lawyer in your office  
11 would have looked at the account level detail  
12 before sending a letter out on your letterhead?

13 A. I'm not sure what the answer is to that  
14 question at that time.

15 Q. You're not sure?

16 A. I'm not sure what the law was in 2009  
17 on that issue. I think the law has been evolving  
18 across the country on this and continues to  
19 evolve.

20 Q. Okay.

21 A. And may in this case for all I know.

22 Q. All right. Set the law aside for a  
23 second, all right?

24 A. Uh-huh.



1 Q. On the issue of whether it's  
2 appropriate, was it appropriate for someone to  
3 send out letters on your letterhead with your name  
4 on it without a lawyer having looked at the  
5 account level detail?

6 MR. DOUGLAS: Objection. That's an  
7 issue in this case and the judge is going to  
8 decide. And it calls on him to give a legal  
9 conclusion that I don't think he's competent to  
10 give or should give. You're not to answer that.

11 MR. WOOLEY: He's not to answer that?

12 MR. DOUGLAS: Not to answer that.

13 Q. Okay. All right. Let's move to  
14 Exhibit D.

15 - - - - -

16 Thereupon, Exhibit D is marked for  
17 purposes of identification.

18 - - - - -

19 THE WITNESS: Thank you.

20 MR. DOUGLAS: Thank you.

21 Haven't we done this already?

22 THE WITNESS: Two years later.

23 MR. DOUGLAS: Oh, two years later.

24 Q. It's actually one year.

1 A. One year later.

2 MR. DOUGLAS: One year later.

3 A. Yeah. Sorry.

4 Q. Do you recognize Exhibit D?

5 A. I do not particularly recognize it, but  
6 I see what it is. And it seems to be comparable  
7 to Exhibit B that we dealt with a moment ago,  
8 exactly the same in fact other than the date and  
9 perhaps a more or less more legible signature by  
10 me.

11 Q. Okay. So we had Exhibit C was the RFQ  
12 that described the work they were going to do in  
13 May of 2009, correct?

14 A. Right. Yes.

15 Q. All right. And so they got the job.  
16 And then in 2010 you reupped them?

17 A. That appears to be the case, yes.

18 Q. Right. So they described how they were  
19 going to do it and what they were going to do in  
20 2009. And then they were reupped in 2010; is that  
21 correct?

22 A. Well, I would say they described what  
23 they were going to do in May of 2009 as Exhibit C.

24 Q. Yeah.

1 A. In July of 2009 they received the  
2 appointment.

3 Q. Right.

4 A. And then in July of 2010 they were  
5 renewed for appointment, yes.

6 Q. Right. So actually I should do that.  
7 You're right. This is Exhibit -- the next one?

8 A. Uh-huh. I don't think there's really  
9 any question at issue here. They applied and they  
10 were approved both in 2009 and 2010.

11 Q. Yeah.

12 A. And that would have represented my  
13 judgment at the time that they would be effective  
14 in collecting debts on behalf of the State.

15 Q. Exhibit E.

16 A. Just wondering if we could telescope a  
17 bit of this.

18 Q. I'm sorry?

19 A. I'm just wondering if we could  
20 telescope this a bit if that's what you're trying  
21 to establish.

22 - - - - -

23 Thereupon, Exhibit E is marked for  
24 purposes of identification.

1 - - - - -

2 Q. Exhibit E is the RFQ response the  
3 following year?

4 A. Uh-huh.

5 Q. And I'll represent to you, and you can  
6 look through it as much as your want or your  
7 lawyer can, but it contains the same basic  
8 information regarding the firm, the breakdown of  
9 the lawyers, the nonlawyers, how they're going to  
10 handle things?

11 A. Agreed.

12 Q. All right. And then --

13 A. And then it led to the approval and the  
14 certificate issued in July of 2010.

15 Q. Okay.

16 A. Yes.

17 Q. Okay.

18 MR. DOUGLAS: Counselor, have you gone  
19 through this? Are you representing it's all the  
20 same as --

21 MR. WOOLEY: I'm representing it's an  
22 updated document. It reflects an updated status  
23 on the work that they had done including for the  
24 prior year.

1           MR. DOUGLAS: So the sentences that you  
2 had him read into the record and the ones that I  
3 had him read into the record are probably the  
4 same.

5           MR. WOOLEY: The firm didn't change.  
6 The firm did the work the same way it did it all  
7 the way --

8           MR. DOUGLAS: Not the firm, the RFQ  
9 we're talking about.

10          MR. WOOLEY: Yeah. I mean I'll let you  
11 make that conclusion if you want to look at it  
12 during a break. But it -- I read it as being  
13 largely -- largely the same. But I don't -- I  
14 don't want to put that conclusion --

15 A.           I have no reason to think it was  
16 particularly different.

17 Q.           Right.

18 A.           So we can move on.

19          MR. BRESSLER: Jim, can I ask for  
20 comfort purposes how long do you expect before a  
21 break?

22          MR. WOOLEY: We can break right now.

23          THE WITNESS: Do you know a sense of  
24 how long we will be here today?

1 MR. WOOLEY: No.

2 THE WITNESS: Okay.

3 MR. WOOLEY: But I -- people are going  
4 -- they have afternoon flights, they'll make it.

5 THE WITNESS: Okay. I don't  
6 particularly need a break. I'll need a break at  
7 some point to feed my meter, but other than that,  
8 I'm happy to proceed.

9 MR. WOOLEY: Okay. Well, I mean  
10 somebody from your side of the table asked.

11 MR. BRESSLER: I was just curious when  
12 you were planning to break.

13 MR. WOOLEY: I'm completely open to it  
14 whenever you guys want.

15 MR. BRESSLER: If he's -- that's fine.

16 THE WITNESS: I'd rather not have a  
17 break, Steven, thank you.

18 Q. Okay. So in 2010 your office approved  
19 the Weinberg firm again?

20 A. We did.

21 Q. Okay. And you don't recall anybody  
22 specifically bringing you any complaints about the  
23 Weltman, Weinberg & Reis firm --

24 A. I don't recall --

1 Q. -- between?

2 A. -- either way. But we did reapprove  
3 them in 2010.

4 Q. Okay. Based on their performance so  
5 far and based on the information that they'd  
6 provide in their updated RFQ?

7 A. That would be correct.

8 Q. Okay. Do you recall anybody ever  
9 before you reupped them or at any point in time  
10 saying to you we are going to make sure we have  
11 lawyers look at account level detail before we  
12 send initial demand letters?

13 A. I don't recall either way.

14 Q. Either way. All right.

15 Exhibit F.

16 - - - - -

17 Thereupon, Exhibit F is marked for  
18 purposes of identification.

19 - - - - -

20 THE WITNESS: Thank you.

21 MR. DOUGLAS: Thank you.

22 BY MR. WOOLEY:

23 Q. Do you recognize Exhibit F?

24 A. Not particularly. But I see what the

1 document purports to be, yes.

2 Q. And it is the retention agreement  
3 between your office and the collection's special  
4 counsel, the Weinberg firm, correct?

5 A. That's what it appears to be, yes.

6 Q. Okay. Could you look at page 2,  
7 please, of it?

8 A. Yes.

9 Q. Under the Attorney-Client Relationship?

10 A. Yes.

11 Q. And the middle paragraph, can you read  
12 that for us, please.

13 A. Yes. "In all pleadings, notices and/or  
14 correspondence created pursuant to the work being  
15 performed hereunder, Special Counsel shall  
16 indicate that such document is prepared by the  
17 Special Counsel in its position as Special Counsel  
18 for the Attorney General."

19 Q. All right. And do you know who would  
20 have approved the form of particular covered  
21 documents covered by that?

22 A. I do not know that offhand, no.

23 Q. So it says notices. Notices could be  
24 fairly read to include demand letters?



1 A. I don't know. You're giving that  
2 definition. I'm not sure.

3 Q. Actually, no, I'm -- that's a bad  
4 question. The correspondence, when you're writing  
5 correspondence as a debt collector, you'll be  
6 writing to people about their debts, correct?

7 A. Not necessarily always, but I would  
8 think often.

9 Q. Right. And it's mandated in the  
10 retention agreement that "Special Counsel shall  
11 indicate that such document is prepared by the  
12 Special Counsel in its position as Special Counsel  
13 for the Attorney General." That's mandated,  
14 correct?

15 A. It says "shall."

16 Q. Right. And the exact form within that  
17 mandate would have been something that would had  
18 to have been approved by your office, correct?

19 A. I don't recall offhand. That may be  
20 so. I don't recall offhand.

21 Q. You don't recall insisting that your  
22 letterhead be used?

23 A. I don't recall whether and how much --  
24 whether and how much we would have specified the

1 particular form to be used. I don't recall  
2 offhand.

3 Q. Okay. Would that have been -- well,  
4 strike that.

5 Page 3, the next page, please.

6 Specific Performance Measures talks about "On a  
7 quarterly basis, a personal performance review  
8 will be conducted...." Do you see that?

9 A. Yes, I see that.

10 Q. Can you take a second and read that  
11 whole clause, please, it's only three short  
12 paragraphs.

13 A. All right.

14 Q. Okay. What do you understand this  
15 quarterly performance review to entail?

16 A. Well, it says that will be reviewed  
17 based on the following areas, "collection ratios,  
18 performance measures based on historical averages  
19 and comparisons of new and old accounts and  
20 various account types, customer service  
21 complaints, reports, legal actions taken, status  
22 updates, and interviews." And there may be  
23 additional specific performance review  
24 requirements as referenced here, but it doesn't

1 specify what those would be.

2 Q. Does it also specify that special  
3 counsel will provide access to the attorney  
4 general for all the documents, papers, records,  
5 computer searches?

6 A. It does say that, yes.

7 Q. Right. So the quarterly review would  
8 be by your office, and your office would have  
9 access to all the paperwork that was being  
10 maintained and/or transmitted by the Weltman firm,  
11 correct?

12 MR. DOUGLAS: Objection. I don't think  
13 that paragraph says that. But he may answer.

14 A. I think the paragraph speaks for  
15 itself. It says what it says.

16 Q. So your office in the quarterly review  
17 would have access to the documents, papers,  
18 records, computer searches involving the  
19 collection services performed by the Weltman,  
20 Weinberg & Reis firm, correct?

21 A. Well, it says that the special counsel  
22 agrees to provide that. It doesn't necessarily  
23 say that we got it. But --

24 Q. Do you recall anybody ever telling you

1 in connection with a quarterly review that the  
2 Weltman, Weinberg & Reis firm was not providing  
3 documents required under the retention agreement?

4 A. I don't recall one way or the other.  
5 But I would assume that that was not the case.

6 Q. Do you recall anybody ever saying to  
7 you we're looking at their documents and we think  
8 that they're sending correspondence or  
9 communications with debtors that are problematic?

10 A. Again, I do not have a recollection one  
11 way or the other. So I -- so I don't have a  
12 recollection one way or the other.

13 Q. Okay. They're the largest collection  
14 firm in the midwest. Would you have recalled if  
15 someone would have said to you they're sending  
16 correspondence to debtors that is misleading?

17 A. I don't know that I knew the size of  
18 the collection firms.

19 Q. I'll make that representation to you.

20 A. Okay.

21 Q. Would you recall if someone had said to  
22 you this collection firm is making misleading  
23 representations to debtors, would you recall that?

24 A. So I do recall there were times when --

1 first of all, there were times when debt  
2 collection firms, whether law firms or otherwise,  
3 were viewed by people in our office as having  
4 violated the law, potentially violated the law and  
5 were investigated and actions were taken. And I  
6 do recall that that happened I believe possibly  
7 more than once involving firms that were  
8 collecting on behalf of the State. I have no  
9 particular recollection of that being true of this  
10 firm. I do not one way or another have a  
11 recollection of that.

12 Q. Okay. In fact, you had a zero  
13 tolerance for such behavior; isn't that correct?

14 A. What are you referring to?

15 Q. I'm asking you. You had a zero  
16 tolerance for such behavior?

17 A. Well, I don't know what "such behavior"  
18 means. Again --

19 Q. Misleading debtors?

20 A. As we discussed earlier, if people were  
21 committing violations, it might have depended on  
22 how substantial the violation was, how frequent it  
23 was, how objectionable it was. But I would say it  
24 depends on the facts and circumstances.

1 Q. Okay. Can you go to --

2 A. We would have had a -- we would have  
3 had a low threshold of tolerance for problems.  
4 But we would have certainly tried to ascertain  
5 whether any problems were substantial problems or  
6 minor, insignificant problems.

7 Q. Okay. If you go to page 12, please.  
8 Section 19, Constituent Complaints.

9 A. Yeah.

10 Q. Would you mind reading that paragraph  
11 aloud, please.

12 A. "Special Counsel must conduct business  
13 in a manner that supports the Ohio Attorney  
14 General's Office's goal of fair and equitable  
15 treatment for debtors during the collection of  
16 debts. At a minimum, fair and equitable treatment  
17 means debt collection without harassment --

18 MR. DOUGLAS: Slow down.

19 A. -- or verbal abuse of the debtor, or  
20 compromising the debtor's rights. The Attorney  
21 General's Office expects Special Counsel to  
22 provide services to the public in a manner that  
23 will preserve or enhance goodwill between the  
24 public and the State of Ohio."

1 Q. Okay. If you can read the next -- the  
2 next page, please.

3 A. The Attorney General's Office has zero  
4 tolerance for collection actions or activities --  
5 this is in bold print -- "that demonstrate  
6 anything less than complete respect for the rights  
7 and reasonable expectations of the public."

8 Q. Right. This is -- this is the only  
9 part of the retention agreement that's in bold,  
10 your zero tolerance policy. Do you see that?

11 A. I haven't looked through the entire  
12 document, but it was certainly meant to stand out.  
13 Yes. There's actually more bold on other pages I  
14 see. But I would say that it's meant to stand  
15 out, which was your point.

16 Q. What do you mean by "zero tolerance for  
17 collection actions...that demonstrate anything  
18 less than complete respect for the rights and  
19 reasonable expectations of the public"?

20 A. I think it means that if we understood  
21 that there were problems and we thought that they  
22 were significant enough to affect the rights and  
23 expectations of the public that we would take  
24 action accordingly.

1 Q. Okay. Did anybody ever bring to your  
2 attention actions or activities that they believe  
3 were committed by the Weltman firm that would have  
4 implicated this zero tolerance clause?

5 A. Again, you've asked me this several  
6 ways over the course of the morning. I don't have  
7 specific recollection one way or the other with  
8 respect to this firm, which is to say I don't have  
9 any particular recollection that they ever had any  
10 problems nor do I have any particular recollection  
11 that they never had any problems. I just wouldn't  
12 know one way or the other. So I -- I don't know  
13 what else to tell you.

14 Q. All right. Do you recall ever -- this  
15 zero tolerance policy, this clause being  
16 implicated in any setting with respect to any  
17 collection agency that you dealt with? Because  
18 zero tolerance --

19 A. So I mentioned to you earlier that I  
20 was aware -- I was aware and perhaps was on more  
21 than one occasion that there was an instance or  
22 instances of firms who were working on behalf of  
23 the State of Ohio who -- where issues had been  
24 raised about whether their debt collection



1 processes were consistent with the law. So there  
2 were at least an or maybe several such instances.  
3 I don't recall who that was in particular.

4 Q. The next section paragraph 20,  
5 Compliance with Law?

6 A. Uh-huh. Yep.

7 Q. It's a must "...Special Counsel must  
8 comply...." Right?

9 A. It says "agrees to comply."

10 Q. No. No. The last paragraph -- the  
11 last sentence in that paragraph. "...must comply  
12 with the same standards of behavior as set  
13 forth...." Do you see that?

14 MR. DOUGLAS: I don't. What paragraph?

15 MR. WOOLEY: Just read the whole  
16 paragraph.

17 MR. DOUGLAS: I did.

18 A. Okay. Well, look, I mean I'm not sure  
19 what point you're trying to make here. "Special  
20 Counsel agrees to comply with all applicable  
21 federal, state, and local laws," it says at the  
22 beginning. Later it says, "Special Counsel must  
23 comply with the same standards of behaviors as set  
24 forth in..." some specific statutes.

1 Q. Right.

2 A. You know, those certainly were  
3 expectations that the office had of all the firms  
4 doing business with the State.

5 Q. Right. Your answer about how these  
6 circumstances may have been brought to your  
7 attention about this collection firm or that  
8 collection firm that --

9 A. I believe they were as I said.

10 Q. Yeah.

11 A. But I don't recall exactly who that  
12 would have been.

13 Q. Did your office ever take any action  
14 against the Weltman, Weinberg & Reis firm?

15 A. Not that I'm aware of. They would know  
16 perhaps better than I. I don't have a  
17 recollection one way or the other, but again I  
18 don't have any particular recollection that we  
19 did.

20 Q. Okay. And in fact, you were there two  
21 years, you approved them twice?

22 A. I approved them each year I was there,  
23 correct.

24 Q. Okay. Is there a place as we continue

1 our discovery where we could go to find where  
2 these complaints and these discussions about  
3 possible problems with collection firms would be  
4 documented? Is there a place where we could go to  
5 find that?

6 A. I don't know offhand. You know,  
7 perhaps there's someplace in the Attorney  
8 General's Office, perhaps you could look at the  
9 public record. If anything ever became a public  
10 matter, it would have been I assume known, there  
11 would be -- would have been some public evidence  
12 of it, either complaints that were filed or -- I  
13 don't know. You're asking me to sort of speculate  
14 as to what documentation there may be. I don't  
15 know.

16 Q. I'm asking if you know. If it's  
17 speculation, it's speculation.

18 A. I don't know in particular.

19 Q. Yeah. Okay.

20 Exhibit G, the complaint.

21 - - - - -

22 Thereupon, Exhibit G is marked for  
23 purposes of identification.

24 - - - - -

1 MR. WOOLEY: We actually do need a  
2 break right now. Let's take a break for --

3 MR. DOUGLAS: At my age is a good idea.

4 MR. WOOLEY: All right.

5 (A short recess is taken.)

6 Q. Back on the record. The Complaint has  
7 been marked as Exhibit G. Do you recognize that  
8 as the complaint that you approved for filing  
9 against Weltman, Weinberg & Reis in April of this  
10 year?

11 A. Generally, yes.

12 Q. Okay. I'm going to ask you about some  
13 specific paragraphs in it. If you want to take  
14 some time to look through the whole thing now,  
15 that's fine with me.

16 A. That's fine. We can proceed.

17 Q. Okay. You'll see the first paragraph  
18 is an introduction, right, paragraph 1?

19 A. Two paragraphs, yes.

20 Q. Right. And then paragraph No. 2 -- I'm  
21 going to use the numbers.

22 A. Uh-huh.

23 Q. Is --

24 A. I see. Okay.

1 Q. Yeah. "The Defendant engages in  
2 unlawful collection activities by misrepresenting  
3 the level of attorney involvement in demand  
4 letters and calls to consumers." Do you see that?

5 A. I see that.

6 Q. And then if you turn to the next page,  
7 we go right into Jurisdiction and Legal Authority?

8 A. Okay. Yes.

9 Q. So I mean paragraph 2 is sort of a  
10 summary of the gravamen of the Bureau's complaint,  
11 correct?

12 A. I would say that's fair, yes.

13 Q. Okay. And you do recall approving the  
14 Complaint?

15 A. Generally, yes. Not specifically.

16 Q. Okay. Going on to page 4, please. And  
17 there's some specific paragraphs I want to --

18 MR. DOUGLAS: Before you go further,  
19 Counselor, we ought to establish, are you  
20 interrogating him as a former director of the  
21 Bureau or as an attorney? Because he's not going  
22 to be answering questions with regard to being an  
23 attorney.

24 MR. WOOLEY: I'm asking him

1 questions --

2 MR. DOUGLAS: And for instance about --

3 MR. WOOLEY: -- about a complaint he  
4 approved.

5 MR. DOUGLAS: Pardon me?

6 MR. WOOLEY: I'm asking him questions  
7 about a complaint he approved. And if people want  
8 to object about a particular question, go ahead.  
9 But I'm going to ask him questions about a  
10 complaint he approved. He said he approved it.

11 MR. DOUGLAS: Yeah, I'm sure if he  
12 hadn't have been an attorney and the head of the  
13 Bureau, he would have approved it anyway in the  
14 course of his duties.

15 Q. Okay. Paragraph 17, 18 and 19 refer to  
16 "demand letters." Do you see those?

17 A. I see that. Yes.

18 Q. Yeah. Do you recall having seen the  
19 demand letters that are referenced in these  
20 paragraphs?

21 A. I do not recall that offhand, no.

22 Q. Okay. And then if you look at  
23 paragraph 23, it talks about, "When Weltman sends  
24 demands letters, Weltman attorneys generally have

1 not reviewed a corresponding consumer's individual  
2 account file to reach a professional judgment that  
3 sending a letter is appropriate." Do you see  
4 that?

5 A. I see that.

6 Q. And then paragraph 26, the "...demand  
7 letters misrepresent...."

8 A. I see that paragraph.

9 Q. Okay. I take it you stand by the  
10 complaint?

11 A. Well, I'm no longer the director of the  
12 Bureau, so I don't know that it matters one way or  
13 another at this point.

14 Q. But do you have any reason to believe  
15 that those allegations are not true?

16 A. What I will say is that this complaint  
17 would not have been filed without my approval,  
18 that would have been based on a recommendation  
19 memo that would have laid out their understanding,  
20 the attorney's understanding of the facts that  
21 they had investigated in the matter and their  
22 understanding of what they thought the law -- how  
23 the law stands in terms of what the significance  
24 of those facts are, and that would have been the

1 basis on which the complaint was filed.

2 Q. Okay. You made a public statement  
3 about the complaint when it was filed, correct?

4 A. We often did. I don't recall whether  
5 we did here or not. But I assume you're going to  
6 show me a document and tell me that we did.

7 Q. Exhibit H.

8 MR. DOUGLAS: Are you finished with the  
9 complaint?

10 MR. WOOLEY: I might go back to it.

11 MR. DOUGLAS: Okay.

12 - - - - -

13 Thereupon, Exhibit H is marked for  
14 purposes of identification.

15 - - - - -

16 Q. Exhibit H is a press release that was  
17 issued by your office. And you'll see the second  
18 paragraph quotes you. Do you see that?

19 A. I do.

20 Q. Would you mind reading that for the  
21 record, please?

22 A. No, I would not mind. "'Debt  
23 collectors who misrepresent that a lawyer was  
24 involved in reviewing a consumer's account are



1       implying a level of authority and professional  
2       judgement that is just not true,' said CFPB  
3       Director Richard Cordray. 'Weltman, Weinberg &  
4       Reis masked millions of debt collection letters  
5       and phone calls with the professional standards  
6       associated with attorneys when attorneys were, in  
7       fact, not involved. Such illegal behavior will  
8       not be allowed in the debt collection market.'"

9       Q.           So that's your quote. Did you write  
10       that?

11       A.           I would have edited a draft of a quote.

12       Q.           All right. But somebody would have  
13       prepared a draft for you?

14       A.           I take responsibility for it.

15                   MR. MCCRAY-WORRALL: Objection to the  
16       extent this is getting into privilege information.

17       Q.           But you stand by the quote?

18       A.           I do.

19       Q.           All right. And what was it based on?

20       A.           So --

21                   MR. MCCRAY-WORRALL: Objection, vague.

22       A.           The quote would have been based on the  
23       materials I saw recommending the filing of a  
24       lawsuit that I approved. It would have laid out

1 the Bureau's investigation of the facts and what  
2 they understood the facts to be. And it would  
3 have been based on Bureau attorneys'  
4 representations as to what they thought the law  
5 was in the area as applied to those facts. And --  
6 and that would have been the basis for this  
7 characterization of what the lawsuit was about.

8 Q. Yeah. "Weltman, Weinberg & Reis masked  
9 millions of debt collection letters...with  
10 professional standards." What do you recall about  
11 the letters that was -- that you found to be  
12 illegal behavior?

13 MR. MCCRAY-WORRALL: Objection.

14 A. So I don't recall the specifics of what  
15 was in my mind or what I found. I think the  
16 specific allegations, factual and legal are in the  
17 complaint and have been documented in documents  
18 filed in the case and they probably speak for  
19 themselves.

20 Q. You've said several times things speak  
21 for themselves. I understand. I'm just trying to  
22 in discovery to understand your understanding.

23 A. I understand. I understand.

24 Q. Sure. Yeah.

1           Is there anything that -- about the  
2 sending of the letters that isn't set forth in the  
3 complaint?

4           MR. MCCRAY-WORRALL: Objection.

5           A.           Well, I can just speak generally. A  
6 complaint lays out with sufficient particularity  
7 to initiate a case as to what our understanding of  
8 the facts were. And they are allegations, they  
9 are not yet proven, and they have to be determined  
10 ultimately by a court. And there is a  
11 representation as to the legal claims that are  
12 based on those facts. And then there will be  
13 further documents filed in the case that will  
14 flush that out with more particularity or perhaps  
15 might migrate as discovery and other matters  
16 evolve. And as you know well, the cases can go  
17 beyond the mere allegations that were initially  
18 contained in a complaint at the outset of the  
19 case.

20          Q.           And the complaint that you've just read  
21 here lays out problems that the agency has or with  
22 the demand letters appearing on the firm's  
23 letterhead. Do you see that? I directed your  
24 attention --

1 A. Where are you directing my attention at  
2 this point?

3 Q. The same place I had you look before,  
4 paragraph 17 through 19.

5 A. So we're back to the Complaint?

6 Q. Yeah.

7 A. I do see that.

8 Q. All right. And do you recall that that  
9 was part of the problem that you had with them,  
10 which is why you'd have to make a public statement  
11 that this was illegal behavior in these millions  
12 of debt collection letters because they used the  
13 letterhead?

14 MR. DOUGLAS: Objection. If you could  
15 rephrase that.

16 MR. WOOLEY: I think it was clear.

17 MR. DOUGLAS: Well, I don't think so.  
18 You said that you had with him. Do you mean the  
19 department?

20 MR. WOOLEY: Could you just read it  
21 back, please.

22 MR. DOUGLAS: The agency --

23 A. Look, I would just simply say there's a  
24 complaint here. It represents the Bureau's

1 position at that time that the facts that have  
2 been investigated and are alleged in the complaint  
3 give rise to legal violations as specified in the  
4 complaint. Paragraph 17 through 19 state what the  
5 Bureau understood to be the facts. They're  
6 alleged; they're not yet proven. They would need  
7 to be determined by a court but those are part of  
8 the complaint, yes.

9 Q. I'm focusing on your statement because  
10 it's your statement in the press release that they  
11 masked millions of debt collection letters in an  
12 improper way that you called "illegal behavior."  
13 Is that based on anything other than what is in  
14 this complaint?

15 MR. MCCRAY-WORRALL: Objection to the  
16 extent that calls for privileged information.

17 A. I think I already answered that. I  
18 mean, I can answer it again. It would be based on  
19 what was specified in this complaint and on the  
20 package of materials whatever it was that came to  
21 me with the recommendation memo that I would have  
22 reviewed. Some of which not, all of which, may  
23 have been captured in the complaint.

24 Q. Before making this public statement,

1 did it occur to you at all that Weltman, Weinberg  
2 & Reis had collected debt for you when you were  
3 the Attorney General and that you had twice  
4 appointed them to do so?

5 MR. MCCRAY-WORRALL: Objection to the  
6 extent it calls for privileged information.

7 A. I don't know that I recalled that at  
8 the time. I don't know that it would or should  
9 have mattered had I recalled it. You know, they  
10 were collecting debt on behalf of my office when I  
11 was an Ohio Attorney General. My office did many  
12 things during my time there. We always attempted  
13 to do what we thought was right. We did not  
14 always get things correct. Often courts corrected  
15 us and told us otherwise. And if so, we would  
16 adapt to that and adjust to it. I'm not quite  
17 sure how your line of inquiry bears on the  
18 bringing of this case.

19 Q. But did you have any -- did you have  
20 any reason to believe that Weltman, Weinberg &  
21 Reis had improperly collected debt on your behalf  
22 when you were the Attorney General?

23 MR. DOUGLAS: Objection.

24 A. Well --

1 MR. DOUGLAS: Again, on your behalf.  
2 You're talking about on behalf of the State of  
3 Ohio, right? You need to make a distinction  
4 between the State of Ohio, the Bureau and him  
5 individually.

6 MR. WOOLEY: Well, I'm talking about  
7 when he was the Attorney General.

8 A. So again what the state of the law may  
9 have been in 2009, what it may now be in 2017, I'm  
10 not clear what kind of gap or migration may have  
11 occurred during that time. So I -- so I think  
12 we've been over this question before and I think I  
13 answered it before.

14 Q. Yeah. I've been -- I'm going to have  
15 to unpack that a little bit.

16 A. Okay.

17 Q. Do you believe there was a change in  
18 the state of the law that would have made the way  
19 they collected debt for you when you were the  
20 Attorney General somehow a violation of the law  
21 fast-forward seven years?

22 A. I don't know.

23 MR. MCCRAY-WORRALL: Objection to the  
24 extent it calls for a legal conclusion.

1 A. I don't know that for sure one way or  
2 the other.

3 Q. One way or the other you don't know  
4 that?

5 A. Yeah, not as I sit here.

6 Q. Okay. So you had hired them twice and  
7 said twice that you had the highest confidence in  
8 their legal expertise, integrity and ability.  
9 You'd hired them twice. You had taken no action  
10 to terminate their involvement when you were the  
11 Attorney General, right?

12 A. Not -- not that I can recall.

13 Q. Okay.

14 A. Uh-huh.

15 Q. And now in April of 2017, they're being  
16 sued for misleading consumers, correct?

17 A. That is correct.

18 Q. Okay. What did you understand that  
19 they were doing differently in collecting debt?

20 MR. MCCRAY-WORRALL: Objection.

21 Q. Between the time they collected debt  
22 for the State of Ohio and when they collected debt  
23 during the period -- time period covered by this  
24 complaint?



1                   MR. MCCRAY-WORRALL:  Objection to the  
2                   extent it calls for privileged information.

3                   A.            I didn't make that comparison.  I don't  
4                   know what to tell you on that.  What I know is  
5                   that in the spring of this year, a recommendation  
6                   came to me based on an investigation that had been  
7                   conducted by the Bureau to file this lawsuit.  And  
8                   I approved the lawsuit, believing that the  
9                   allegations of fact and the laws apply to them  
10                  made out a good faith case for a violation of  
11                  federal law.  As to what would have happened or  
12                  might have happened eight years before that, that  
13                  was not part of my consideration nor do I think it  
14                  was germane to that decision.

15                 Q.            Okay.  And again the gravamen of the  
16                  complaint is what is summarized in paragraph 2,  
17                  "The Defendant engages in unlawful collection  
18                  activities by misrepresenting the level of  
19                  attorney involvement in demand letters and calls  
20                  to consumers."  Correct?

21                 A.            That's what paragraph 2 says.

22                 Q.            Okay.  Exhibit I.

23   - - - - -

24                         Thereupon, Exhibit I is marked for

1 purposes of identification.

2 - - - - -

3 Q. I'll represent to you that Exhibit I is  
4 the form template that was sent by Weltman,  
5 Weinberg & Reis as an initial demand letter when  
6 they collected debt for the State of Ohio. The  
7 date is an artifact of when it gets printed  
8 because it remains in the system as a macro. So  
9 we printed December 14 because we were getting  
10 ready to come see you.

11 A. Understood.

12 Q. Understood?

13 A. Uh-huh.

14 Q. Okay. Do you recognize this document?

15 A. Offhand, no. But I see what it is.

16 And I understand what it -- what it is.

17 Q. Okay. Do you recall, though, approving  
18 and in fact insisting that this be the document  
19 that be sent as an initial demand letter by  
20 special counsel when collecting debt for the State  
21 of Ohio?

22 A. I don't recall that specifically. But  
23 I don't dispute that that was the case.

24 Q. All right. It certainly would have

1       been approved by you; is that correct?

2       A.            Again, not this specific letter per se.  
3       But the general template I assume was -- it  
4       certainly went out under my authority.

5       Q.            All right.  And let's just look at some  
6       of the characteristics of it.  So the letterhead  
7       says "Richard Cordray Ohio Attorney General,"  
8       correct?

9       A.            Correct.

10      Q.            And on the right "Collections  
11      Enforcement-Special Counsel," correct?

12      A.            Correct.

13      Q.            And it names Alan Weinberg as special  
14      counsel, correct?

15      A.            On the left side and also in the  
16      closing, yes.

17      Q.            And then in the body of the letter  
18      there's a reference to "Special Counsel" and the  
19      "Attorney General" and then signed by a particular  
20      lawyer.  Do you see that?

21      A.            I see that.  Yes.

22      Q.            Okay.  Do you believe this letter was  
23      in any way misleading to the consumers that  
24      received that letter?

1 MR. DOUGLAS: Objection.

2 MR. MCCRAY-WORRALL: Objection. Calls  
3 for a legal conclusion.

4 MR. DOUGLAS: And I would renew that  
5 objection. Again that's an ultimate issue in this  
6 case and he's not qualified, nor should he be  
7 representing that he is to answer that question  
8 that a judge is required to answer.

9 Q. Do you believe the letter is misleading  
10 to consumers regarding the level of attorney  
11 involvement?

12 MR. MCCRAY-WORRALL: Same objection.

13 A. I think that would be a matter for a  
14 judge to decide.

15 Q. A judge should decide whether your  
16 letter -- this is your letter, it's on your  
17 letterhead?

18 A. It's on my letterhead.

19 Q. Do you have any concerns that this  
20 letter may have in fact misled consumers in the  
21 state of Ohio? Do you have any concerns  
22 personally?

23 A. Again, you're asking for me to make a  
24 judgment about a legal conclusion, and I would

1 say --

2 Q. I'm not.

3 A. And I would say --

4 Q. I'm not. I'm using plain English.

5 A. That's how --

6 Q. Do you have any concerns --

7 A. That's how I'm --

8 Q. Do you have any concerns whatsoever  
9 whether this letter was misleading to consumers,  
10 sir?

11 MR. MCCRAY-WORRALL: Counsel, can I  
12 interject for a second? You're interrupting the  
13 witness. Could you please allow him to finish --

14 A. That's not --

15 MR. DOUGLAS: -- his answer before you  
16 ask another question?

17 A. So that's how I'm understanding your  
18 question. "Misleading" is a legal term. But what  
19 I would say is this, and again it might short  
20 circuit some of what you're doing here. What we  
21 may have thought in the Attorney General's Office  
22 in 2009 based on the state of the law as we  
23 understood it at the time may or may not be what I  
24 would have thought in 2017 at the Consumer Bureau

1 based on the state of the law as it appeared to me  
2 at that time. So I might have had a judgment in  
3 2009 that might no longer have been my judgment in  
4 2017. But I can't really speak to exactly what I  
5 would have thought in 2009.

6 Q. So how would Weltman, Weinberg & Reis  
7 know that?

8 A. I assume that they would keep up with  
9 changes in the law and Court decisions and --

10 Q. And what sort of --

11 A. -- adapt accordingly.

12 Q. What sort of guidance did the CFPB put  
13 out to make sure that if somebody said, boy, this  
14 is a problem you need to change, where would we  
15 find that guidance?

16 A. I can't speak specifically to where  
17 that would have been.

18 Q. I've been on your website. I can't  
19 find it. Where would we find it?

20 A. Well, I'm not quite sure what you're  
21 getting at here. There have been no rules or  
22 regulations issued on debt collection, although  
23 there -- there are matters pending at the Bureau.  
24 The Bureau has brought enforcement actions and

1 given guidance through other enforcement actions  
2 and orders and court decisions have been rendered,  
3 you know, around the country. I assume that as  
4 was true then and is true now, debt collectors  
5 keep up with the Court decisions and adjust their  
6 behavior accordingly. And, you know, sometimes  
7 those court decisions may be clear, sometimes  
8 they're not clear. But the law evolves and  
9 changes and it happens all the time.

10 Q. Okay. To my specific question, did the  
11 CFPB put out guidance that said a letter like this  
12 is illegal? A letter like Exhibit I, did the CPPB  
13 put out guidance that said that?

14 A. What do you mean "guidance"?

15 Q. Guidance.

16 A. Well, the CFPB put out a lot of  
17 information in a continuing flow. There would  
18 have been other enforcement actions that might  
19 have been decided and there would be decisions and  
20 consent decrees and Court decisions. There might  
21 be supervisory highlights which were put out from  
22 time to time about what happened in supervising  
23 entities in terms of their debt collection  
24 practices, there could be guidance documents

1 separate from those. I don't know offhand whether  
2 there were or weren't. There could be rules and  
3 regulations which have not yet been adopted by the  
4 Bureau that are in process.

5 Q. Yeah.

6 A. There's a variety of different things.  
7 As to whether there was some specific document  
8 that said specifically what you're asking, I don't  
9 know offhand.

10 Q. Okay. This is Exhibit J.

11 - - - - -

12 Thereupon, Exhibit J is marked for  
13 purposes of identification.

14 - - - - -

15 Q. This is Exhibit J. This is the demand  
16 letter that was used by Weltman, Weinberg & Reis  
17 during the period of time that's the subject of  
18 your -- the CFPB's complaint. Do you recall  
19 having seen this before?

20 A. I don't recall offhand whether I could  
21 have seen it before, but I may well have.

22 Q. All right.

23 MR. MCCRAY-WORRALL: Counsel, I just  
24 want to step back for just -- I want to object to



1 the extent you're making characterizations about  
2 these documents.

3 Q. Do you recall seeing something like  
4 this, though, when you approved the complaint?

5 A. I may well have. I don't have a  
6 particular recollection of exact documents --

7 Q. Okay.

8 A. -- that were part of that package of  
9 materials.

10 Q. So here's the thing. A press release  
11 says this letter is horrific illegal behavior.

12 A. I don't believe it said that.

13 Q. Okay.

14 A. That's not what the --

15 Q. Let's -- let's be precise.

16 A. I don't remember it.

17 Q. You're right. You're right. I'm --  
18 you're right. I'm just getting a little --

19 A. Uh-huh. Yeah.

20 Q. And I apologize. That was -- I  
21 apologize.

22 A. You don't need to apologize. I  
23 understand that you're passionate in supporting  
24 your client here. And --

1 Q. Well --

2 A. -- I think that there are -- reasonable  
3 minds could disagree about this.

4 Q. Yeah. But my client is facing an  
5 existential threat to its firm because of this  
6 lawsuit.

7 MR. MCCRAY-WORRALL: Counsel, are you  
8 asking a question?

9 Q. And I would like to understand --

10 A. I'm sorry. Is that -- is that --

11 MR. MCCRAY-WORRALL: Or is that a  
12 statement of fact?

13 Q. What's the difference between that  
14 letter?

15 A. Is that a statement of fact?

16 Q. What's the difference between this  
17 letter and this letter? The letter that you  
18 approved that has the names of your -- you're the  
19 Attorney General, the names of special counsel in  
20 it approved by you, then the one that caused your  
21 agency to sue them?

22 A. I'm sorry. So what documents are we  
23 referring to?

24 Q. We were looking at Exhibit I and J.

1           MR. DOUGLAS:  Objection.  I'm going to  
2           let him answer it if he wants to answer it.  But  
3           my point again is that even if the Attorney  
4           General was wrong in his application of this law,  
5           it does not affect and it does not go to relevancy  
6           under 401(b) and is not a fact in consequence in  
7           determining this action.  Even if they're wrong  
8           and your client was wrong doesn't make your client  
9           right because they were wrong.

10           MR. WOOLEY:  Well --

11           MR. DOUGLAS:  So I'm not going to let  
12           him answer -- draw that conclusion unless he  
13           chooses to do so.

14           MR. MCCRAY-WORRALL:  I'll also object  
15           that question is vague and appears to call for a  
16           legal conclusion.

17           MR. WOOLEY:  Andy, I'm going to say on  
18           the record intent is an issue in the case.  If  
19           there -- no.  No.  We understand the underlying  
20           violations.  It's our case.  You're representing a  
21           third party witness.

22           MR. DOUGLAS:  Yes.

23           MR. WOOLEY:  If there's no intent,  
24           there is zero damages.  Intent is a defense.  If

1 you do things exactly the way the Attorney General  
2 said was fine and they never tell you to change  
3 it, how in the world can they establish we engaged  
4 in intentional misconduct?

5 MR. DOUGLAS: That's for you to defend  
6 and somebody else to prove.

7 MR. WOOLEY: But it's also for --

8 MR. DOUGLAS: Not their --

9 MR. WOOLEY: But it's also for me to  
10 develop facts in discovery on, Andy, and that's  
11 what I'm doing.

12 MR. DOUGLAS: Would you let us answer  
13 before you proceed? That's all. I'm just telling  
14 you he is not in a position to answer the  
15 comparison between those two documents as a lay  
16 witness. He is a lay witness in this case.

17 Q. All right. Okay. I and J. I know  
18 you're a lay witness. But your -- your name's on  
19 the letterhead.

20 A. It is certainly on the letterhead,  
21 yeah.

22 Q. And so a consumer receives this letter,  
23 sees the name of an Attorney General, there are  
24 seven different references to a specific lawyer,

1 either you or Mr. Weinberg in the letter, okay?  
2 Had you reviewed the account level detail before  
3 this letter was sent?

4 MR. DOUGLAS: Objection. It's been  
5 asked and answered --

6 MR. WOOLEY: It has not.

7 MR. DOUGLAS: -- several times.

8 MR. WOOLEY: It has not.

9 MR. DOUGLAS: Answer it one more time  
10 then.

11 Q. Had you reviewed the account level  
12 detail for each letter before this letter was  
13 sent?

14 A. Which letter are we referring to?

15 Q. I.

16 A. Exhibit I?

17 Q. I.

18 A. Had I -- had I reviewed the account  
19 level detail before the letter was sent?

20 Q. Right. Back to my son with the parking  
21 tickets and the books at Ohio State.

22 A. Yeah.

23 Q. Had you reviewed his account before  
24 sending this letter?

1 MR. MCCRAY-WORRALL: Objection, vague.

2 A. I don't know that I would have. But I  
3 would have a sense that someone would have and in  
4 the Attorney General's Office --

5 MR. DOUGLAS: To be fair about the  
6 question --

7 A. -- and I don't know who that would be.

8 MR. DOUGLAS: -- he didn't send the  
9 letter.

10 Q. A lawyer? Would a lawyer have reviewed  
11 it?

12 A. It would depend on the facts and  
13 circumstances. I don't know offhand.

14 Q. Okay. You say you don't know that you  
15 would have. Were you actually looking at account  
16 level detail in this high volume collection debt  
17 collection?

18 MR. MCCRAY-WORRALL: Objection.

19 Q. Were you doing that, sir?

20 A. At this point you're talking about a  
21 letter that was sent from the Weinberg offices,  
22 okay. I would not have reviewed that letter  
23 before it was sent by Alan Weinberg.

24 Q. Would you have reviewed the underlying

1 account level detail?

2 MR. MCCRAY-WORRALL: Objection.

3 Q. Would you have done that?

4 A. I'm not quite sure what you are getting  
5 at here. There are multiple lawyers' names on  
6 that letter, okay? It's been sent by Alan  
7 Weinberg, all right? My assumption is that Alan  
8 Weinberg or someone on his behalf would have  
9 reviewed that detail, okay?

10 Q. Exactly. Someone on his behalf. A  
11 lawyer on his behalf?

12 A. You know, depending on the wording of  
13 the letter, that might be appropriate.

14 Q. Well, you have the letter in front of  
15 you.

16 A. It might not --

17 Q. You have the letter in front of you.

18 A. Look, you're asking me to make  
19 judgments that the judge in this case will have to  
20 make. And I think you've going to have to get  
21 those judgments from the judge not from me.

22 Q. It's a factual question. You have the  
23 letter in front of you. For that letter, would  
24 you have expected that Mr. Weinberg would have

1 reviewed the account level detail?

2 A. Or a lawyer in his firm.

3 Q. A lawyer, a lawyer, prior to that  
4 letter being sent?

5 A. I may well have, I may not have. It  
6 would depend on what the state of the law was and  
7 how we understood it at that time. That was eight  
8 years ago. Been court decisions since then, may  
9 be the law has changed. So I -- you know, I don't  
10 know what to tell you. You've tried to ask me  
11 this a number of times --

12 Q. All right.

13 A. -- and I only have what I can say in  
14 response. And I've tried to give it to you  
15 several times.

16 Q. All right. So Exhibit J, the Bureau's  
17 complaint says, "demand letters misrepresents that  
18 attorneys at the firm have reviewed the consumer's  
19 file and determined that the consumer owes the  
20 amount demanded, which in fact no such review has  
21 occurred." That's what the allegation is about,  
22 this letter.

23 MR. MCCRAY-WORRALL: Objection. You're  
24 characterizing the complaint.



1 Q. That's the --

2 A. Well, the Complaint speaks for itself.  
3 It says what it says.

4 Q. So look at the letter. What letter --  
5 what lawyer is represented in this letter to have  
6 reviewed the consumer's file in letter J?

7 A. Well, look, again, it's up for a judge  
8 to decide, not me. But the question is whether  
9 that would be a fair characterization based on the  
10 entirety of what is presented on this page and  
11 received by an average consumer.

12 Q. You know, I appreciate it, but I  
13 understand what the judge's job is. I get that.  
14 I don't need -- we don't need to be continually  
15 reminded of that.

16 But you have made the public statement  
17 that this is illegal behavior. That's your  
18 statement in the press release and it's your  
19 complaint.

20 MR. MCCRAY-WORRALL: Objection.

21 A. That's -- that is what the complaint  
22 alleges.

23 Q. Right.

24 A. It's not a matter for the Bureau itself

1 to determine finally, it's a matter for a Court to  
2 determine, and a Court will do that.

3 Q. But in fact before you made this  
4 statement to the press and called it illegal  
5 behavior, you made that conclusion yourself?

6 A. I -- I did believe based on what I had  
7 understood.

8 Q. You did believe?

9 A. That was --

10 Q. Looking at this now and looking at what  
11 you sent out, do you still believe it? Do you  
12 still believe that the letter that was sent out by  
13 Weltman, Weinberg & Reis during the period of time  
14 at issue in the complaint is in fact a  
15 misrepresentation and is illegal?

16 MR. MCCRAY-WORRALL: Objection, it  
17 calls for a legal conclusion, also object on  
18 relevance grounds.

19 A. I'm not sure -- you know, I'm no longer  
20 the director of the Bureau. I'm not sure what --  
21 what your point is here.

22 Q. On April 17th, you described this  
23 collection letter as, "'Such illegal behavior will  
24 not be allowed in the debt collection market.'"

1 MR. MCCRAY-WORRALL: Objection.

2 You're --

3 Q. And you said it misrepresented that a  
4 lawyer was involved in reviewing a customer's  
5 account. You can look at the Exhibit H yourself.  
6 I think it's a fair paraphrase from your quote.

7 MR. MCCRAY-WORRALL: Objection to the  
8 extent you're assuming that it's this letter  
9 that's at issue in that statement. That has not  
10 been established.

11 MR. WOOLEY: For the record, we should  
12 say -- I -- the objections are being interposed by  
13 somebody who has yet to appear in this case --

14 MR. MCCRAY-WORRALL: I have noted my  
15 appearance.

16 MR. WOOLEY: -- in any substantive way.  
17 He's not been in a deposition. He's not been in a  
18 court conference. And I have no basis to believe  
19 that he knows anything about the file.

20 MR. MCCRAY-WORRALL: Objection.

21 BY MR. WOOLEY:

22 Q. So you make the statement in the press  
23 release that this letter is "illegal behavior"?

24 A. I think the press release speaks for

1       itself. You've quoted it several times now and I  
2       think accurately enough, but it speaks for itself.

3       Q.           Okay. All right. I'm asking you not  
4       about -- I'm not asking you for a conclusion that  
5       judge might make. Richard Cordray said, "Such  
6       illegal behavior...." This is the letter, I'm  
7       representing that to you. If I'm wrong, I'm  
8       wrong; but I'm right. This is the letter. What's  
9       illegal about this letter?

10               MR. MCCRAY-WORRALL: Objection.

11       A.           The allegations in the complaint detail  
12       that, and there's probably been further filings in  
13       the case which I have not seen that further flesh  
14       out the Bureau's theories on this. And they may  
15       be right or they may be wrong, but that's the case  
16       that was brought.

17               MR. DOUGLAS: I recognize you're in  
18       discovery.

19       A.           You're --

20               MR. DOUGLAS: You're in discovery.

21       Q.           I want to repeat that.

22               MR. DOUGLAS: I want to make sure that  
23       you understand that he's not speaking on behalf of  
24       Richard Cordray. At that time the press release

1 is the Bureau issuing it. It happens to be under  
2 his name.

3 MR. WOOLEY: It's his quote, though.

4 A. As the director of the Bureau.

5 MR. DOUGLAS: We all are quoted in the  
6 press on behalf over our clients.

7 Q. Am I hearing you correctly, though,  
8 that you just said this was complaint that you  
9 approved to sue this law firm that you worked with  
10 before, they may be right and they may be wrong?

11 A. Look --

12 Q. Did I accurate -- did I just hear you  
13 say that?

14 MR. DOUGLAS: I didn't hear it.

15 A. There's really nothing at issue here  
16 and you're trying to make something an issue. We  
17 file complaints --

18 Q. Tell him that.

19 A. No. Listen to me.

20 Q. No. No. No. You tell him that.

21 MR. MCCRAY-WORRALL: No.

22 A. I'm answering. Let me answer. We file  
23 complaints in cases, we know we're not going to  
24 necessarily win every case. And if a court

1 decides otherwise, we will accept that and we will  
2 adapt our approach accordingly. We filed this  
3 case because we thought we had an appropriate case  
4 to bring. We understand at the outset of every  
5 case we may be right or we may be wrong and a  
6 judge will ultimately tell us that. But we feel  
7 we have sufficient grounds to bring the case based  
8 on the facts as we know them and the law as we  
9 understand it. And that's what we did here and  
10 that's what we did in every case. Now having said  
11 that, we do not win every case. And that's -- you  
12 know, unfortunately, that's the case. But that is  
13 the fact as well.

14 Q. Okay. Do you have any basis to believe  
15 -- and if you do, explain it to me -- that  
16 Weltman, Weinberg & Reis would have somehow been  
17 told in any way, shape or form that this letter,  
18 Exhibit I, was now considered to be problematic?

19 A. I don't know on what basis.

20 MR. MCCRAY-WORRALL: Objection.

21 A. Who would tell them that? The current  
22 Attorney General or -- or --

23 Q. Or perhaps the agency --

24 A. -- their own lawyers or --

1 Q. -- that puts out guidance --

2 A. -- you?

3 MR. MCCRAY-WORRALL: Objection to the  
4 extent that's calling for privileged information.

5 MR. WOOLEY: A conversation with  
6 Weltman, Weinberg & Reis and him is privileged?

7 MR. MCCRAY-WORRALL: About knowledge  
8 that he might have had about the communication  
9 with Weltman, Weinberg.

10 A. What conversation?

11 Q. I'm asking you. I'm asking you.

12 A. Do you have a hypothetical conversation  
13 in mind now.

14 Q. Well, I've said it to your lawyer and I  
15 talked over him, and I'm sorry. I do apologize  
16 for my pace getting a little ahead of me. But as  
17 you can tell, it's -- I won't say anymore.

18 Okay. There is an element of intent in  
19 the case. Did people know they were doing  
20 something or believe they were --

21 A. Are you testifying now?

22 Q. No. Hear me out. Hear me out.

23 A. Are you asking a question? What are  
24 you doing?

1 Q. There's an element of that. Did they  
2 know that they were doing something inappropriate?  
3 And I'm asking you because we have you on the  
4 record. Do you have any basis to believe that  
5 they were told in some way, shape or form that --  
6 that they couldn't send letters like --

7 A. Look --

8 Q. -- either the one as Exhibit I --

9 A. I'm not sure what you're getting at.

10 Q. -- or J?

11 A. You seem to be suggesting that I should  
12 somehow change my mind about something. I'm no  
13 longer the director of the Bureau. I have no  
14 influence or authority to address any further  
15 conduct of this case. Nobody's asking my opinion  
16 at the Bureau. They will -- they will proceed  
17 themselves from here. What you might think you're  
18 persuading me of or what the elements of the claim  
19 are and so forth is not very relevant at this  
20 point. I'm not in that position anymore, so --

21 Q. Right. Okay.

22 On are you aware of any differences  
23 between the way in terms of the practices,  
24 procedures that were employed by Weltman between



1 the way they collected debt for the State when you  
2 were the AG and the way they collected debt during  
3 the time period covered by the complaint?

4 A. Am I familiar --

5 Q. Are you personally?

6 A. Am I familiar with the differences?

7 Q. Yeah.

8 A. I am not particularly familiar with the  
9 differences, no. But I could also -- a relevant  
10 point here is whether the law itself might have  
11 evolved during that period of time. So you know  
12 what --

13 Q. I see.

14 A. -- might have been done in 2009 might  
15 or might not be viewed in the same way in 2017 and  
16 that's -- that's a difference that you're sort of  
17 -- you're wishing away here that might well  
18 matter. I don't -- I don't -- I haven't followed  
19 the law in this -- as carefully as people who do  
20 debt collection for a living.

21 Q. I'm going to resist now -- fail to  
22 resist a temptation. You said I'm wishing away.  
23 I don't -- because it's not for you to ask me  
24 questions. I'm trying to understand. I'm not

1 wishing away. If there is a change that made  
2 something that was appropriate in 2009 and 2010  
3 and 2011 inappropriate between 2014 and 2017 --

4 A. Two things.

5 Q. -- I would like to know what that is.

6 A. Yeah.

7 Q. That's all. It's a matter of fact.

8 What is that?

9 A. That's fine.

10 MR. DOUGLAS: And you'll argue that to  
11 a Judge. I'm sure.

12 MR. MCCRAY-WORRALL: Objection, to.

13 A. Two things. One is you're suggesting  
14 that the two letters you're comparing I and J are  
15 exactly the same in all particulars. I don't know  
16 that that's so. I haven't done a minute  
17 comparison of them. It's not something I would  
18 have done in filing the lawsuit in this case.  
19 You're also suggesting that the law applicable to  
20 I and J, even if they were exactly the same which  
21 they may or may not be is a factual matter, is the  
22 same law in 2009 as it is in 2017, and I don't  
23 know that to be the case either. But those are  
24 matters that you'll end up arguing to a Judge and

1 a Judge will decide them or -- or maybe you'll  
2 reach a resolution prior to that. I don't know  
3 how this case will proceed, but I don't really see  
4 how my opinions on this at this point are  
5 particularly helpful to you or to anyone in  
6 deciding this case.

7 MR. WOOLEY: Okay. We're going to take  
8 a little break. We want to go over some notes and  
9 we can figure out how much more of this we need to  
10 do.

11 MR. DOUGLAS: Yeah.

12 (A short recess is taken.)

13 BY MR. WOOLEY:

14 Q. And just one question back to the era  
15 when you were the Attorney General. There were  
16 people to whom you had delegated responsibility  
17 for this collection activity, I've asked you  
18 questions about who those people were and you're  
19 clear about who you don't remember. Do you have  
20 any reason to believe that those people engaged in  
21 any illegal behavior with respect to the  
22 correction of debt?

23 A. I certainly would hope that they  
24 didn't. I don't have any reason to think that

1 they did, but it's not impossible that someone  
2 might have. But I thought we put processes in  
3 place to try to prevent that from happening.

4 Q. All right. Back to Exhibit H briefly.  
5 In your paragraph -- in the quote that's  
6 attributed to you, you talk about "professional  
7 standards associated with attorneys, when  
8 attorneys...." What professional standards are  
9 you referring to?

10 A. I assume that I was referring to the  
11 kind of professional standards that you and your  
12 colleagues operate under, standards of  
13 professional conduct and the like.

14 Q. Okay. So that's your assumption. Do  
15 you recall, though, a little more clearly? This  
16 isn't that long ago. It's --

17 A. Well, look, I would say --

18 Q. Seven, eight months ago?

19 A. I assume three things. It would be  
20 professional standards that apply specifically to  
21 lawyers and how they conduct themselves. It would  
22 be general professional standards in the  
23 profession that may or may not be written down  
24 somewhere in specific, but kinds of, you know,

1 better practices. And it would also be compliance  
2 with the debt collection laws since we're talking  
3 about debt collection here.

4 Q. Yeah. And so set aside the compliance  
5 with debt collection laws, the professional  
6 standards piece --

7 A. I don't know that you can set it aside,  
8 I think they're all wrapped together --

9 Q. Okay. All right.

10 A. -- in this quote. This is a shorthand,  
11 nonlegal quote here.

12 Q. All right. But it is a public  
13 statement that the CFPB directors believe that  
14 Weltman, Weinberg & Reis hasn't lived up to the  
15 professional standards required of it as  
16 attorneys?

17 A. It's a shorthand version, then a  
18 complaint was filed alleging violations of the  
19 law, correct.

20 Q. Okay. Is it part of the CFPB's purview  
21 to be the arbitrator of whether lawyers comply  
22 with their professional standards?

23 MR. MCCRAY-WORRALL: Objection.

24 A. I'm not really understanding -- I mean,

1 the CFPB's authority is specified in statute, it  
2 includes enforcing the law and that's what the  
3 purview is. We're not disciplinary counsel if  
4 that's what you're getting at.

5 Q. And so that is for other people?

6 MR. MCCRAY-WORRALL: Objection.

7 A. I'm not sure what -- what are you  
8 saying "for other people"?

9 Q. You said we're not disciplinary  
10 counsel. So whether or not Weltman, Weinberg &  
11 Reis violated professional standards associated  
12 with the practice of law, that's for other people  
13 to decide; is that what you're saying?

14 A. It doesn't say professional standards  
15 associated with the practice of law.

16 Q. No. I'm saying -- you're right. It  
17 says professional standards associated with  
18 attorneys. I'm sorry.

19 A. Yeah. Well, you know, look, you're  
20 taking a comment in a press release and trying to  
21 give it precise legal particulars. I don't think  
22 it was intended as such. This is a  
23 characterization that a lawsuit was filed based on  
24 allegations of fact and claims that have to be

1 proven, have to be determined only by a court that  
2 the law was violated. That's what it -- that is  
3 what it's about.

4 Q. Right. Have you seen press releases  
5 issued by the Department of Justice in criminal  
6 matters?

7 A. I --

8 MR. DOUGLAS: Objection. There's no  
9 relevance.

10 A. Relevance.

11 MR. DOUGLAS: Objection. There's no  
12 relevance to that.

13 MR. WOOLEY: Well, I just want to draw  
14 a comparison. If he hasn't seen them, he hasn't  
15 seen.

16 MR. DOUGLAS: Well, but there's no  
17 relevance to it. And if we keep letting you go  
18 on, on and on as I have with regard to relevant,  
19 nonrelevant matters, who knows where it's going to  
20 go. I'll let him answer that one, but stay to the  
21 issues in this case. He wants to know.

22 A. I'm not that familiar with Justice  
23 Department criminal press releases actually.

24 Q. I might be missing it. But I'm not

1 seeing in any -- any of this press release your  
2 statements about how we might be right, we might  
3 be wrong, it's up for a Judge to decide. Is that  
4 anywhere in here?

5 A. Look, I think that's true of every case  
6 that you bring. You bring a case in a court  
7 knowing that a judge will decide it.

8 Q. Yeah. And the DOJ actually says that  
9 in its press releases, this is not evidence of  
10 guilt, the guilt is to be determined by a court if  
11 it's proven beyond a reasonable doubt. Do you  
12 understand --

13 MR. MCCRAY-WORRALL: Objection.

14 Q. But that's not finding its your way  
15 into your press releases?

16 MR. MCCRAY-WORRALL: Objection.

17 A. I'm not sure what you're getting at and  
18 whether you're asking a question or commenting for  
19 the record.

20 MR. DOUGLAS: And beyond a reasonable  
21 doubt is a criminal standard, not a civil  
22 standard.

23 MR. WOOLEY: I understand. Yeah.

24 So since we have everybody on the



1 record, Mr. Douglas, is -- if the case goes to  
2 trial in the spring, I assume that you'll still be  
3 representing Mr. Cordray, and I wouldn't want to  
4 send a process server to his house. But if you  
5 agree to accept service of a trial subpoena --

6 THE WITNESS: You sent a process server  
7 to my house before. I had no objection to that,  
8 it's perfectly permissible.

9 MR. WOOLEY: I'm trying to extend a  
10 courtesy.

11 THE WITNESS: It doesn't matter.

12 MR. DOUGLAS: Send the process server  
13 to his house.

14 MR. WOOLEY: Okay. No. I just -- I  
15 just don't want to be accused of having contact  
16 with a represented party because --

17 MR. DOUGLAS: I understand.

18 MR. WOOLEY: -- we do intend to issue a  
19 trial subpoena.

20 THE WITNESS: I don't have any problem  
21 with that.

22 MR. DOUGLAS: Because I don't know  
23 whether or not he's -- I'm going to be  
24 representing him. That's going to be up to him.

1 But I can tell you I moved into a new neighborhood  
2 and I don't want to be voted out of it because a  
3 process server.

4 MR. WOOLEY: Well, I don't want to have  
5 contact with a represented party.

6 MR. DOUGLAS: You wouldn't do anything  
7 unethical, we know that.

8 MR. WOOLEY: Thank you.

9 THE WITNESS: No problem.

10 MR. WOOLEY: Anything else? We're  
11 done.

12 (A short recess is taken.)

13 MR. DOUGLAS: I'm was going to ask some  
14 questions, but I don't need to. That takes care  
15 of it.

16 MR. MCCRAY-WORRALL: No questions.

17 (Signature not waived.)

18 - - - - -

19 Thereupon, the foregoing proceedings  
20 concluded at 11:35 a.m.

21 - - - - -

22

23

24

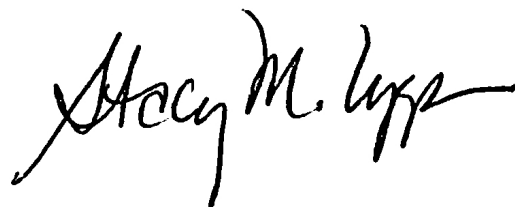
1 State of Ohio : C E R T I F I C A T E  
County of Franklin: SS

2  
3 I, Stacy M. Upp, a Notary Public in and for the  
4 State of Ohio, certify that Richard Cordray was by  
5 me duly sworn to testify to the whole truth in the  
6 cause aforesaid; testimony then given was reduced  
7 to stenotype in the presence of said witness,  
8 afterwards transcribed by me; the foregoing is a  
9 true record of the testimony so given; and this  
10 deposition was taken at the time and place  
11 specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of  
13 Civil Procedure, the witness and/or the parties  
14 have not waived review of the deposition  
15 transcript.

16 I certify I am not a relative, employee,  
17 attorney or counsel of any of the parties hereto,  
18 and further I am not a relative or employee of any  
19 attorney or counsel employed by the parties hereto,  
20 or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 and affixed my seal of office at Columbus, Ohio, on  
23 December 21, 2017.

24  


\_\_\_\_\_  
Stacy M. Upp, Notary Public - State of Ohio  
My commission expires August 6, 2021.

Witness Errata and Signature Sheet  
Correction or Change Reason Code  
1-Misspelling 2-Word Omitted 3-Wrong Word  
4-Clarification 5-Other (Please explain)

Page/Line	Correction or Change	Reason Code
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I, Richard Cordray, have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date \_\_\_\_\_ Signature \_\_\_\_\_

The witness has failed to sign the deposition within the time allowed.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Ref: SU26625RC S-SU P-BW

<b>Exhibits</b>	<b>1st</b> 47:15	<b>69,000</b> 64:15	108:16	128:24
<b>26625 Exhibit A</b> 4:5 16:16, 20 17:1,3	<b>2</b>	<b>A</b>	117:5	<b>allowing</b> 56:17
<b>26625 Exhibit B</b> 4:8 46:22, 24 47:3 80:7	<b>2</b> 86:6 98:20 99:9 111:16, 21	<b>a.m.</b> 144:20	<b>administrative</b> 69:18	<b>aloud</b> 92:11
<b>26625 Exhibit C</b> 4:9 55:8, 11 80:11,23	<b>20</b> 47:23 48:3 95:4	<b>ability</b> 38:3 49:5 110:8	<b>adopted</b> 118:3	<b>amount</b> 77:1 126:20
<b>26625 Exhibit D</b> 4:10 79:14,16 80:4	<b>200</b> 31:12	<b>abuse</b> 92:19	<b>advanced</b> 65:12	<b>amounts</b> 53:10
<b>26625 Exhibit E</b> 4:11 81:15,23 82:2	<b>2000</b> 75:15	<b>accept</b> 132:1 143:5	<b>affect</b> 25:7 93:22 121:5	<b>and/or</b> 86:13 89:10
<b>26625 Exhibit F</b> 4:13 85:15,17,23	<b>2009</b> 8:15 47:4,15 75:17 78:16 80:13,20,23 81:1,10 109:9 115:22 116:3,5 135:14 136:2,22	<b>accepted</b> 39:4	<b>affixed</b> 49:5	<b>Andrew</b> 5:15
<b>26625 Exhibit G</b> 4:15 97:20,22 98:7	<b>2010</b> 46:11 80:16,20 81:4,10 82:14 84:18 85:3 136:2	<b>access</b> 69:16 89:3,9,17	<b>afternoon</b> 13:20 84:4	<b>Andy</b> 5:19 121:17 122:10
<b>26625 Exhibit H</b> 4:16 102:7,13,16 129:5 138:4	<b>2011</b> 8:16 9:4 46:11 136:3	<b>account</b> 26:7,17 32:4,7,20 53:16 74:8 78:4,11 79:5 85:11 88:20 101:2 102:24 123:2,11,18, 23 124:15 125:1 126:1 129:5	<b>AG</b> 35:20 37:24 40:16 44:16 135:2	<b>answering</b> 13:6 99:22 131:22
<b>26625 Exhibit I</b> 4:18 111:22,24 112:3 117:12 120:24 123:16 132:18 134:8	<b>2012</b> 8:22	<b>accounts</b> 32:15 88:19	<b>AG's</b> 28:19 35:18	<b>anticipating</b> 45:19
<b>26625 Exhibit J</b> 4:19 118:10,12, 15 126:16	<b>2014</b> 16:15 17:7 24:15 136:3	<b>accurate</b> 20:7 26:2 28:12 68:19 131:12	<b>age</b> 53:2 98:3	<b>anymore</b> 133:17 134:20
<b>1</b>	<b>2017</b> 8:24 11:19 109:9 110:15 115:24 116:4 135:15 136:3,22	<b>accurately</b> 130:2	<b>agency</b> 67:1 76:12 94:17 105:21 106:22 120:21 132:23	<b>apologize</b> 15:18 43:16 119:20,21, 22 133:15
<b>1</b> 47:4 61:10, 11 72:23 98:18	<b>2027</b> 73:10	<b>accused</b> 76:24 143:15	<b>agents</b> 37:8	<b>appeals</b> 76:22
<b>1,076</b> 73:16	<b>23</b> 100:23	<b>action</b> 36:22 44:5 75:5 93:24 96:13 110:9 121:7	<b>agree</b> 143:5	<b>appearance</b> 129:15
<b>1,800</b> 29:21 30:13,16,17, 20	<b>24th</b> 8:24 11:19 13:17 14:15,16	<b>actions</b> 88:21 91:5 93:4 94:2 116:24 117:1,18	<b>Agreed</b> 82:11	<b>appearances</b> 6:10
<b>10</b> 30:9,16, 17,19 47:23	<b>26</b> 101:6	<b>actions...that</b> 93:17	<b>agreement</b> 61:21 86:2 87:10 90:3 93:9	<b>appeared</b> 116:1
<b>100</b> 73:7,14, 17 74:6	<b>26th</b> 16:15	<b>active</b> 28:20	<b>agrees</b> 89:22 95:9,20	<b>appearing</b> 105:22
<b>11:35</b> 144:20	<b>3</b>	<b>activities</b> 53:21 93:4 94:2 99:2 111:18	<b>ahead</b> 11:6 26:13 63:4 71:15 100:8 133:16	<b>appears</b> 47:9,14 80:17 86:5 121:15
<b>12</b> 92:7	<b>4</b>	<b>activity</b> 33:17 137:17	<b>aiming</b> 45:10	<b>applicable</b> 95:20 136:19
<b>14</b> 112:9	<b>4</b> 99:16	<b>actual</b> 9:13 54:12 66:9	<b>Alan</b> 18:10 46:20 47:11 49:7 57:17 58:4 63:7 70:6 113:13 124:23 125:6,7	<b>applicant</b> 58:8
<b>17</b> 100:15 106:4 107:4	<b>401(b)</b> 12:11 121:6	<b>Adams</b> 5:8	<b>Alan</b> 18:10 46:20 47:11 49:7 57:17 58:4 63:7 70:6 113:13 124:23 125:6,7	<b>applicants</b> 41:17 42:1 51:22
<b>17th</b> 128:22	<b>5</b>	<b>adapt</b> 108:16 116:11 132:2	<b>alarming</b> 43:12	<b>application</b> 121:4
<b>18</b> 100:15	<b>500</b> 41:6,14	<b>additional</b> 88:23	<b>allegation</b> 126:21	<b>applications</b> 41:21 65:12
<b>19</b> 92:8 100:15 106:4 107:4	<b>6</b>	<b>address</b> 134:14	<b>allegations</b> 101:15 104:16 105:8,17 111:9 130:11 140:24	<b>applied</b> 81:9 104:5
	<b>6</b> 61:12 62:23 63:5	<b>adjust</b>	<b>alleges</b> 127:22	<b>apply</b> 111:9 138:20
			<b>alleging</b> 139:18	<b>applying</b> 58:3,10
			<b>allowed</b> 103:8	<b>appointed</b> 8:21 42:6 46:20 47:12 49:7 51:6,8, 21 108:4
				<b>appointing</b> 51:14

<b>appointment</b> 8:22 9:4 37:22 48:9, 11,22,24 49:3 81:2,5	102:5 113:3 116:8 117:3 138:10,19 143:2	126:18 138:7,8 139:16 140:18	39:1 40:16 59:7,16 88:7 102:1 104:6 129:18 132:14,19 134:4	<b>breakdown</b> 72:13 82:8
<b>appointments</b> 39:5	<b>Assumes</b> 65:18	<b>attorneys'</b> 104:3	<b>bears</b> 108:17	<b>BRESSLER</b> 14:7 83:19 84:11,15
<b>approach</b> 132:2	<b>assuming</b> 129:8	<b>attributed</b> 138:6	<b>beginning</b> 95:22	<b>briefly</b> 7:11 8:14 138:4
<b>approaches</b> 54:11	<b>assumption</b> 125:7 138:14	<b>authority</b> 9:15 99:7 103:1 113:4 134:14 140:1	<b>begins</b> 61:13 71:8,18	<b>bring</b> 7:14,17 75:5 94:1 132:4,7 142:6
<b>approval</b> 8:5 82:13 101:17	<b>assumptions</b> 77:14	<b>automation</b> 65:16,23	<b>behalf</b> 19:6 21:3 30:2 38:4 49:16 53:6 74:5 81:14 91:8 94:22 108:10,21 109:1,2 125:8,10,11 130:23 131:6	<b>bringing</b> 69:24 84:22 108:18
<b>approve</b> 10:22	<b>assurance</b> 49:14	<b>average</b> 127:11	<b>behaving</b> 43:21	<b>Brooklyn</b> 72:24
<b>approved</b> 7:24 10:3 20:9 39:2 51:9 76:23 77:3,4 81:10 84:18 86:20 87:18 96:21, 22 98:8 100:4,7,10, 13 103:24 111:8 113:1 119:4 120:18,20 131:9	<b>attachment</b> 72:22	<b>averages</b> 88:18	<b>behavior</b> 91:13,16,17 95:12 103:7 104:12 106:11 107:12 117:6 119:11 127:17 128:5,23 129:23 130:6 137:21	<b>brought</b> 9:10 36:22 43:11 48:12 76:19 77:8 96:6 116:24 130:16
<b>approving</b> 10:7 49:22, 24 99:13 112:17	<b>attempt</b> 28:20	<b>aware</b> 7:4 9:3 51:15 54:9 60:2 94:20 96:15 134:22	<b>behaviors</b> 95:23	<b>bucket</b> 43:1
<b>April</b> 98:9 110:15 128:22	<b>attempted</b> 108:12	<hr/> <b>B</b> <hr/>	<b>believed</b> 49:10 50:20	<b>Bureau</b> 99:21 100:13 101:12 104:3 107:5 109:4 111:7 115:24 116:23,24 118:4 127:24 128:20 131:1,4 134:13,16
<b>arbitrator</b> 139:21	<b>attention</b> 7:15,17 43:11 94:2 96:7 105:24 106:1	<b>back</b> 8:2 19:13 22:17 42:17 70:24 71:1 72:21, 22 98:6 102:10 106:5,21 118:24 123:20 137:14 138:4	<b>believing</b> 111:8	<b>Bureau's</b> 10:14 99:10 104:1 106:24 126:16 130:14
<b>area</b> 104:5	<b>attorney</b> 5:23 8:15 15:10 16:3 18:9,22 22:18 24:21 25:6 29:4,21 30:11 39:17 45:11 46:4 47:10,16 49:6,8 63:10,17 67:21 68:2,9 76:11 86:18 87:13 89:3 92:13,20 93:3 97:7 99:3,21,23 100:12 108:3,11,22 109:7,20 110:11 111:19 113:7,19 114:10 115:21 120:19 121:3 122:1, 23 124:4 132:22 137:15	<b>background</b> 8:14 12:14 41:18	<b>benefit</b> 16:12	<b>business</b> 92:12 96:4
<b>areas</b> 88:17	<b>attorney's</b> 55:17 101:20	<b>backward</b> 23:20	<b>bit</b> 81:17,20 109:15	<hr/> <b>C</b> <hr/>
<b>argue</b> 136:10	<b>Attorney-</b> <b>client</b> 86:9	<b>backwards</b> 23:16 28:8	<b>Bob</b> 51:24	<b>C-O-R-D-R-A-</b> <b>Y</b> 5:9
<b>arguing</b> 136:24	<b>attorney/ client</b> 15:11	<b>bad</b> 87:3	<b>body</b> 113:17	<b>calculation</b> 52:23
<b>artifact</b> 112:7	<b>attorneys</b> 15:20 17:6 23:15,19,22 28:8 29:2,9 39:18,19 69:20 73:8 100:24 103:6	<b>ball</b> 28:23 40:23	<b>bold</b> 93:5,9, 13	<b>call</b> 5:19,23 6:8 121:15
<b>ascertain</b> 92:4		<b>bankruptcy</b> 52:19 60:21 61:19 67:8	<b>books</b> 54:18 123:21	<b>called</b> 68:2 107:12 128:4
<b>aspects</b> 69:21 70:3		<b>bar</b> 58:14,15, 17	<b>bother</b> 6:13	<b>calling</b> 28:14 73:22 133:4
<b>asserting</b> 10:14,18		<b>based</b> 24:12 49:12,13 85:4,5 88:17,18 101:18 103:19,22 104:3 105:12 107:13,18 111:6 115:22 116:1 127:9 128:6 132:7 140:23	<b>bottom</b> 47:16 57:16 61:11 66:21 69:5,6	<b>calls</b> 10:9 15:5 25:19 26:15 59:3 77:15 79:8 99:4 103:5 107:16 108:6 109:24 111:2,19 114:2 128:17
<b>assessing</b> 42:22		<b>basic</b> 82:7	<b>boxes</b> 66:9	
<b>assist</b> 72:12		<b>basis</b> 32:18	<b>boy</b> 116:13	
<b>assistant</b> 5:23 72:17			<b>break</b> 17:13 32:11 83:12, 21,22 84:6, 12,17 98:2 137:8	
<b>assisted</b> 18:11				
<b>associates</b> 58:17				
<b>Association</b> 17:6				
<b>assume</b> 26:4 27:17 48:13 51:19 66:1 72:15 73:22 90:5 97:10				

<b>candid</b> 28:12	116:14	<b>clumsy</b> 66:2	36:4 69:17	139:18
<b>capable</b> 71:20	122:2	<b>colleagues</b> 138:12	73:10	<b>complaints</b> 36:3 84:22
<b>captured</b> 107:23	134:12	<b>collect</b> 16:5	102:23	88:21 92:8
<b>care</b> 144:14	136:1	21:2 24:1	117:4	97:2,12
<b>career</b> 12:16, 17	<b>changed</b> 64:6 126:9	27:24 28:20	<b>comfort</b> 83:20	131:17,23
<b>carefully</b> 135:19	<b>characteristi</b>	31:15 32:8	<b>comfortable</b> 6:4 13:6	<b>complete</b> 20:7 53:14
<b>case</b> 7:13,24	<b>cs</b> 113:6	38:4 39:22	<b>commanded</b> 43:9	93:6,18
10:19 11:13	<b>characterizat</b>	40:15 42:23	<b>comment</b> 140:20	<b>completely</b> 29:23 84:13
12:9,21	<b>ion</b> 104:7	53:6 74:5	<b>commenting</b> 142:18	<b>compliance</b> 72:4 78:8
15:10,21	127:9	<b>collected</b>	<b>comments</b> 54:24	95:5 139:1,4
20:10 25:3, 11 26:11	140:23	19:24 21:7	<b>committed</b> 94:3	<b>comply</b> 95:8, 9,11,20,23
32:23 33:1	<b>characterizat</b>	108:2,21	<b>committee</b> 65:8	139:21
34:2 43:14	<b>ions</b> 119:1	109:19	<b>committing</b> 91:21	<b>comprehensi</b>
48:1,3 50:3	<b>characterizin</b>	110:21,22	<b>communicat</b>	<b>ve</b> 24:9
58:13 66:12	<b>g</b> 126:24	112:6 135:1, 2	<b>ed</b> 75:2	<b>compromisin</b>
68:17 74:11	<b>charge</b> 57:2	<b>collecting</b>	<b>communicati</b>	<b>g</b> 92:20
76:23 77:3, 5,20,21	<b>chart</b> 71:2	18:11,15,18	<b>on</b> 133:8	<b>computer</b> 89:5,18
78:21 79:7	72:8 73:3	19:6 20:20	<b>ons</b> 45:5	<b>computers</b> 65:24
80:17 90:5	<b>check</b> 11:21	35:20 36:9	90:9	<b>concerned</b> 44:2
104:18	<b>checks</b> 33:4	42:21 74:4	<b>comparable</b> 80:6	<b>concerns</b> 21:5 114:19, 21 115:6,8
105:7,13,19	<b>Chicago</b> 73:1	81:14 91:8	<b>comparing</b> 136:14	<b>concluded</b> 144:20
108:18	<b>chief</b> 9:6	108:10	<b>comparison</b> 111:3	<b>conclusion</b> 25:3,10
111:10	<b>chooses</b>	110:19	122:15	26:11,15
112:23	74:12,13	112:20	136:17	44:17 74:11
114:6	121:13	<b>collection</b>	141:14	77:16 79:9
121:18,20	<b>Cincinnati</b> 73:1	10:5 17:16	<b>comparisons</b> 88:19	83:11,14
122:16	<b>circuit</b> 115:20	18:2 22:4,8	<b>competent</b> 79:9	109:24
125:19	<b>circumstanc</b>	23:20 27:15	<b>complain</b> 35:19	114:3,24
129:13	<b>e</b> 32:4	29:3,16	<b>complaint</b> 7:21,23 9:20	121:12,16
130:13,15	<b>circumstanc</b>	30:4,14	10:4,7	128:5,17
131:24	<b>es</b> 33:14	34:6,19,21, 23 37:3,7	11:12,15	130:4
132:3,5,7, 10,11,12	44:9,13	52:9,11,18	20:9 21:13	<b>conduct</b> 92:12
133:19	50:22,24	53:2,11,18	76:23 77:5	134:15
134:15	75:23 91:24	54:22 60:21	97:20 98:6,8	138:13,21
136:18,23	96:6 124:13	61:18 63:18	99:10,14	<b>conducted</b> 42:12 88:8
137:3,6	<b>civil</b> 142:21	64:15,21	100:3,7,10	111:7
141:21	<b>claim</b> 134:18	65:11,15	101:10,16	<b>conference</b> 129:18
142:5,6	<b>claims</b>	67:1,6,13	102:1,3,9	<b>confidence</b> 49:4 110:7
143:1	105:11	68:9,20	104:17	<b>confirmed</b> 8:22
<b>cases</b> 9:17	140:24	70:16,17	105:3,6,18, 20 106:5,24	<b>connection</b> 48:8 50:8
76:19	<b>clarify</b> 35:8	76:13 88:17	107:2,4,8, 14,19,23	90:1
105:16	<b>clause</b> 88:11	89:19 90:13, 18,22 91:2	110:24	<b>consent</b> 117:20
131:23	94:4,15	92:15,17	111:16	<b>consequence</b> 121:6
<b>caused</b> 120:20	<b>clear</b> 27:2	93:4,17	118:18	<b>considerable</b> 40:17
<b>certificate</b> 47:4,10	35:17 56:23, 24 58:9,22	94:17,24	119:4	<b>consideratio</b>
51:13 59:1, 19 60:1,4	59:8,9 60:11	96:7,8 97:3	126:17,24	<b>n</b> 111:13
70:7 82:14	61:3 76:12	99:2 103:4,8	127:2,19,21	
<b>certificates</b> 47:19 51:10	106:16	104:9	128:14	
<b>CFPB</b> 6:10, 22 8:19 9:5, 7,9,11 11:17	109:10	106:12	130:11	
46:6 103:2	117:7,8	107:11	131:8 135:3	
116:12	137:19	111:17		
117:11,16	<b>clerical</b> 69:18	116:22		
139:13	<b>client</b> 25:8	117:23		
<b>CFPB's</b> 118:18	34:9 72:4	124:16,17		
139:20	119:24	128:23,24		
140:1	120:4 121:8	135:20		
<b>change</b> 83:5	<b>clients</b> 69:16	137:17		
109:17	71:11 131:6	139:2,3,5		
	<b>closing</b> 113:16	<b>collection's</b> 86:3		
		<b>collections</b> 63:10 67:21		
		68:2 72:9		
		113:10		
		<b>collector</b> 19:20 26:6, 17 70:18		
		87:5		
		<b>collectors</b> 18:21 19:6,9		

<b>considered</b> 132:18	13,24 72:14 75:8 77:18 80:13,21 85:7 86:4 87:6,14,18 89:11,20 91:13 96:23 99:11 102:3 108:14 110:16,17 111:20 113:1,8,9, 11,12,14 139:19	<b>cover</b> 57:20 70:2	70:18 73:10 74:5 87:5 91:1 92:17 94:24 102:22 103:4,8 104:9 106:12 107:11 108:2,10,21 109:19 110:19,21, 22 112:6,20 116:22 117:4,23 124:16 128:24 135:1,2,20 137:22 139:2,3,5	<b>definition</b> 87:2
<b>consistent</b> 65:3 95:1		<b>covered</b> 86:20,21 110:23 135:3		<b>delegate</b> 56:5
<b>Constituent</b> 92:8		<b>covering</b> 69:20		<b>delegated</b> 9:13 32:18 33:17 39:1, 7,13,16 55:3 56:2,4,8,15, 21 59:7,16 137:16
<b>consumer</b> 78:2 115:24 122:22 126:19 127:11		<b>covers</b> 53:20		<b>delegating</b> 56:13
<b>consumer's</b> 101:1 102:24 126:18 127:6	<b>corrected</b> 108:14	<b>CPPB</b> 117:12		<b>deliver</b> 17:8 49:16
<b>consumers</b> 76:24 99:4 110:16 111:20 113:23 114:10,20 115:9	<b>correction</b> 137:22	<b>created</b> 86:14		<b>delivered</b> 17:5
<b>contact</b> 41:23 143:15 144:5	<b>correctly</b> 23:14 131:7	<b>criminal</b> 141:5,23 142:21		<b>demand</b> 10:5 25:1,17,23 26:2,5,18 27:11,13,14, 19,23 28:1,4 32:22 74:4, 23 77:2,7,21 85:12 86:24 99:3 100:16, 19 101:6 105:22 111:19 112:5,19 118:15 126:17
<b>contained</b> 105:18	<b>corresponde nce</b> 86:14 87:4,5 90:8, 16	<b>cross</b> 46:4,5		<b>demande</b> 126:20
<b>context</b> 52:5	<b>counsel</b> 5:12 6:1,19 7:5,6, 7 18:14,18 20:20 35:10, 16 37:22 38:2 39:22, 23 40:14 41:17 42:6, 23 43:7,13, 21 44:16,19 45:4 47:12 49:8,15,22 50:9,17 51:6,8,14,21 55:18 64:19 68:22 86:4, 15,17 87:10, 12 89:3,21 92:12,21 95:7,20,22 112:20 113:11,14, 18 115:11 118:23 120:7,19 140:3,10	<b>CROSS- EXAMINATIO N</b> 5:4		<b>demands</b> 100:24
<b>continually</b> 127:14		<b>curious</b> 45:20 84:11		<b>demonstrate</b> 93:5,17
<b>continue</b> 96:24		<b>current</b> 132:21		<b>department</b> 72:4 106:19 141:5,23
<b>continues</b> 67:7 78:18		<b>custom</b> 65:11		<b>depend</b> 32:14 33:12, 13 124:12 126:6
<b>continuing</b> 34:8 117:17		<b>customer</b> 88:20		<b>depended</b> 44:8,12 56:8 74:18,22 91:21
<b>contract</b> 31:22 40:16		<b>customer's</b> 129:4		<b>depending</b> 75:24 125:12
<b>contracting</b> 38:22		<b>cutting</b> 66:13		<b>depends</b> 74:20 76:2 91:24
<b>conversation</b> 15:7 133:5, 10,12		<b>D</b>		<b>deposed</b> 12:13
<b>conversation s</b> 7:16 36:19 48:7,10,15	<b>counsel's</b> 54:23	<b>damages</b> 121:24		<b>deposition</b> 5:11 6:17 8:11 17:23 34:4 129:17
<b>copy</b> 17:4 47:9	<b>Counselor</b> 35:8 57:21 62:19 82:18 99:19	<b>date</b> 11:21, 23 80:8 112:7		<b>describe</b> 37:23
<b>Cordray</b> 5:1, 8,10 6:17 10:10 16:24 103:3 113:7 130:5,24 143:3	<b>country</b> 78:18 117:3	<b>dated</b> 47:4, 15		<b>description</b> 38:10
<b>corner</b> 47:17	<b>couple</b> 15:21 18:6	<b>dates</b> 54:19		<b>designed</b> 12:10
<b>correct</b> 5:11 7:24 8:1,3,6, 16,17 9:22, 23 11:22 16:6,7 20:11 22:23 23:16 31:7 32:1,2 33:6 42:8 48:13 49:10 58:11 59:2 60:7 61:23 67:23 68:12,	<b>court</b> 105:10 107:7 116:9 117:2,5,7,20 126:8 128:1, 2 129:18 131:24 141:1 142:6, 10	<b>days</b> 15:22		<b>desk</b> 46:4,5
	<b>courtesy</b> 143:10	<b>deal</b> 43:9		
	<b>courts</b> 75:17 108:14	<b>dealing</b> 20:22 28:13		
		<b>dealt</b> 22:11, 13,16,20,22 45:14 80:7 94:17		
		<b>debt</b> 16:10 17:16 18:2, 21 19:19,24 20:20 21:2,7 22:4,7 23:20 26:6,16 27:15 29:3, 16 30:4,14 31:15 32:8 33:5 34:5, 19,21,22 35:21 39:22 40:15 42:21, 23 53:6,9, 10,11,17 54:13,20		
		<b>decided</b> 117:19		
		<b>decides</b> 132:1		
		<b>deciding</b> 137:6		
		<b>decision</b> 9:14 111:14		
		<b>decision- making</b> 10:21		
		<b>decisions</b> 116:9 117:2, 5,7,19,20 126:8		
		<b>decrees</b> 117:20		
		<b>defend</b> 122:5		
		<b>Defendant</b> 99:1 111:17		
		<b>defense</b> 12:10 121:24		



<b>detail</b> 26:8, 18 32:4 53:16 74:8 75:7 76:2 78:4,11 79:5 85:11 123:2, 12,19 124:16 125:1,9 126:1 130:11	<b>disciplinary</b> 140:3,9	65:20 69:7 71:3,9,16, 19,22 72:2,6 74:10 79:6, 12,20,23 80:2 82:18 83:1,8 85:21 89:12 92:18 95:14,17 98:3 99:18 100:2,5,11 102:8,11 106:14,17, 22 108:23 109:1 114:1, 4 115:15 121:1,11,22 122:5,8,12 123:4,7,9 124:5,8 130:17,20, 22 131:5,14 136:10 137:11 141:8,11,16 142:20 143:1,12,17, 22 144:6,13	<b>employed</b> 134:24	<b>executions</b> 69:19
<b>detailed</b> 12:14	<b>discovery</b> 41:5 97:1 104:22 105:15 122:10 130:18,20	<b>discussed</b> 91:20	<b>employees</b> 73:17	<b>Exhibit</b> 16:16,20 17:1,3 46:22,24 47:3 55:8,11 79:14,16 80:4,7,11,23 81:7,15,23 82:2 85:15, 17,23 97:20, 22 98:7 102:7,13,16 111:22,24 112:3 117:12 118:10,12, 15 120:24 123:16 126:16 129:5 132:18 134:8 138:4
<b>details</b> 32:7, 16 33:8 38:6	<b>discussions</b> 97:2	<b>draft</b> 103:11, 13	<b>end</b> 14:1,21 25:6 54:2,3 71:6 136:24	<b>enforcement</b> 9:6 63:10,18 67:21 68:3, 10 116:24 117:1,18
<b>determine</b> 21:12,16 22:19 51:20 128:1,2	<b>dispute</b> 112:23	<b>draw</b> 25:10 44:17 74:11 121:12 141:13	<b>ends</b> 58:24	<b>enforcing</b> 140:2
<b>determined</b> 12:3 13:8 44:6 105:9 107:7 126:19 141:1 142:10	<b>distinction</b> 109:3	<b>drawn</b> 26:11	<b>enforcement -special</b> 113:11	<b>engaged</b> 122:3 137:20
<b>determining</b> 121:7	<b>district</b> 5:23	<b>draws</b> 25:2	<b>engages</b> 99:1 111:17	<b>English</b> 115:4
<b>develop</b> 122:10	<b>disturbing</b> 43:12	<b>Due</b> 69:12	<b>enhance</b> 92:23	<b>entire</b> 70:9 93:11
<b>dialers</b> 65:12	<b>division</b> 29:9,11,13, 18,19 52:21 63:15	<b>duly</b> 5:2	<b>entail</b> 88:15	<b>entirety</b> 127:10
<b>difference</b> 12:9 59:9 120:13,16 135:16	<b>divisions</b> 29:10	<b>duties</b> 100:14	<b>entire</b> 70:9 93:11	<b>entities</b> 117:23
<b>differences</b> 134:22 135:6,9	<b>document</b> 10:7 47:5 54:7 55:12 58:13 62:10, 12 68:4,8 70:22,24 72:21 82:22 86:1,16 87:11 93:12 102:6 112:14,18 118:7	<b>documentati on</b> 97:14	<b>equitable</b> 92:14,16	<b>escalated</b> 20:21 35:19
<b>differently</b> 110:19	<b>documented</b> 97:4 104:17	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>era</b> 137:14	<b>escalating</b> 21:5
<b>digging</b> 11:8	<b>documents</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>documentati on</b> 97:14	<b>escalated</b> 20:21 35:19	<b>ESQ</b> 5:1
<b>digging</b> 11:8	<b>documented</b> 97:4 104:17	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>establish</b> 44:15 81:21 99:19 122:3	<b>establish</b> 44:15 81:21 99:19 122:3
<b>direct</b> 39:22 43:6	<b>documents</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>established</b> 65:19 129:10	<b>established</b> 65:19 129:10
<b>directed</b> 105:23	<b>DOJ</b> 142:8	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>evaluations</b> 50:2	<b>evidence</b> 38:21 49:15 81:13 38:4 52:22
<b>directing</b> 106:1	<b>doubt</b> 142:11,21	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>evolve</b> 78:19 105:16	<b>effective</b> 38:21 49:15 81:13 38:4 52:22
<b>direction</b> 66:19	<b>Douglas</b> 5:14,15,17, 18,24 6:3,7, 24 11:4 12:1,6,8,12, 18,24 13:2,5 16:23 25:2, 14,24 26:9 30:5,7 32:9 34:7 56:17 57:19 61:12 62:19 63:1, 5,11,16	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>evolved</b> 135:11	<b>effectively</b> 38:4 52:22
<b>directly</b> 20:22 38:23 63:23	<b>director</b> 8:18 9:8 99:20 101:11 103:3 128:20 131:4 134:13	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>evolves</b> 117:8	<b>elaborate</b> 38:1
<b>director</b> 8:18 9:8 99:20 101:11 103:3 128:20 131:4 134:13	<b>directors</b> 139:13	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>evolving</b> 78:17	<b>element</b> 133:18 134:1
<b>directorship</b> 8:20 9:5	<b>directorship</b> 8:20 9:5	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15	<b>exact</b> 8:19 76:2 87:16 119:6	<b>elements</b> 134:18
<b>disagree</b> 76:21 120:3	<b>discharged</b> 44:16	<b>documented</b> 7:9 10:5 11:11,12,14 47:7 54:7, 13,20,21 66:9 86:21 89:4,17 90:3,7 104:17 105:13 117:24 119:2,6 120:22 122:15		

126:20	<b>filings</b>	<b>form</b> 17:9	105:5	<b>harassment</b>
128:3,14	130:12	86:20 87:16	<b>generals</b>	28:16 92:17
132:13	<b>final</b> 39:24	88:1 112:4	29:9	<b>He'll</b> 34:14
136:7	<b>finally</b> 128:1	132:17	<b>germane</b>	<b>head</b> 46:5
140:24	<b>find</b> 30:12	134:5	111:14	68:15
<b>facts</b> 44:12	35:3 36:23	<b>fortunately</b>	<b>give</b> 40:22	100:12
65:18 91:24	37:21 44:18	46:9	46:17 54:14	<b>Headcount-wise</b> 30:3
101:20,24	57:12 72:20	<b>forward</b>	57:13 61:2	<b>hear</b> 7:1
104:1,2,5	97:1,5	23:16,20	79:8,10	131:12,14
105:8,12	116:15,19	<b>forwards</b>	107:3	133:22
107:1,5	<b>finding</b>	28:9	126:14	<b>heard</b> 51:5,7,
122:10	142:14	<b>found</b> 44:21	140:21	11,16,19
124:12	<b>fine</b> 5:20 6:4	104:11,15	<b>giving</b> 60:1	<b>hearing</b>
132:8	43:19 60:17	<b>Foundation</b>	87:1	131:7
<b>factual</b>	72:6 84:15	65:18	<b>goal</b> 92:14	<b>hearings</b>
104:16	98:15,16	<b>fourth</b> 71:1,	<b>good</b> 98:3	69:21
125:22	122:2 136:9	10 72:22	111:10	<b>Heights</b>
136:21	<b>finish</b> 115:13	<b>frame</b> 14:24	<b>good-bye</b>	72:24
<b>fail</b> 135:21	<b>finished</b> 20:5	91:22	15:24	<b>helpful</b> 40:23
<b>fair</b> 44:17	62:21 102:8	<b>friends</b> 6:8	<b>goodwill</b>	41:4 137:5
47:24 58:20,	<b>fired</b> 45:3	<b>front</b> 28:7	92:23	<b>helpfully</b>
21 67:16	<b>firm</b> 10:6	125:14,17,	<b>government</b>	55:6
92:14,16	18:10,11	23	24:2 66:12	<b>hereunder</b>
99:12 124:5	20:10,14	<b>fulfill</b> 38:21	<b>grand</b> 73:16	86:15
127:9 129:6	21:7 22:20	<b>full</b> 5:6	<b>gravamen</b>	<b>high</b> 64:20
<b>fairly</b> 38:1	26:6,16 30:2	<b>function</b>	99:10	68:20
86:24	34:21 45:24	55:4 56:12,	111:15	124:16
<b>faith</b> 111:10	48:8 51:5	14	<b>great</b> 43:9	<b>high-volume</b>
<b>false</b> 45:4	52:8 53:5,18	<b>gap</b> 9:3	48:19	65:15 74:7
<b>familiar</b> 17:7	54:22 55:20	109:10	<b>grounds</b>	<b>highest</b> 49:3
39:19 135:4,	58:3,10,23	<b>general</b> 8:15	12:23	110:7
6,8 141:22	59:1,7,22	16:4 17:6	128:18	<b>highlights</b>
<b>Fast</b> 23:12	60:5,10,20	18:10,22	132:7	117:21
<b>fast-forward</b>	61:13,18	23:15,19,22	<b>guess</b> 70:9	116:12,15
109:21	66:24 67:13,	24:21 28:8	72:15	117:1,11,13,
<b>faster</b> 54:5	14,18 70:8,	33:20 42:9	<b>guidance</b>	14,15,24
<b>February</b>	9,11,16,17	46:4 47:16	116:12,15	133:1
16:15 17:7	73:13 76:24	49:6,8 55:17	117:1,11,13,	<b>hiring</b> 39:21
<b>federal</b>	82:8 83:5,6,	63:10 65:4	14,15,24	<b>historical</b>
24:14,18	8 84:19,23	67:21 68:2,9	<b>guilt</b> 142:10	88:18
28:14 95:21	86:4 89:10,	76:11 86:18	<b>guys</b> 84:14	<b>history</b> 5:21,
111:11	20 90:2,14,	87:13 89:4	<b>H</b>	22
<b>feed</b> 84:7	22 91:10	108:3,11,22	<b>handed</b> 47:3	<b>honestly</b>
<b>feel</b> 132:6	94:3,8 96:7,	109:7,20	54:7	21:22 56:3
<b>fees</b> 32:6	8,14 120:5	110:11	<b>handle</b> 52:22	59:22
<b>figure</b> 137:9	126:2,18	113:3,7,19	70:1 82:10	<b>hope</b> 53:13
<b>file</b> 53:11	131:9	120:19	<b>handled</b> 29:8	137:23
101:2 111:7	<b>firm's</b> 60:15	121:4 122:1,	33:17 64:15	<b>horrific</b>
126:19	62:6 105:22	23 132:22	<b>handling</b>	119:11
127:6	<b>firms</b> 19:3	137:15	64:20 69:21	<b>house</b> 143:4,
129:19	21:2 22:8	138:22	<b>happen</b>	7,13
131:17,22	36:5,18 37:3	<b>General's</b>	21:10 53:7	<b>housed</b>
<b>filed</b> 7:24 8:4	41:7,9 51:8	22:18 25:6	75:1	67:13
67:8 77:5	90:18 91:2,7	29:4,21	<b>happened</b>	<b>hundreds</b>
97:12	94:22 96:3	30:11 39:17	21:9 43:23	48:4,5
101:17	97:3	45:11 47:10	44:1 45:7	<b>hypothetical</b>
102:1,3	<b>flesh</b> 130:13	63:17 92:14,	91:6 111:11,	54:24
104:18	<b>flights</b> 84:4	21 93:3 97:8	12 117:22	133:12
105:13	<b>flow</b> 117:17	115:21	<b>happening</b>	<b>I</b>
132:2	<b>flush</b> 105:14	124:4	138:3	<b>idea</b> 21:24
139:18	<b>focusing</b>	<b>generally</b>	<b>happy</b> 5:18	31:5 98:3
140:23	107:9	11:1 14:18	84:8	<b>identification</b>
<b>files</b> 10:19	<b>folks</b> 57:10	15:21 27:15	<b>identification</b>	16:21 47:1
22:18 31:18,	72:10	49:24 64:19		
19 69:17	<b>follow</b> 75:22	98:11 99:15		
<b>filing</b> 9:20	<b>follow-up</b>	100:24		
98:8 103:23	18:6 50:19			
136:18	<b>foregoing</b>			
	144:19			

55:9 79:17 81:24 85:18 97:23 102:14 112:1 118:13	<b>information</b> 10:9 15:6 26:3 28:12 37:18 41:5 53:4,10 66:5 82:8 85:5 103:16 107:16 108:6 111:2 117:17 133:4	<b>interposed</b> 129:12	<b>judge</b> 6:8 25:10 79:7 114:8,14,15 125:19,21 127:7 130:5 132:6 136:11,24 137:1 142:3, 7	55:20 66:24 67:14 70:8, 11,16,17 75:10,11,14, 15,17,18,19 76:3,15,21 78:8,16,17, 22 91:2,4 95:1,5 101:22,23 104:4 109:8, 18,20 111:11 115:22 116:1,9 117:8 121:4 126:6,9 131:9 132:8 135:10,19 136:19,22 139:19 140:2,12,15 141:2
<b>identified</b> 68:1	<b>informed</b> 13:19 14:15	<b>interview</b> 39:24 40:11	<b>judge's</b> 127:13	<b>laws</b> 24:12 95:21 111:9 139:2,5
<b>illegal</b> 103:7 104:12 106:11 107:12 117:12 119:11 127:17 128:4,15,23 129:23 130:6,9 137:21	<b>initial</b> 25:1, 17,23 27:11, 13,14 32:21 74:4 77:2 85:12 112:5, 19	<b>interviews</b> 88:22	<b>judgement</b> 103:2	<b>lawsuit</b> 103:24 104:7 111:7, 8 120:6 136:18 140:23
<b>imagine</b> 76:6,7,8	<b>initially</b> 105:17	<b>introduction</b> 98:18	<b>judges</b> 76:19,20,21	<b>lawsuits</b> 9:10
<b>imperfections</b> 45:13	<b>initiate</b> 105:7	<b>investigated</b> 91:5 101:21 107:2	<b>judgment</b> 39:9 81:13 101:2 114:24 116:2,3	<b>lawyer</b> 7:15, 16,18 8:9 10:17 22:3 26:7,17 54:21 70:12 74:6 75:7 76:1,5 77:1 78:3,10 79:4 82:7 102:23 113:20 122:24 124:10 125:11 126:2,3 127:5 129:4 133:14
<b>imperfect</b> 36:18 94:4, 16	<b>innovative</b> 65:10	<b>investigation</b> 104:1 111:6	<b>judgments</b> 125:19,21	<b>lawyers</b> 22:5 31:3,9,12 32:1 33:11, 15 53:15,18 54:12 67:22 68:12,22 70:2 72:13, 14,16 73:17, 19,23 82:9 85:11 132:24 138:21 139:21
<b>implying</b> 103:1	<b>inquiry</b> 60:18 108:17	<b>investigation s</b> 9:18	<b>July</b> 47:4,15 81:1,4 82:14	<b>lay</b> 122:15, 16,18
<b>important</b> 32:15 53:1	<b>insignificant</b> 92:6	<b>invoices</b> 54:19	<b>jurisdiction</b> 9:17	<b>lays</b> 105:6,21
<b>impossible</b> 138:1	<b>insisting</b> 87:21 112:18	<b>involved</b> 9:14 22:3 31:14,17, 36:2 38:14, 24 42:21,22 43:6 65:16, 23 66:5,16 68:23 102:24 103:7 129:4	<b>Jurisdiction</b> 99:7	<b>lead</b> 6:1
<b>impressions</b> 67:19	<b>instance</b> 36:13 43:10 45:2 47:11 54:15 94:21 100:2	<b>involvement</b> 39:23 49:23 50:1 77:1 99:3 110:10 111:19 114:11	<b>Justice</b> 5:15, 16,17 12:12 141:5,22	<b>leadership</b> 65:7
<b>improper</b> 107:12	<b>instances</b> 43:15,24 45:17 94:22 95:2	<b>involving</b> 89:18 91:7	<b>kind</b> 16:8 33:16 45:19 74:23,24 109:10 138:11	<b>leaf</b> 46:18
<b>improperly</b> 108:21	<b>instruct</b> 10:10,17 25:14 34:15 74:13	<b>issue</b> 25:3 53:9,10 74:11 78:17 79:1,7 81:9 114:5 121:18 128:14 129:9 131:15,16 143:18	<b>kinds</b> 138:24	
<b>in-house</b> 67:1	<b>instructed</b> 26:10	<b>issued</b> 47:11 82:14 102:17 116:22 141:5	<b>knowing</b> 142:7	
<b>inappropriate</b> 134:2 136:3	<b>instructing</b> 10:11 12:22	<b>issues</b> 94:23 141:21	<b>knowledge</b> 33:17 133:7	
<b>include</b> 86:24	<b>integrity</b> 49:4 110:8	<b>issuing</b> 131:1	<b>knowing</b> 142:7	
<b>included</b> 30:1 31:24 67:22	<b>intend</b> 143:18	<b>issued</b> 47:11 82:14 102:17 116:22 141:5	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>includes</b> 140:2	<b>intended</b> 140:22	<b>issues</b> 94:23 141:21	<b>knowing</b> 142:7	
<b>including</b> 11:11 57:20 69:17 82:23	<b>intent</b> 121:18,23, 24 133:18	<b>issued</b> 47:11 82:14 102:17 116:22 141:5	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>indicating</b> 7:3	<b>intention</b> 42:2 45:1	<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>indication</b> 57:13	<b>intentional</b> 122:4	<b>issued</b> 47:11 82:14 102:17 116:22 141:5	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>individual</b> 32:5 101:1	<b>interest</b> 7:15	<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>individually</b> 109:5	<b>interject</b> 115:12	<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>inference</b> 67:16	<b>intermediate</b> 63:24 64:3,4	<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>influence</b> 134:14	<b>internal</b> 29:23	<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	
<b>inform</b> 13:13,15		<b>issues</b> 94:23 141:21	<b>known</b> 23:19, 21,22 30:13 45:12 90:17	

<b>learn</b> 24:2 27:4	136:14	75:13 83:11 84:4 85:10 90:19 95:19 106:10 109:3 111:3 114:23 116:13 121:8 125:18,20 129:22 130:5,22 131:16	70:1,6,10 101:12 105:15 116:23 136:24 141:6,19	66:15
<b>leave</b> 12:4 13:9	<b>letters...with</b> 104:9	<b>letting</b> 141:17	<b>MCCRAY- WORRALL</b> 10:8,13,20 15:5,9,19 25:18 26:14 35:7,10,16 59:3 64:22 65:17 77:15 103:15,21 104:13 105:4 107:15 108:5 109:23 110:20 111:1 114:2, 12 115:11 118:23 120:7,11 121:14 124:1,18 125:2 126:23 127:20 128:16 129:1,7,14, 20 130:10 131:21 132:20 133:3,7 136:12 139:23 140:6 142:13,16 144:16	<b>microscopic</b> 33:16
<b>led</b> 60:1 82:13	<b>level</b> 26:7,18 32:4,7 53:16 74:8 78:4,11 79:5 85:11 99:3 103:1 111:18 114:10 123:2,11,19 124:16 125:1 126:1	<b>lives</b> 12:9 42:3	<b>means</b> 91:18 92:17 93:20	<b>middle</b> 23:24 69:9 86:11
<b>left</b> 47:16 113:15	<b>life</b> 54:9	<b>making</b> 5:10 9:15 45:4 57:4 90:22 107:24 119:1	<b>meant</b> 27:21 28:6,15 93:12,14	<b>midwest</b> 90:14
<b>legal</b> 26:15 27:17 47:13 49:4 67:7 69:21 70:2 72:15,16,17 77:16 79:8 88:21 99:7 104:16 105:11 107:3 109:24 110:8 114:3, 24 115:18 121:16 128:17 140:21	<b>list</b> 23:1	<b>mandate</b> 87:17	<b>measures</b> 88:6,18	<b>migrate</b> 105:15
<b>legible</b> 80:9	<b>listed</b> 58:14, 17	<b>mandated</b> 87:9,13	<b>Medicaid</b> 16:13	<b>migration</b> 109:10
<b>letter</b> 25:23 26:18 27:19, 23 32:22 33:2,6 74:4, 9,18,20,23 75:24 78:1, 12 101:3 112:5,19 113:2,17,22, 24 114:9,16, 20 115:9 117:11,12 118:16 119:11 120:14,17 122:22 123:1,3,12, 14,19,24 124:9,21,22 125:6,13,14, 17,23 126:4, 22 127:4,5,6 128:12,23 129:8,23 130:6,8,9 132:17	<b>listen</b> 131:19	<b>market</b> 23:15	<b>meet</b> 15:23	<b>mind</b> 11:7 59:10 62:22 71:3 92:10 102:20,22 104:15 133:13 134:12
<b>letterhead</b> 78:12 79:3 87:22 105:23 106:13 113:6 114:17,18 122:19,20	<b>lived</b> 139:14	<b>market.'</b> 103:8 128:24	<b>meeting</b> 50:14 51:23	<b>minds</b> 120:3
<b>letters</b> 10:5 27:13,14 28:1,4 77:8, 21 79:3 85:12 86:24 99:4 100:16, 19,24 101:7 103:4 104:11 105:2,22 106:12 107:11 111:19 126:17 134:6	<b>living</b> 135:20	<b>masked</b> 103:4 104:8 107:11	<b>members</b> 69:17	<b>minimum</b> 92:16
	<b>loans</b> 52:19	<b>materials</b> 77:19 103:23 107:20 119:9	<b>memo</b> 9:24 101:19 107:21	<b>minor</b> 44:10 92:6
	<b>local</b> 95:21	<b>matter</b> 10:22 11:15 33:12 97:10 101:21 114:13 127:24 128:1 135:18 136:7,21 143:11	<b>memorandu m</b> 11:10	<b>minute</b> 19:11 136:16
	<b>long</b> 25:5 83:20,24 138:16	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12	<b>memory</b> 34:23	<b>misconduct</b> 122:4
	<b>longer</b> 101:11 116:3 128:19 134:13	<b>market.</b> 103:8 128:24	<b>mention</b> 28:4	<b>misleading</b> 45:4,24 76:24 90:16, 22 91:19 110:16 113:23 114:9 115:9, 18
	<b>looked</b> 17:21 33:1 56:22 66:10 74:8 75:7 78:11 79:4 93:11	<b>masked</b> 103:4 104:8 107:11	<b>mentioned</b> 36:18 94:19	<b>misconduct</b> 122:4
	<b>loose</b> 46:18	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12	<b>mere</b> 105:17	<b>misconduct</b> 122:4
	<b>lot</b> 54:8 117:16	<b>market.</b> 103:8 128:24	<b>met</b> 50:5,11, 20,23	<b>misconduct</b> 122:4
	<b>lots</b> 54:10	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12	<b>meter</b> 84:7	<b>misconduct</b> 122:4
	<b>loud</b> 61:4	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12	<b>methods</b>	<b>misconduct</b> 122:4
	<b>low</b> 92:3	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>M</b>	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>macro</b> 112:8	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>made</b> 15:22 36:3 39:2 50:2 55:19 74:24 102:2 109:18 111:10 127:16 128:3,5 136:1	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>maintained</b> 89:10	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>maintains</b> 71:23 72:3	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>major</b> 9:17	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4
	<b>make</b> 6:6 11:21 24:24 25:16 26:2, 14 55:14	<b>marketed</b> 16:20 46:24 55:8 79:16 81:23 85:17 97:22 98:7 102:13 111:24 118:12		<b>misconduct</b> 122:4

<b>motion</b> 7:10 8:8	<b>notice</b> 44:3	<b>occasion</b> 94:21	28:13 138:12	<b>paraphrase</b> 129:6
<b>move</b> 12:15, 16 79:13 83:18	<b>notices</b> 86:13,23	<b>occur</b> 108:1	<b>opinion</b> 134:15	<b>Pardon</b> 14:10 100:5
<b>moved</b> 144:1	<b>November</b> 8:24 11:19 13:17 14:23	<b>occurred</b> 20:18 109:11 126:21	<b>opinions</b> 137:4	<b>park</b> 28:23 40:23
<b>moves</b> 12:17	<b>number</b> 18:23 19:5, 17 22:5,6,7 28:18 29:7 30:13 40:17, 22 41:14 50:12 56:7 57:5 58:14, 15,16 126:11	<b>occurring</b> 19:1	<b>opposed</b> 13:3	<b>parking</b> 54:18 123:20
<b>moving</b> 66:18	<b>numbered</b> 57:16	<b>offer</b> 67:1	<b>order</b> 46:18	<b>part</b> 20:13,16 30:22 49:18 52:23 77:22 93:9 106:9 107:7 111:13 119:8 139:20
<b>multi-page</b> 55:12	<b>numbers</b> 55:14 58:17 98:21	<b>offhand</b> 19:4,10 22:19 29:6 34:24 37:1,5 42:13 44:22 50:11 55:23 62:2,3 68:18 77:22 86:22 87:19,20 88:2 97:6 100:21 112:15 118:1,9,20 124:13	<b>orders</b> 117:2	<b>particularity</b> 105:6,14
<b>multiple</b> 36:7 125:5	<b>object</b> 34:7 56:18 100:8 118:24 121:14 128:17	<b>office</b> 15:23 22:3,6,7,18 25:7 28:19 29:2,4,22,24 30:1,4,11,23 31:21,22,23, 24 32:6,20, 24 33:18,21 34:6,18,22 35:18 39:17 41:16 43:3 45:3,11 47:10 52:10 53:5,15 56:13 63:9 68:22 69:23 70:5 71:2 74:1,6 78:10 84:18 86:3 87:18 89:8, 16 91:3 92:21 93:3 96:3,13 97:8 102:17 108:10,11 115:21 124:4	<b>organization</b> 67:18	<b>particulars</b> 53:11 77:6 136:15 140:21
<b>multi- page</b>	<b>objection</b> 10:8 12:1,6 14:7 15:5,19 25:2,18 26:9,15 30:5 34:8 59:3 64:22 65:17 74:10 77:15 79:6 89:12 103:15,21 104:13 105:4 106:14 107:15 108:5,23 109:23 110:20 111:1 114:1, 2,5,12 121:1 123:4 124:1, 18 125:2 126:23 127:20 128:16 129:1,7,20 130:10 132:20 133:3 136:12 139:23 140:6 141:8, 11 142:13, 16 143:7	<b>Office's</b> 92:14	<b>originated</b> 63:9	<b>partner</b> 57:18 58:5, 15
<b>multiple</b>	<b>objectionabl e</b> 91:23	<b>offices</b> 124:21	<b>outset</b> 105:18 132:4	<b>partners</b> 58:16
<b>N</b>	<b>objections</b> 129:12	<b>Ohio</b> 16:4 32:6 36:10 47:13 54:17 55:16 61:20 63:9 92:13, 24 94:23 108:11 109:3,4 110:22 112:6,21 113:7 114:21 123:21	<b>Overpayment s</b> 16:12	<b>Partnership</b> 65:7
<b>nailing</b> 14:23	<b>obtain</b> 38:20	<b>ongoing</b> 42:7 43:7	<b>owed</b> 16:5 24:1	<b>party</b> 121:21 143:16 144:5
<b>name's</b> 122:18	<b>obtained</b> 40:20	<b>open</b> 84:13	<b>owes</b> 126:19	<b>passionate</b> 119:23
<b>names</b> 19:8 21:20 22:9, 10 23:3 36:17 42:13, 17 57:10 72:10 113:13 120:18,19 125:5	<b>obvious</b> 58:12	<b>operate</b>	<b>pace</b> 133:16	<b>pay</b> 32:6 54:18
<b>narrative</b> 48:21,23			<b>package</b> 11:11,12,14 77:19 107:20 119:8	<b>pending</b> 116:23
<b>narrow</b> 30:18			<b>packed</b> 77:13	<b>people</b> 13:11 14:15 15:23 18:23 19:3 21:19 22:11, 15 23:1 29:21 30:1, 3,14,22 31:21 33:20 34:22 35:2 36:8 39:7,9, 13 42:14,20 43:1 57:6 63:19 72:12 73:14 74:7 84:3 87:6 91:3,20 100:7 133:19 135:19 137:16,18, 20 140:5,8, 12
<b>National</b> 17:6			<b>pages</b> 93:13	<b>perfect</b> 45:12
<b>nature</b> 53:1, 20 54:24			<b>paginating</b> 55:13	<b>perfectly</b> 143:8
<b>necessarily</b> 20:23 56:5 57:6 77:18 87:7 89:22 131:24			<b>papers</b> 89:4, 17	<b>performance</b> 42:7,24 43:13 85:4 88:6,7,15, 18,23
<b>needed</b> 36:4			<b>paperwork</b> 89:9	
<b>Negative</b> 71:11			<b>paragraph</b> 18:1,5,8,20 20:4 23:10, 13 48:17 62:5 64:11 65:8 67:5 69:9 72:1 86:11 89:13, 14 92:10 95:4,10,11, 14,16 98:17, 18,20 99:9 100:15,23 101:6,8 102:18 106:4 107:4 111:16,21 138:5	
<b>negligible</b> 38:7,9,11			<b>paragraphs</b> 17:15 65:5 88:12 98:13, 19 99:17 100:20	
<b>neighborhood</b> 144:1			<b>parameters</b> 28:14	
<b>Nobody's</b> 134:15				
<b>nonlaw</b> 41:9				
<b>nonlawyer</b> 68:14 70:12 73:14 76:5				
<b>nonlawyers</b> 22:6 32:1 33:11 67:22 68:10,12,23 70:1 82:9				
<b>nonlegal</b> 139:11				
<b>nonrelevant</b> 141:19				
<b>noted</b> 129:14				
<b>notes</b> 34:13 137:8				

<b>performed</b> 86:15 89:19	122:14 134:20	116:14 143:20 144:9	92:22,24 93:7,19,23 97:9,11 102:2 106:10 107:24 127:16 139:12	142:18
<b>period</b> 21:10 42:9 110:23 118:17 128:13 135:3,11	<b>possibly</b> 91:6	<b>problematic</b> 45:23 90:9 132:18	<b>publically</b> 13:24	<b>questioning</b> 14:8
<b>permissible</b> 143:8	<b>potentially</b> 91:4	<b>problems</b> 20:3,14,17, 19 45:14 92:3,5,6 93:21 94:10, 11 97:3 105:21	<b>publicly</b> 13:24	<b>questions</b> 12:14,17 18:6 25:12 33:20 35:14 62:21 99:22 100:1,6,9 135:24 137:18 144:14,16
<b>person</b> 10:16 25:22 33:2 34:5 53:3 58:9 64:1 75:1	<b>practice</b> 26:21 56:1 65:15 74:7 140:12,15	<b>proceedings</b> 134:24	<b>purports</b> 86:1	<b>quote</b> 23:14 103:9,11,17, 22 129:6 131:3 138:5 139:10,11
<b>personal</b> 67:19 88:7	<b>practices</b> 117:24 134:23 139:1	<b>process</b> 10:21 22:4 37:23 38:2, 5,10,15,24 39:2,21 41:16 49:22, 23,24 52:7, 10,15,16 57:1,3 118:4 143:4,6,12 144:3	<b>purpose</b> 38:18,22	<b>quoted</b> 130:1 131:5
<b>personally</b> 9:14 31:14, 17 32:10,12, 16 114:22 135:5	<b>precise</b> 119:15 140:21	<b>processed</b> 66:6	<b>purposes</b> 16:21 47:1 55:9 68:6 79:17 81:24 83:20 85:18 97:23 102:14 112:1 118:13	<b>quotes</b> 102:18
<b>personnel</b> 22:18	<b>prefer</b> 5:17	<b>processes</b> 95:1 138:2	<b>pursuant</b> 61:20 86:14	<b>Q</b>
<b>persuading</b> 134:18	<b>Preis</b> 15:2, 10,14	<b>processing</b> 69:18	<b>purview</b> 139:20 140:3	<b>raised</b> 6:7 94:24
<b>phone</b> 103:5	<b>prepare</b> 6:16 8:11 17:22	<b>profession</b> 138:23	<b>put</b> 83:14 116:12 117:11,13, 16,21 138:2	<b>ran</b> 63:20 76:11
<b>pictures</b> 15:24	<b>prepared</b> 17:4 86:16 87:11 103:13	<b>professional</b> 101:2 103:1, 5 104:10 138:6,8,11, 13,20,22 139:5,15,22 140:11,14, 17	<b>puts</b> 133:1	<b>ratios</b> 88:17
<b>piece</b> 139:6	<b>present</b> 26:2, 4	<b>programmed</b> 65:11	<b>putting</b> 43:17	<b>reach</b> 101:2 137:2
<b>pieces</b> 28:18 29:22,23,24	<b>presented</b> 127:10	<b>promise</b> 14:20	<b>qualification</b> s 55:17	<b>read</b> 14:3,5 19:14 20:4 23:10 48:16 56:1,6 58:20,21 60:12 61:4, 15 62:4,14, 15,22,23 63:1,5 65:3 67:4 69:10 70:21 71:4, 6,17,23 83:2,3,12 86:11,24 88:10 93:1 95:15 105:20 106:20
<b>place</b> 96:24 97:4 106:3 138:3	<b>preserve</b> 92:23	<b>prove</b> 122:6	<b>quality</b> 49:16	<b>reader</b> 23:12
<b>placing</b> 52:7, 11 70:6	<b>preserving</b> 13:3	<b>proven</b> 105:9 107:6 141:1 142:11	<b>quarterly</b> 88:7,15 89:7,16 90:1	<b>reading</b> 17:4 18:5,7 23:14 27:12 28:5 57:3 58:21 67:12 70:15 92:10 102:20
<b>plain</b> 115:4	<b>press</b> 14:2,4, 5 19:14 102:16 107:10 119:10 127:18 128:4 129:22,24 130:24 131:6 140:20 141:4,23 142:1,9,15	<b>provide</b> 37:19 49:14 53:5 85:6 89:3,22 92:22	<b>question</b> 10:24 11:5,9 12:19 14:9, 11,13 21:16 23:4,8 25:21 26:13 35:8, 11 47:24 50:18 55:5 58:3 66:3 75:12,21 77:14 78:9, 14 81:9 87:4 100:8 109:12 114:7 115:16,18 117:10 120:8 121:15 124:6 125:22 127:8 133:23 137:14	<b>ready</b> 72:12 112:10
<b>planning</b> 84:12	<b>pretty</b> 8:10	<b>provision</b> 53:8	<b>questioning</b> 14:8	<b>reapprove</b> 85:2
<b>plans</b> 16:12	<b>prevent</b> 28:16 138:3	<b>public</b> 36:23	<b>quote</b> 23:14 103:9,11,17, 22 129:6 131:3 138:5 139:10,11	<b>reason</b> 12:16,19 45:11 83:15 101:14 108:20 137:20,24
<b>players</b> 35:2	<b>print</b> 93:5		<b>quoted</b> 130:1 131:5	<b>reasonable</b> 93:7,19 120:2
<b>pleadings</b> 86:13	<b>printed</b> 112:7,9		<b>quotes</b> 102:18	
<b>pleasure</b> 48:19	<b>prior</b> 13:21 82:24 126:3 137:2		<b>R</b>	
<b>plural</b> 5:8	<b>privilege</b> 10:14,18 15:11 103:16		<b>raised</b> 6:7 94:24	
<b>point</b> 30:16 31:6 36:1,6 42:11 60:18 66:19 84:7 85:9 93:15 95:19 101:13 106:2 121:3 124:20 128:21 134:20 135:10 137:4	<b>privileged</b> 10:9 15:6,8 107:16 108:6 111:2 133:4,6		<b>ran</b> 63:20 76:11	
<b>pointing</b> 68:7	<b>problem</b> 19:23 21:18 36:11 106:9		<b>ratios</b> 88:17	
<b>points</b> 36:7			<b>reach</b> 101:2 137:2	
<b>policy</b> 93:10 94:15			<b>read</b> 14:3,5 19:14 20:4 23:10 48:16 56:1,6 58:20,21 60:12 61:4, 15 62:4,14, 15,22,23 63:1,5 65:3 67:4 69:10 70:21 71:4, 6,17,23 83:2,3,12 86:11,24 88:10 93:1 95:15 105:20 106:20	
<b>position</b> 86:17 87:12 107:1			<b>quarterly</b> 88:7,15 89:7,16 90:1	

142:11,20	<b>recollection</b>	141:18	<b>remember</b>	14,16 14:6, 16 16:2
<b>recall</b> 18:12, 17 19:2,4,8, 18,23 20:2,7 21:1,4,8,9, 10 22:21,22, 24 23:8 29:14 30:6, 10,21 33:21, 24 34:5,16, 20,24 35:23 36:1,2,12,17 37:1,5,12 38:6,14,16 40:2,6,13,23 41:14 42:13 43:5,10,15, 16,20,24 45:2,6,22 46:6 47:18 48:6,10,14 50:2,5,7,13, 14 51:4,18, 23 52:1 55:22,24 56:3,13,20 57:9,11 58:21 62:1, 2,3 63:21 64:2,6 68:16,18 76:14 77:2, 4,6,7 84:21, 24 85:8,13 87:19,20,21, 23 88:1 89:24 90:4, 6,21,23,24 91:6 94:14 95:3 96:11 99:13 100:18,21 102:4 104:10,14 106:8 110:12 112:17,22 118:18,20 119:3 138:15	11:14 12:8 19:21 20:6 22:2 36:16 45:17 46:7 62:8,16 65:2,4 90:10,12 91:9,11 94:7,9,10 96:17,18 119:6	<b>regional</b> 52:24	20:17 31:2 37:2 40:10 46:1 119:16 137:19	<b>resignation</b> 12:20 15:8
	<b>recommendation</b> 9:24 11:3,10 77:20 101:18 107:21 111:5	<b>regulations</b> 116:22 118:3	<b>reminded</b> 127:15	<b>resigned</b> 8:24 13:8 15:22
	<b>recommendations</b> 39:4 57:4	<b>Reis</b> 19:19 21:6,14 22:12,14,16, 23 46:21 51:2,12 55:19 58:5 63:8 64:20 67:13 69:24 70:8 77:9 84:23 89:20 90:2 96:14 98:9 103:4 104:8 108:2, 21 112:5 116:6 118:16 128:13 132:16 133:6 139:14 140:11	<b>rendered</b> 117:2	<b>resist</b> 135:21,22
	<b>recommendings</b> 103:23	<b>relate</b> 54:20	<b>renew</b> 114:4	<b>resisting</b> 37:17
	<b>record</b> 6:10 13:4,5 16:17 19:13 21:13 35:12,17 39:8 48:16 54:23 57:11 61:5 63:2 71:7 83:2,3 97:9 98:6 102:21 121:18 129:11 134:4 142:19 143:1	<b>relating</b> 17:15	<b>renewed</b> 42:10 81:5	<b>resolution</b> 137:2
	<b>records</b> 21:11 36:23 40:19 57:12 89:4,18	<b>Relationship</b> 86:9	<b>repeat</b> 130:21	<b>respect</b> 9:10, 19 10:18 21:6 56:11 77:2 93:6,18 94:8,16 137:21
	<b>refer</b> 100:15	<b>relationships</b> 43:3	<b>rephrase</b> 106:15	<b>respond</b> 10:10,12 27:20
	<b>reference</b> 49:7 65:10 113:18	<b>relative</b> 29:20	<b>report</b> 14:6 43:12	<b>response</b> 23:4,7 58:2 82:2 126:14
	<b>referenced</b> 88:24 100:19	<b>release</b> 102:16 107:10 119:10 127:18 129:23,24 130:24 140:20 142:1	<b>reported</b> 63:23	<b>responses</b> 56:12
	<b>references</b> 41:24 122:24	<b>releases</b> 141:4,23 142:9,15	<b>reporter</b> 5:7 6:12	<b>responsibilities</b> 16:4
	<b>referred</b> 5:17 10:4	<b>relevance</b> 12:23 14:8 33:22 34:1 128:18 141:9,10,12, 17	<b>reports</b> 19:14 88:21	<b>responsibility</b> 9:9,12 103:14 137:16
	<b>referring</b> 18:20 91:14 120:23 123:14 138:9,10	<b>relevancy</b> 34:11 121:5	<b>represent</b> 59:24 82:5 112:3	<b>responsible</b> 31:18
	<b>reflect</b> 54:23 61:24	<b>relevant</b> 12:11,21 25:4 34:9 134:19 135:9 141:18	<b>representation</b> 60:21 64:12 67:7 74:24 90:19 105:11	<b>rest</b> 62:4
	<b>reflects</b> 49:3 55:18 61:22 82:22	<b>remains</b> 112:8	<b>representations</b> 61:19 90:23 104:4	<b>restate</b> 11:4
	<b>refresh</b> 34:23 62:15	<b>remarks</b> 17:5,9	<b>represented</b> 5:12 7:5 81:12 127:5 143:16 144:5	<b>restrictions</b> 28:15
	<b>refreshes</b> 62:7	<b>remedy</b> 19:1	<b>representing</b> 82:19,21 114:7 121:20 130:7 143:3, 24	<b>retained</b> 39:19
	<b>regard</b> 45:12 56:10 99:22		<b>represents</b> 59:23 106:24	<b>retention</b> 61:21 86:2 87:10 90:3 93:9
			<b>reprimanded</b> 45:3	<b>return</b> 33:4
			<b>reputation</b> 51:17	<b>reupped</b> 80:16,20 85:9
			<b>request</b> 37:11 55:17 71:21	<b>revenue</b> 29:15
			<b>required</b> 90:3 114:8 139:15	<b>reverberates</b> 18:3
			<b>requirements</b> 88:24	<b>review</b> 7:8, 20 32:3,7 36:4 42:7, 11,12 54:10, 12,21 88:7, 15,23 89:7, 16 90:1 126:20
			<b>requires</b> 26:21	<b>reviewed</b> 6:18 7:10 8:2 10:6 32:16,20 53:16,20 54:5,8 57:7 76:1 78:4
			<b>resign</b> 11:16, 20,24 13:11,	

88:16 101:1 107:22 123:2,11,18, 23 124:10, 22,24 125:9 126:1,18 127:6	<b>Senate</b> 8:23	<b>sign</b> 48:13	42:6,22 43:7,13,21 44:15,19 45:3 47:12 49:8,15,22 50:9,17 51:6,8,14,21 55:18 64:19 68:22 86:3, 15,17 87:10, 12 89:2,21 92:12,21 95:7,19,22 112:20 113:13,18 120:19	<b>standard</b> 142:21,22
<b>reviewing</b> 8:8 42:24 54:6 102:24 129:4	<b>send</b> 27:10, 18,23 79:3 85:12 124:8 134:6 143:4, 12	<b>signature</b> 47:14,15 80:9 144:17	<b>specific</b> 14:20 23:7 36:12 38:6 43:15,24 48:15 50:18 52:17 59:20 78:9 88:6,23 94:7 95:24 98:13 99:17 104:16 113:2 117:10 118:7 122:24 138:24	<b>standards</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17
<b>reviews</b> 10:19 43:7	<b>sending</b> 26:18 54:22 77:12 78:12 90:8,15 101:3 105:2 123:24	<b>signed</b> 9:21, 24 47:19 49:9 51:9,13 113:19	<b>specifically</b> 13:16 23:8 28:2 51:4 52:1 67:16 84:22 99:15 112:22 116:16 118:8 138:20	<b>stands</b> 40:8 101:23
<b>RFQ</b> 38:14, 19 56:12 60:1 61:22 70:14 80:11 82:2 83:8 85:6	<b>sends</b> 100:23	<b>significance</b> 101:23	<b>specifics</b> 36:2 38:17 40:18,19 51:18 104:14	<b>starts</b> 18:2 71:11,12
<b>RFQS</b> 57:3	<b>sense</b> 42:3 55:14 83:23 124:3	<b>significant</b> 93:22	<b>simply</b> 15:24 52:21 106:23	<b>state</b> 5:6 16:5 19:7 20:1,15 21:3,7 24:1, 2,13,21 32:6 36:9 38:4,22 47:13 49:16, 17 53:6 54:17 61:20, 23 62:9 63:9 64:12,16 69:15 71:11 75:9,10,14, 15,16,19 76:3,15 78:2 81:14 91:8 92:24 94:23 95:21 96:4 107:4 109:2, 4,8,18 110:22 112:6,20 114:21 115:22 116:1 123:21 126:6 135:1
<b>Richard</b> 5:1, 8 103:3 113:7 130:5, 24	<b>sentence</b> 48:17 61:4, 6,7,16 62:22 63:2,6 64:23 67:6 69:15 71:4,6,10,17 95:11	<b>single</b> 57:7	<b>small</b> 29:18	<b>stated</b> 77:21
<b>rights</b> 92:20 93:6,18,22	<b>sentences</b> 83:1	<b>sir</b> 8:19 11:4, 24 19:3 29:5 35:24 45:24 49:2 56:2,23 115:10 124:19	<b>smaller</b> 29:23	<b>statement</b> 23:18 27:3,6 35:12 102:2 106:10 107:9,10,24 120:12,15 127:16,18 128:4 129:9, 22 139:13
<b>rigorous</b> 45:21	<b>separate</b> 118:1	<b>sit</b> 20:8 110:5	<b>software</b> 65:12	<b>statements</b> 142:2
<b>rise</b> 107:3	<b>separately</b> 35:4	<b>situation</b> 33:13 45:23	<b>someplace</b> 97:7	<b>status</b> 82:22 88:21
<b>riveting</b> 40:11	<b>server</b> 143:4, 6,12 144:3	<b>size</b> 90:17	<b>son</b> 54:17,24 123:20	<b>statute</b> 140:1
<b>role</b> 50:9	<b>service</b> 47:13 49:17 88:20 143:5	<b>Slow</b> 92:18	<b>sort</b> 41:24 44:5,15 45:18 54:12 97:13 99:9 116:10,12 135:16	<b>statutes</b> 95:24
<b>roughly</b> 17:9 43:4	<b>services</b> 38:21 67:1 72:4 89:19 92:22	<b>slower</b> 54:5	<b>source</b> 53:9 54:13	<b>stay</b> 141:20
<b>rules</b> 116:21 118:2	<b>set</b> 29:10 38:1 78:22 95:12,23 105:2 139:4, 7	<b>small</b> 29:18	<b>sources</b> 44:15	<b>step</b> 13:24 14:19,21 118:24
<b>running</b> 40:1	<b>setting</b> 50:10 94:16	<b>smaller</b> 29:23	<b>speaking</b> 8:8 130:23	<b>steps</b> 18:24 44:23
<b>S</b>	<b>shape</b> 132:17 134:5	<b>software</b> 65:12	<b>special</b> 18:14,18 20:20 37:22 38:2 39:21 40:14 41:17	<b>stood</b> 24:12
<b>sanctions</b> 7:11 8:8	<b>short</b> 16:18 45:10 88:11 98:5 115:19 137:12 144:12	<b>stand</b> 28:7 93:12,14 101:9 103:17	<b>stand</b> 28:7 93:12,14 101:9 103:17	<b>stop</b> 71:3
<b>scale</b> 69:13	<b>shorthand</b> 139:10,17	<b>standards</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	<b>story</b> 45:10
<b>Scott</b> 40:11	<b>show</b> 102:6	<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>scrubbed</b> 66:10	<b>showed</b> 59:19	<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>seal</b> 47:16 49:6	<b>shows</b> 18:3	<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>seamlessly</b> 67:7	<b>side</b> 41:2 84:10 113:15	<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>searches</b> 89:5,18	<b>sidetracked</b> 23:9	<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>second-to-last</b> 67:6		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>secretaries</b> 72:16		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>secretary</b> 72:16		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>section</b> 34:11 42:14 92:8 95:4		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>seeking</b> 32:8 74:5		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>sees</b> 122:23		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	
<b>select</b> 40:1		<b>stands</b> 95:12,23 103:5 104:10 138:7,8,11, 12,20,22 139:6,15,22 140:11,14, 17	<b>stand</b> 28:7 93:12,14 101:9 103:17	



<b>Strengths</b> 66:22	<b>suspect</b> 6:1	<b>Thanksgiving</b> 11:19	17:22 57:11 83:24	121:19 124:24
<b>strike</b> 88:4	<b>sworn</b> 5:2 30:19,21	<b>theories</b> 130:14	<b>told</b> 25:5 30:8 108:15 132:17 134:5	<b>understand</b> 10:15 13:5 33:22 34:1 37:14 39:15 40:21,24 41:2,15 42:5,16 52:14 65:14 67:11,12 69:23 70:14 88:14 104:21,22, 23 110:18 112:16 119:23 120:9 121:19 127:13 130:23 132:4,9 135:24 142:12,23 143:17
<b>strikes</b> 45:20,24	<b>system</b> 6:8 112:8	<b>thing</b> 60:13 98:14 119:10	<b>tolerance</b> 91:13,16 92:3 93:4, 10,16 94:4, 15,18	
<b>structure</b> 30:12	<hr/> <b>T</b> <hr/>	<b>things</b> 14:4 28:15 37:12 54:9,10 56:4 75:18 76:22 77:13 82:10 104:20 108:12,14 118:6 122:1 136:4,13 138:19	<b>top</b> 57:17 61:7	
<b>structured</b> 66:24	<b>table</b> 41:3 84:10	<b>thinking</b> 19:18 36:15 45:22	<b>total</b> 73:16	
<b>student</b> 16:10 32:5 52:19	<b>takes</b> 144:14	<b>thought</b> 18:23 39:3, 11 45:13 93:21 101:22 104:4 108:13 115:21,24 116:5 132:3 138:2	<b>tour</b> 15:22	
<b>stuff</b> 46:18	<b>taking</b> 140:20	<b>threat</b> 120:5	<b>transmitted</b> 89:10	
<b>subject</b> 15:11 118:17	<b>talk</b> 7:6 37:16 54:15 62:5 138:6	<b>threshold</b> 92:3	<b>treatment</b> 92:15,16	
<b>submission</b> 55:19	<b>talked</b> 133:15	<b>throw</b> 23:3	<b>trial</b> 143:2,5, 19	
<b>submissions</b> 56:1	<b>talking</b> 25:21 42:24 46:11 73:2 83:9 109:2,6 124:20 139:2	<b>tickets</b> 54:18 123:21	<b>trigger</b> 36:16	
<b>submit</b> 41:20	<b>talks</b> 27:15 60:13,15 88:6 100:23	<b>time</b> 5:10 12:3 13:9,22 14:23 16:17 17:1 18:22 21:19 24:18, 20 25:5 34:13,14 40:15 43:9 45:20 51:6 56:9 64:7 66:20 68:17 70:15 76:3, 16 78:8,14 81:13 85:9 98:14 107:1 108:8,12 109:11 110:21,23 115:23 116:2 117:9, 22 118:17 123:9 126:7 128:13 130:24 135:3,11	<b>true</b> 49:10 50:3 91:9 101:15 117:4 142:5	<b>understandin g</b> 24:7,8,9, 12,17,22 62:8 64:18 74:2,3,15 101:19,20, 22 104:22 105:7 115:17 139:24
<b>subpoena</b> 6:18 7:4,9 8:10 21:12 143:5,19	<b>tax</b> 33:1,4	<b>threshold</b> 92:3	<b>true,'</b> 103:2	
<b>substantial</b> 38:12,13 44:11,18 91:22 92:5	<b>taxes</b> 16:10	<b>throw</b> 23:3	<b>trust</b> 39:14	
<b>substantive</b> 129:16	<b>team</b> 9:6 57:8,10	<b>throw</b> 23:3	<b>trusted</b> 39:10	
<b>sue</b> 75:4 120:21 131:9	<b>technical</b> 44:10	<b>throw</b> 23:3	<b>truthful</b> 26:2 28:11	
<b>sued</b> 110:16	<b>technical</b> 44:10	<b>throw</b> 23:3	<b>turn</b> 57:15 59:17 99:6	<b>understood</b> 24:13,20 39:6 51:3 58:19 60:6,8 70:5 75:3 78:7 93:20 104:2 107:5 112:11,12 115:23 126:7 128:7
<b>sufficient</b> 39:3 51:20 105:6 132:7	<b>technologies</b> 65:11	<b>throw</b> 23:3	<b>type</b> 29:17	
<b>suggesting</b> 134:11 136:13,19	<b>technology</b> 66:4,13	<b>throw</b> 23:3	<b>types</b> 52:18, 19 88:20	
<b>suggests</b> 69:3	<b>telescope</b> 81:16,20	<b>throw</b> 23:3	<b>Typically</b> 11:3	
<b>suing</b> 37:2	<b>telling</b> 89:24 122:13	<b>throw</b> 23:3	<b>typing</b> 69:19	<b>unethical</b> 144:7
<b>summarized</b> 111:16	<b>template</b> 112:4 113:3	<b>throw</b> 23:3	<hr/> <b>U</b> <hr/>	<b>unit</b> 63:10,18 67:20,22 68:2,3,10,11
<b>summary</b> 99:10	<b>temptation</b> 135:22	<b>throw</b> 23:3	<b>Uh-huh</b> 17:12 42:19 45:9 46:12 62:24 66:23 69:14,22 78:24 81:8 82:4 95:6 98:22 110:14 112:13 119:19	<b>universities</b> 24:2
<b>supervising</b> 117:22	<b>tenure</b> 8:20	<b>throw</b> 23:3	<b>ultimate</b> 9:12 114:5	<b>unlawful</b> 99:2 111:17
<b>supervisor</b> 63:24 64:3,5	<b>term</b> 115:18	<b>throw</b> 23:3	<b>ultimately</b> 10:3 31:17 39:3 76:19 105:10 132:6	<b>unpack</b> 36:16 109:15
<b>supervisory</b> 69:19 72:9 117:21	<b>terminate</b> 110:10	<b>throw</b> 23:3	<b>unable</b> 22:21	<b>unpacking</b> 27:3
<b>supported</b> 59:13	<b>terminated</b> 37:7	<b>throw</b> 23:3	<b>unaware</b> 50:16	<b>unscrupulou s</b> 18:21 19:19
<b>supporting</b> 10:6 70:12 119:23	<b>terms</b> 39:4 49:24 74:23 76:4 101:23 117:23 134:23	<b>throw</b> 23:3	<b>underlying</b> 75:7 76:2	<b>updated</b> 82:22 85:6
<b>supports</b> 92:13	<b>testified</b> 17:22	<b>throw</b> 23:3		<b>updates</b> 88:22
<b>suppose</b> 29:20 52:24	<b>testifies</b> 5:2	<b>throw</b> 23:3		<b>usual</b> 53:11
	<b>testifying</b> 133:21	<b>throw</b> 23:3		<hr/> <b>V</b> <hr/>
	<b>testimony</b> 30:19,21 61:2	<b>throw</b> 23:3		<b>vague</b> 25:18 64:22

103:21	23 46:20,21	26:12 27:8	<b>WWR</b> 71:8,
121:15	47:12 48:7	35:13 46:17	12,18,20,23
124:1	49:7,15	57:22 62:24	72:3
<b>valid</b> 33:5	50:6,17	63:4,13	
<b>varied</b> 77:20	51:2,11	71:14 72:7	<hr/>
<b>variety</b> 16:9	52:8,12 53:5	79:11 82:21	<b>Y</b>
54:11 118:6	54:14 55:19	83:5,10,22	
<b>vary</b> 11:12	57:17 58:4,	84:1,3,9,13	<b>year</b> 28:20
<b>verbal</b> 92:19	5,9 59:5,11	85:22 95:15	47:20 79:24
<b>verified</b> 14:2	63:7,8 64:20	98:1,4 99:24	80:1,2 82:3,
<b>verify</b> 17:8	67:13 69:24	100:3,6	24 96:22
33:5 41:24	70:7,8 77:9	102:10	98:10 111:5
<b>version</b>	84:19,23	106:16,20	<b>years</b> 24:14,
139:17	86:4 89:20	109:6	23 46:8,11
<b>vet</b> 41:17	90:2 96:14	121:10,17,	79:22,23
<b>vetting</b> 49:22	98:9 103:3	23 122:7,9	96:21
<b>vide</b> 16:9	104:8 108:1,	123:6,8	109:21
<b>viewed</b> 91:3	20 112:5	129:11,16,	111:12
135:15	113:13	21 131:3	126:8
<b>views</b> 76:18	116:6	133:5 137:7,	<b>yellow</b> 69:7
<b>violate</b> 43:22	118:16	13 141:13	
<b>violated</b>	123:1	142:23	
34:10 36:6	124:21,23	143:9,14,18	
44:6 91:4	125:7,8,24	144:4,8,10	
140:11	128:13	<b>word</b> 47:24	
141:2	132:16	54:2,6	
<b>violates</b>	133:6,9	<b>wording</b>	
34:10	139:14	74:18,22	
<b>violating</b>	140:10	75:24	
18:24	<b>Weinberg's</b>	125:12	
<b>violation</b>	53:17 54:22	<b>words</b> 27:7,8	
91:22	58:24	<b>work</b> 9:13	
109:20	<b>weird</b> 61:10	18:3 24:3	
111:10	<b>Weltman</b>	33:20 37:24	
<b>violations</b>	18:10,11	40:24 49:13	
44:10,11,18	19:18 21:6,	52:21,22	
91:21 107:3	13,22 22:12,	53:7 58:23	
121:20	13,16,23	59:2,6,8,12,	
139:18	40:11 46:20	14 61:21,23	
<b>visionary</b>	51:2,11,24	62:5,9 68:20	
65:6	55:19 58:5	76:13 80:12	
<b>volume</b>	63:8 64:20	82:23 83:6	
61:19 64:20	67:12 69:24	86:14	
68:20	70:7 77:9	<b>worked</b>	
124:16	84:23 89:10,	21:17,19,22	
<b>voted</b> 144:2	19 90:2 94:3	29:3 30:4,	
	96:14 98:9	14,22 34:5,	
	100:23,24	18,21,22	
	103:3 104:8	42:14 70:10	
	108:1,20	131:9	
	112:4 116:6	<b>working</b> 30:2	
	118:16	31:18,19	
	128:13	40:16 59:15	
	132:16	69:17 70:9	
	133:6,9	94:22	
	134:24	<b>workload</b>	
	139:14	56:9	
	140:10	<b>world</b> 122:3	
<b>W-2</b> 33:3	<b>whatsoever</b>	<b>wrapped</b>	
<b>waived</b>	21:5 115:8	139:8	
144:17	<b>win</b> 131:24	<b>write</b> 33:2,5	
<b>wanted</b> 6:5	132:11	103:9	
<b>wanting</b>	<b>wishing</b>	<b>writing</b> 25:22	
27:16	135:17,22	87:4,6	
<b>Watson</b>	136:1	<b>written</b>	
15:16,18	<b>wondering</b>	138:23	
<b>ways</b> 94:6	81:16,19	<b>wrong</b> 25:7,	
<b>website</b>	<b>WOOLEY</b>	8,9 121:4,7,	
116:18	5:5,16,20	8,9 130:7,8,	
<b>Weinberg</b>	6:2,5,9,13,	15 131:10	
18:10 19:19	15 10:11,15,	132:5 142:3	
21:6,14,22	23 11:7		
22:12,14,16,	12:12,22		
	13:1,3 15:7		



Consumer Financial  
Protection Bureau

**CONFIDENTIAL SETTLEMENT COMMUNICATION UNDER  
FED. R. EVID. 408 AND LOCAL RULE 16.6(h)**

1700 G Street NW, Washington, DC 20552

February 28, 2018

**Via Email**

James Wooley  
Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114-1190

Re: **Consumer Financial Protection Bureau v. Weltman, Weinberg & Reis  
Co., L.P.A. (N.D. Ohio, Case No. 1:17-cv-00817-DCN)**

Dear Mr. Wooley:

Pursuant to the Court's Order dated February 26, 2018, the Consumer Financial Protection Bureau ("Bureau") submits the following itemized damages and settlement demand to Defendant Weltman, Weinberg & Reis Co., L.P.A. ("Defendant").

**Damages Itemization**

If successful, by statute the Bureau can obtain, among other relief, costs, civil money penalties, disgorgement or compensation for unjust enrichment, and injunctive relief limiting the activities or functions of Defendant. *See* 12 U.S.C. § 5565(a)(2).

*Civil Money Penalties*

Any person that violates any provision of Federal consumer financial law (including the Consumer Financial Protection Act of 2010 and the Fair Debt Collection Practices Act) shall forfeit and pay a civil penalty. 12 U.S.C. § 5565(c)(1).

Civil money penalties at the first tier may not exceed \$5,639 for each day during which the violation continued. *See* 12 U.S.C. § 5565(c)(2)(A); 12 C.F.R. § 1083.1 (adjusting CFPA civil money penalties for inflation). Here, the violations continued from at least July 21, 2011 through December 31, 2017, and potentially longer if WWR continued the violative conduct at issue beyond the close of discovery. Accordingly, the maximum First Tier civil money penalties for that 2,356-day period is \$13,285,484.

*Disgorgement or Compensation for Unjust Enrichment*

The Bureau estimates that the approximate ill-gotten gross revenue of the Defendant for July 21, 2011 through December 31, 2017, is up to \$95,278,549. This amount includes the approximate gross revenue for Defendant's agency collections for the years 2016-2017 as well as an estimate of gross revenues attributable to Defendant's pre-legal collections activities for the years prior to that.

## Settlement Demand

For the purposes of the mediation scheduled for March 8, 2018, and in an attempt to settle all of the claims in this action, the Bureau demands civil money penalties of \$600,000.

The Bureau also demands injunctive relief as follows:

- (1) Defendant and its officers, agents, servants, employees, and attorneys who have actual notice of any stipulated judgment, whether acting directly or indirectly, may not violate sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531 and 5536, or sections 807(3) or 807(10) of the FDCPA, 15 U.S.C. § 1692e(3),(10); and
- (2) Defendant and its officers, agents, servants, employees, and attorneys who have actual notice of any stipulated judgment, whether acting directly or indirectly, in connection with the collection of any debt may not represent, or assist others in representing, expressly or impliedly that a communication is from an attorney, that an attorney was meaningfully involved in reviewing the consumer's account or had reached a professional judgment that making a collection attempt was warranted (including by sending demand letters or making collection calls identifying Defendant as a law firm) unless:
  - a. An attorney was meaningfully involved in reviewing the consumer's account and had reached a professional judgment that making a collection attempt was warranted; or
  - b. The representation clearly and prominently discloses that no attorney has reviewed the debt.

The Bureau believes this demand is appropriate because it addresses the conduct that violates the CFPA and the FDCPA, appropriately takes into account the mitigating factors under 12 U.S.C. § 5565(c)(3), and will enable the parties to avoid the expenditure of resources associated with trying this matter.

This demand is subject to the parties agreeing to a stipulated judgment that would be subject to approval by the Acting Director of the Bureau as well as the Court. *See* 12 U.S.C. § 5564(c).

Thank you for your attention to this matter and we look forward to WWR's response.

Sincerely,



Sarah Preis  
Enforcement Attorney

CC: **Rebecca G. Watson, CFPB (via email)**  
**Zol D. Rainey, CFPB (via email)**  
**Jehan Patterson (via email)**  
**Tracy K. Stratford, Jones Day (via email)**  
**Ryan Doringo, Jones Day (via email)**





violated Sections 807(3), 807(10 and 814(b)(6) for the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692e(3), (10), and 1692l(b)(6); and, Sections 1031(a), 1036(a)(1), 1054, and 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§5531(a), 5536((a)(1), 5564, and 5565, by “misrepresenting the level of attorney involvement in demand letters and calls to consumers. (ECF #1, ¶ 1, 2). Following discovery both parties moved for summary judgment. (ECF # 44, 45). Both of these motions were denied. (ECF #61).

Trial of this matter commenced on May 1, 2018, before an advisory jury, pursuant to Fed. R. Civ. Pro. 39(c)(1). Prior to the jury’s empanelment, the Plaintiff voluntarily dismissed Counts 4, 5 and 6, with prejudice, and withdrew its request for disgorgement. (ECF #79). This left Counts One through Three for trial. Count One alleged that Weltman’s demand letters “misrepresented that the letters were from attorneys and that attorneys were meaningfully involved, when in most cases the attorneys were not meaningfully involved in preparing and sending the letters” in violation of Sections 807(3) and 807 (1) of the FDCPA, 15 U.S.C. § 1692e(3), (10). Count Two alleged that the same letters violated Section 1036(a)(1)(A) of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for the same reason. Count Three alleges that this also constituted deceptive acts and practices in violation of Sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§5531(a)(1) and 5536(a)(1)(B).

At trial, the Plaintiff called three witnesses: (1) Ms. Eileen Bitterman; (2) Mr. David Tommer; and, (3) Dr. Ronald Goodstein, and submitted exhibits. Defendant called two additional witnesses: (1) Chuck Pona; and, (2) Scott Weltman. On May 4, 2018, after four days of trial, the jury submitted their answers to the following interrogatories:



1. Do you find that the Plaintiff proved by a preponderance of the evidence that the initial demand letter sent by Weltman contained any false, deceptive, or misleading representations or means in connection with the collection of a debt? YES (Enter "yes" or "no").

If your answer to Interrogatory Number 1 is yes, continue to Interrogatory Number 2. If your answer is no, your deliberations are finished and you should not answer any further questions.

2. Do you find that the Plaintiff proved by a preponderance of the evidence that Weltman's lawyers were not meaningfully involved in the debt collection process. NO (Enter "yes" or "no").

If your answer to Interrogatory Number 2 is yes, continue to Interrogatory 3. IF your answer is no, your deliberations are finished and you should not answer any further questions.

After the advisory jury returned these findings, the parties were given a final opportunity to present their proposed findings of fact and conclusions of law.

The Court is not bound by the advisory jury's determination, but finds that their answer to Interrogatory Number 2 comports fully with the weight of the evidence presented at trial. The jury's answer to Interrogatory Number 1, however, does not correctly reconcile the evidence presented with the Court's instructions or the standard of proof required of the Plaintiff in this case. Although there was some evidence presented in support of the idea that the letters could be misleading to certain consumers, that evidence came exclusively from an expert that the Court does not find credible. Further, the Complaint relies solely on the assertion that the demand letters were misleading because they were sent from a law firm, and lawyers were not meaningfully involved in the debt collection process. The jury's finding, adopted by this Court,

that lawyers were meaningfully involved disproves the Plaintiff's sole theory of liability, and precludes recovery under the Complaint.

### ANALYSIS

#### 1. Applicable law

Neither party disputes that Weltman is a debt collector to whom the FDCPA and the CFPA apply, or that Weltman's demand letters were sent in connection with the collection or attempt to collect debts. The question at issue in this case is whether Weltman's debt collection demand letters violated the FDCPA or the CFPA. The FDCPA and the CFPA were violated if the letters used "any false, deceptive, or misleading representation or means in connection with the collection of any debt," or if they falsely represent or imply that communication is "from an attorney." 15 U.S.C. §1692e and 1692e(3). A demand letter is not false or misleading for using letterhead that "accurately describes the relevant legal entities," had an accurate and truthful signature block, and includes a "conspicuous notation that the letter is sent by a debt collector." *Sheriff v. Gillie*, 136 S. Ct. 1594 (2016).

The letters are alleged to have violated the FDCPA and the CFPA not because they contain false statements, but because they allegedly falsely imply that an attorney was meaningfully involved in the collection of the debts to which the letters relate. According to case law from various circuits, a demand letter indicating that it comes "from an attorney" can be found to be deceptive even if literally true, if the letter is not the product of an attorney's professional judgment, or if the attorney was not sufficiently involved in the collection of the debt or the drafting of the letter. *See, e.g., Nielsen v. Dickerson*, 307 F.3d 623 (7<sup>th</sup> Cir. 2002);

*Leshner v. Law Offices of Mitchell N. Kay, P.C.*, 650 F.3d 993, 1003 (3d Cir. 2011); *Greco v. Trauner, Cohen & Thomas, LLP*, 412 F.3d 360, 364 (2d Cir. 2005); *Consumer Fin. Prot. Bureau v. Frederick J. Hanna & Assoc., P.C.*, 114 F. Supp. 3d 1342, 1363 (N.D. Ga. 2015). In order to establish any of the violations alleged in the Complaint, the Plaintiff must show, by a preponderance of the evidence, that:

1. The least sophisticated debtor would believe, based on the initial demand letter, that Weltman was acting as an attorney in the debt collection process;<sup>1</sup> and,
2. Weltman's lawyers were not meaningfully involved in the debt collection process; and,
3. The representation that Weltman was acting as an attorney in the debt collection process was material.

The least sophisticated debtor is to be considered uninformed, naive, and trusting, but also possessing reasonable intelligence, and capable of making basic logical deductions and inferences. *Sanford v. Portfolio Recovery Assocs., LLC*, NO. 12-11526, 2013 WL 3798285, at \*12 (E.D. Mich. July 22, 2013)(citations omitted). It is not a requirement that the Defendant intended to mislead or deceive a consumer. This standard is "lower than simply examining whether particular language would deceive or mislead a reasonable debtor," *Smith v. Computer Credit, Inc.*, 167 F.3d 1052, 1054 (6<sup>th</sup> Cir. 1999), but does not give credence to "frivolous

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<sup>1</sup> A violation of CFPA's prohibition against using deceptive acts or practices uses a "reasonable person" standard rather than a "least sophisticated consumer" standard. The elements otherwise mirror those in the FDCPA. Therefore, if an act or omission does not violate the FDCPA's provisions, it will not violate the less stringent standard under the CFPA. *See, e.g., Consumer Fin. Prot. Bureau v. Gordon*, 819 F.3d 1179, 1192 (9<sup>th</sup> Cir. 2016); *FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611 (6<sup>th</sup> Cir. 2014).

misinterpretations or nonsensical interpretations. . . .” *Miller v. Javitch, Block & Rathbone*, 561 F.3d 588, 592 (6<sup>th</sup> Cir. 2009).

There is no specific test for what constitutes “meaningfully involved.” Cases have held that an attorney has sufficient personal involvement in the process if one reviews the file of the individual consumer to whom the letter was sent and/or exercises some “professional judgment as to the delinquency and validity of any individual debt” before the letter is issued. *See, e.g. Consumer Financial Protection Bureau v. Frederick J. Hanna & Assoc., P.C.*, 114 F.Supp. 3d 1342, 1363 (N.D. Ga. 2015); *Avila v. Rubin*, 84 F.3d 222, 229 (7<sup>th</sup> Cir. 1996); *Leshner v. Law Offices of Mitchell N. Kay, P.C.*, 650 F.3d 993, 999 (3d Cir. 2011). This is not necessarily a set requirement for meaningful involvement, however, as this is a question that must be determined based on the individual facts and totality of the circumstances in each case. *See, Miller v. Wolpoff & Abramson, LLP*, 321 F.3d 292, 304 (2d cir. 2003).

In order for a representation to be material, it must be likely to influence the least sophisticated debtor’s decision on whether or not to pay a debt. *See, Wallace v. Washington Mut. Bank, F.A.*, 683 F.3d 323, 326-27 (6<sup>th</sup> Cir. 2012). Creating a legitimate fear of the actual consequences of owing a valid debt is not misleading or deceptive under the act.

## 2. Stipulated Facts<sup>2</sup>

The parties stipulated to the following facts:

1. The Bureau (Plaintiff) is an independent agency of the United States that enforces and

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<sup>2</sup> The stipulated facts were taken from the Parties’ Stipulation of Facts (ECF #66), and from stipulations agreed to by the parties at trial, which were communicated to the Jury through the Court’s jury instructions. (ECF #77 at 80-81).

issues regulations pursuant to federal consumer financial law, including the Fair Debt Collection Practices Act and the Consumer Financial Protection Act of 2010.

2. Weltman (Defendant) is an Ohio professional corporation organized under the laws of Ohio that operates as a law firm.

3. Weltman has maintained a website, [www.weltman.com](http://www.weltman.com), from at least July 21<sup>st</sup>, 2011, to date.

4. Weltman is a debt collector under the Fair Debt Collection Practices Act and a covered person under the Consumer Financial Protection Act of 2010.

### 3. Evidence at Trial

Eileen Bitterman, the compliance officer and a shareholder of Weltman, is a lawyer licensed to practice law in Ohio. She is responsible for creating policies and overseeing training. (ECF #75 at 44). She testified as follows.

Weltman is owned by shareholders, all of whom are attorneys. (ECF #75 at 130). Weltman is hired by creditors to collect a variety of types of consumer debt. (ECF #75 at 44-45). During the relevant time period, Weltman had up to 7,000 creditor clients. (ECF #75 at 98). Weltman has a consumer collection unit that is staffed by non-attorneys but is overseen by an attorney who is the business unit leader, and collections support attorneys. (ECF #75 at 48). They are paid on a contingency fee basis, based on the amount of money they are able to collect from consumers. (ECF #76 at 94, 107).

In an attempt to collect on consumer debts, Weltman sends out letters that are generated from attorney-approved templates. (ECF #75 at 50-51). One of these templates is an initial

demand letter that includes the name of Weltman, Weinberg & Reis Co., L.P.A. and the words “Attorneys at Law,” at the top of the letter. (ECF #75 at 57, 86). These letters are signed by Weltman, and are on Weltman letterhead. (ECF #75 at 57-58, 80, 86). Ms. Bitterman testified that 4.2 million demand letters, from these templates, were sent to consumers between July 21, 2011 and October 31, 2017. (ECF #75 at 91). She also testified that some templates for follow-up letters also state that “this law firm is a debt collector attempting to collect this debt for our client,” or other references indicating that Weltman is a law firm, which are a truthful statements. (ECF #75 at 64-66).

Weltman does not contend that they are practicing law when they send demand letters. (ECF #76 at 96). They do not require an attorney to review every individual consumer account before a demand letter is sent. (ECF #75 at 98-99). Weltman attorneys do not form a professional judgment about the validity of a debt or the appropriateness of sending a demand letter before the letters are sent. (ECF #75 at 99). Weltman receives information from creditor clients about consumer accounts and data is loaded into Weltman’s computer system. (ECF #75 at 73-74). The data is then “scrubbed.” Scrubbing is a process by which outside vendors use criteria established by Weltman’s lawyers to flag consumers who should not be sent collection letters. (ECF #75 at 102-103).

Some of Weltman’s training manuals indicate that “because WWR is a law firm, a consumer may have the incorrect assumption that a legal action will be automatically filed against them” and that “certain consumers may have prioritized paying the debt because the law firm is in a better position to file suit than a collection agency.” (ECF #75 at 108, 112). If a client wants advice on whether to pursue litigation, Weltman has non-attorney audit employees

review the consumer's information to see if the account is eligible. These employees follow policies and procedures provided to them by Weltman attorneys. (ECF #75 at 114). If an account is flagged as not eligible for litigation, an attorney could then review the file, and before a lawsuit can be filed, an attorney must review the consumer's account. (ECF #75 at 114).

Weltman has attorneys licensed in only seven states, but does nationwide debt collection. If an account is elevated to litigation in a state where no Weltman attorney is licensed, Weltman may refer the case to a different law firm, who would then have to send another demand letter informing the consumer that the firm is acting as a debt collector. (ECF #75 at 115-116).

Weltman has a formal compliance program that is developed and approved by attorneys, including the shareholders and the Board. (ECF #130-131). It has hundreds of policies and procedures for delegating, educating, and supervising staff, for auditing compliance across the business units and ensuring compliance with client processes and procedures as well as Weltman's processes and procedures. (ECF #75 at 127-129, 132-134, 180; ECF #76 at 10-36). These are drafted by attorney shareholders, go through several layers of attorney review, and are eventually approved by attorney Board members. (ECF #75 at 128-130, 132, 182-183; ECF #76 at 10-36). They are also enforced by attorneys. (ECF #76 at 11-35). Attorneys are involved in bringing clients to the firm, drafting client contracts, checking their reputation, interacting with the client, and discussing the available data and documentation, the history of their portfolio and types of accounts, which consumers are represented by attorneys, any asset reviews that have occurred, and arbitration or bankruptcy information, reviewing the clients procedures and policies, and evaluating whether the client is a trustworthy and legally compliant creditor. (ECF #75 at 149-150, 167-169; ECF #76 at 72-73). Attorneys assess issues that may arise with

statutes of limitations, arbitration clauses, choice of law issues, how interest is calculated, last date of payment, deceased debtors and other legal questions. (ECF # 153-54; ECF #76 at 8-9)). Many of these issues must be addressed by an attorney before a demand letter ever goes out. (ECF #75 at 157). Using their legal knowledge the attorneys create procedures for analysis that can be taught to non-attorney employees or programmed for automated implementation or programming of the “scrubbing” criteria. (ECF #75 at 157-159).

Ms. Bitterman also testified that these same procedures used in the processes complained of in this lawsuit, including electronic communication and automated scrubbing processes were previously approved by the Ohio Attorney General and used by the firm when working as special counsel for the collection of debts owed to the State of Ohio. (ECF #76 at 43-44, 58-59). The evidence showed that Richard Cordray, who was the head of Plaintiff, CFPB when this lawsuit was filed, was the Ohio Attorney General when Defendant Weltman was hired to collect those state debts. When collecting for the State of Ohio, Attorney General Cordray, the same person ultimately responsible for the filing of this lawsuit, directed Weltman to use the Ohio Attorney General’s letterhead on Weltman’s demand letters for the state. He also required Weltman to state in the letter that they were “special counsel,” and to use the words “Attorney at Law” and “collections enforcement special counsel” on the demand letter. (ECF #76 at 52-54).

Ms. Bitterman testified that as a Weltman attorney, in charge of compliance, having talked to debtors and having access to the complaint log, she is not aware of any complaints given directly to the firm stating that their letters were confusing due to their identification as a law firm. (ECF #76 at 62-64). She also stated that she is not aware of any holding from any court finding that Weltman had misled a consumer. (ECF #76 at 89, 105). She acknowledged,



however, being aware of multiple lawsuits, in both state and federal courts, filed against the firm alleging that their demand letters were misleading for implying that there is meaningful attorney involvement in the demand letters. (ECF #76 at 86-89). She testified she is also unaware of any person who prioritized payment, or paid a debt not owed, because the demand letters came from a law firm, rather than identifying simply as a debt collector. (ECF #76 at 63-64). Weltman provided “over a million recorded consumer phone calls,” none of which were cited by the Plaintiff as evidence of confusion, materiality, or harm stemming from the alleged misrepresentation in this case. (ECF #76 at 67-68).

Mr. Tommer, the director of consumer collections and a non-attorney, also testified at trial. He testified that he works with law firm attorneys to develop workflow strategies for the collection of consumer debts. (ECF #76 at 114-115). He testified that the supervisors in the “agency unit,” which falls under the consumer collection business unit, are not attorneys. (ECF #76 at 117-119). He reports to Chuck Pona, who is an attorney, and who oversees the consumer collection unit. (ECF #76 at 139). He also testified that no attorneys work “directly under “ the agency collections group. (ECF # 76 at 120). When accounts are taken in by Weltman, Weltman load the data, scrub the electronic data, and then if the files survive the scrub, and there is a valid address, a demand letter is generated and sent within two to three days from intake. (ECF #76 at 129-130). This entire process is automated. (ECF #76 at 130). Attorneys develop the scrub process, but Mr. Tommer was unaware of any other role attorneys would have in the scrub process. (ECF #76 at 130).

When initial demand letters don’t result in payment, clients may reclaim the files or the files may go to the audit department to be assessed for additional actions, including the filing of a

suit. (ECF #76 at 133). The suit audit department gathers information to give to the attorneys to make this determination. (ECF #76 at 133-134).

Mr. Tommer testified that attorneys are meaningfully involved in a debt collection before the consumer is mailed an initial demand letter. (ECF #76 at 141). They run the firm, and every day he and his team interact with or take direction from an attorney while doing their jobs. (ECF #76 at 141-142). The demand letters were written by Eileen Bitterman, an attorney, and her team. (ECF #76 at 142). Attorneys make the decision whether to take on a client, and perform the reviews of potential clients' documents, legal terms and conditions relating to the debt. (ECF #76 at 143-144). Attorneys are involved at the onset of the scrubbing process for the high volume clients. (ECF #76 at 144). Attorneys also look at and oversee any alterations and changes in internal processes, implementation of any new letter, and procedures and policies utilized on a day to day basis, scripting for collectors, and training materials. (ECF #76 at 146-147).

The Plaintiff also called Dr. Ronald Goldstein, an associate marketing professor at the McDonough School of Business at Georgetown University, who was asked to assess whether consumers believe a lawyer is involved in reviewing an account, and the decision to send demand letters. (ECF #76 at 154-155). He was offered and accepted as an expert witness. (ECF #76 at 162).

Dr. Goldstein testified that he gave a field study survey to 634 people from the "relevant population," defined as "people who had used their credit card in the last five years for personal or household reasons" or "had borrowed money in the last five years for personal, household reasons," but not from a friend or family. (ECF #76 at 177-180). He stated that he did not want

to survey anyone who actually received Weltman's demand letter, any lawyers, or any marketing researchers because they would be biased, but he did not take any action to determine if anyone in the survey group had actually ever received a Weltman letter. (ECF #76 at 178-180, 195-196). He used three groups. One was shown the Weltman demand letter, and one was given a letter that purported to be from Weltman, Weinberg & Reis Ltd. , used the phrase "collection services" rather than "attorneys at law." The third group used the name WW&R, rather than "Weltman, Weinberg & Reis, Ltd. (ECF #76 at 182 -183). Dr. Goldstein then asked a series of questions which led him to the finding that 40% of the first group believed a lawyer reviewed the account, 20% of the second group believed a lawyer reviewed the account, and 13% of the third group believed that a lawyer reviewed the account. (ECF #76 at 191-192). No definition was provided for what it means to "review the account." (ECF #76 at 202). He also tested the question "who sent the letter" and found that 50% of the people with the original letter believed it was sent by a law firm or lawyer. He himself testified that simply the use of the name Weltman, Weinberg & Reis, without any reference to a legal indicator, such as L.P.A. or "attorney at law," was perceived as sounding like a law firm. (ECF #76 at 195).

Dr. Goldstein also testified that while he designed the survey, he did not conduct the initial interviews; did not recruit the people who were surveyed; did not design the technological programming; delegated work to a research team; and, hired graphic designers to make changes to the letters. Nonetheless he testified that he was "meaningfully involved" in conducting the survey because all of the other people were working under his guidance and supervision. (ECF #76 at 199).

Defendant called Charles Pona to testify. He is an attorney who is currently managing the

consumer collections department at Weltman, is a shareholder in the firm, and is on the management committee. (ECF #76 at 216-217). There are currently 20-25 attorneys in the consumer collections department. (ECF #76 at 222). The attorneys are continuously available to any non-attorney members of the unit to answer questions and give advice. They hold weekly meetings with the managers, and invite people from the client services area, human resources and IT staff to participate. (ECF #76 at 224). All attorneys are involved in compliance issues, but about 8-10 years ago a full time compliance department was started to focus on compliance with state and federal laws. (ECF #76 at 224). All written procedures and policies are sent to the attorneys on the management committee by a steering committee which includes compliance members. (ECF #76 at 225). Mr. Pona also testified that the firm has never been found to have violated any law related to debt collection practices, and that he is not aware of any ethical violations that have ever been found against the firm in any state. (ECF #76 at 227).

Mr. Pona testified that attorneys are involved in client acquisition and due diligence; IT requirements; contracting, including obtaining warranties as to the validity of the debts put forth for collection; sampling documentation and terms from collection accounts, including calculation of interest rates, analyzing default provisions, reviewing statutes of limitations, and determining when arbitration is required; reviewing for responsible parties; debtor asset review; permissible fees; develop criteria for scrubs that weed out non-collectible accounts; and, drafting the demand letters. (ECF #76 at 230-256).

Mr. Scott Weltman was also called by the defense. He is also an attorney who is currently the managing shareholder of the Weltman firm. (ECF #77 at 28). There are currently 25 attorney shareholders in the firm, and approximately 60 attorneys overall. (ECF #77 at 34).

At times the firm has had up to 120-140 attorneys at a time. (ECF #77 at 34). Mr. Weltman testified that the firm has never been found to have violated any law, and that none of the firm's lawyers have ever been found to have committed ethical violations. (ECF #77 at 39). When working for the Ohio Attorney General the firm was chosen and continuously audited and the state never had a complaint with how they managed their debt collection practices. (ECF #77 at 40). He also testified that Ms. Bitterman and Mr. Pona correctly testified as to the involvement that attorneys have in the debt collection processes at Weltman. (ECF #77 at 41-42). Mr. Weltman testified that everything in the demand letter is truthful. (ECF #77 at 62).

#### FINDINGS OF FACT/CONCLUSIONS OF LAW

The Court makes the following findings of fact and conclusions of law based upon the evidence presented at trial:

1. This Court has subject-matter jurisdiction over this matter under 12 U.S.C. §5565(a)(1), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.
2. Weltman regularly collects or attempts to collect consumer debts and, therefore, is a "debt collector" as defined under the FDCPA.
3. Weltman collects debt related to consumer credit, and is, therefore, a "covered person" as defined under the CFPA.
4. Weltman is a legal professional association operating as a law firm, with a fully integrated collection agency. The firm is owned exclusively by attorney shareholders and the Board of Directors consists of five such shareholders.
5. Weltman also employs non-attorneys in the debt collection units.

6. Weltman sends out letters that are generated from attorney created and attorney approved templates. One of these templates is an initial demand letter printed on law firm letterhead, with the name of the firm appearing in all caps and in bold at the top with "ATTORNEYS AT LAW" printed directly beneath. "Weltman, Weinberg & Reis Co., L.P.A." is listed as the signatory on these letters.

7. The demand letters accurately describe the identity and legal description of the entity sending the letter. As such, it cannot be fairly described as false or misleading simply for correctly identifying Weltman as a law firm, and as the signatory.

8. The initial demand letter advises the putative debtor (1) that the debt has been placed with Weltman for collection and (2) that the consumer has specific rights under the FDCPA. These representations are both truthful.

9. The demand letter is sent on Weltman's letterhead, and accurately conveys the fact that Weltman is a law firm that has been retained to collect the putative debt. The letter does not state that an attorney has reviewed the particular circumstances of the account, does not mention any potential legal action, and is not signed by an attorney.

10. The demand letter template, used to generate the demand letters sent by Weltman reads as follows:

Please be advised that the above referenced account has been placed with us to collect the outstanding balance due and owing on this account to the current creditor referenced above. As of the date of this letter you owe the amount listed above. Therefore, it is important that you contact us at [phone number] to discuss an appropriate resolution for this matter.

This communication is from a debt collector attempting to collect this debt for the current creditor and any information obtained will be used for that purpose. Unless you dispute the validity of this debt, or any portion

thereof, within thirty (30) days after receipt of this letter, we will assume the debt is valid. If you notify us in writing within the thirty (30) day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or a copy of a judgment and a copy of such verification or judgment will be mailed to you. If you request in writing within the thirty (30) day period, we will provide you with the name and address of the original creditor if different from the current creditor.

Thank you for your attention to this matter.

Sincerely,

Weltman, Weinberg & Reis Co., L.P.A.

11. Most of the content of the letter follows the language of the FDCPA. The first two sentences provide the information required by 15 U.S.C. §1692g(a)(1) and (2). The disclosure in the next paragraph that the communication is from a debt collector is nearly identical to the language of 15 U.S.C. §1692e(11), and the rest of that paragraph contains the exact language required by 15 U.S.C. §1692g(a)(3)-(5).

12. Weltman is not practicing law when they send demand letters.

13. Weltman's demand letters can be interpreted to imply that an attorney is "meaningfully involved" in the debt collection process.

14. Weltman does not require an attorney to review every individual consumer account before a demand letter is sent, and Weltman attorneys do not form a professional judgment about the validity of a debt or the appropriateness of sending a demand letter before the letters are sent.

15. Weltman obtains information from creditor clients about consumer accounts, and data is loaded into Weltman's computer system. Attorneys are involved in bringing clients to the firm, drafting client contracts, checking their reputation, interacting with the client, and

discussing the available data and documentation, the history of their portfolio and types accounts, which consumers are represented by attorneys, any asset reviews that have occurred, and arbitration or bankruptcy information, reviewing the clients procedures and policies, and evaluating whether the client is a trustworthy and legally compliant creditor. This takes place before demand letters are sent.

16. Attorneys obtain warranties as to the validity of the debts put forth for collection; sampling documentation and terms from collection accounts, including calculation of interest rates, analyzing default provisions, reviewing statutes of limitations, and determining when arbitration is required; reviewing for responsible parties; debtor asset review; and the validity of fees.

17. The data provided by Weltman's clients is "scrubbed." Scrubbing is a process by which outside vendors use criteria established by Weltman's lawyers to flag consumers who should not be sent collection letters. Attorneys, using their legal knowledge create procedures and criteria for analysis that can be taught to non-attorney employees or programmed for automated implementation or programming of the "scrubbing" criteria. This takes place before demand letters are sent.

18. Weltman has a formal compliance program that is developed and approved by attorneys, including the shareholders and the Board.

19. Weltman has hundreds of policies and procedures for collecting debts, as well as educating, and supervising staff.

20. Weltman's policies and procedures are drafted by attorney shareholders, go through several layers of attorney review, and are eventually approved by attorney Board members. They



are also enforced by attorneys.

21. Weltman conducts routine audits for compliance across the business units and ensures compliance with client's processes and procedures as well as Weltman's internal processes and procedures.

22. Attorneys assess issues that may arise with statutes of limitations, arbitration clauses, choice of law issues, how interest is calculated, last date of payment, deceased debtors and other legal questions. Many of these issues must be addressed by an attorney before a demand letter is sent.

23. Attorneys draft the demand letter templates, and they are approved by the attorneys in Weltman's Compliance Audit Department.

24. Attorneys and non-attorney staff work together on a daily basis, and interact in weekly meetings. Weltman attorneys oversee all departments and are responsible for the training and oversight of all non-attorney staff.

25. Weltman reviews cases for litigation and litigates collection actions in the states where its attorneys are licensed.

26. There has never been a finding in any jurisdiction that Weltman's letters or any other of its statements contain falsehoods or misrepresentations.

27. Weltman collected debts for the State of Ohio using substantially similar demand letters to the ones at issue in this case, and following the same processes and procedures it follows for all other debt collection clients. The Ohio Attorney General, Richard Cordray, approved of these letters and with full knowledge of their content approved the use of these letters for the State of Ohio's collection efforts.

28. Despite requiring similar indications and disclosures of attorney involvement in the debt collection letters used on behalf of the State of Ohio, Richard Cordray, when he became head of the CFPB, authorized this lawsuit against Weltman for truthfully identifying themselves as a lawfirm and as attorneys, and for signing their demand letters with the firm name.

29. Plaintiff offered no evidence to show that any consumer was harmed by Weltman's practice of identifying itself as a law firm in their demand letters.

30. Plaintiff offered no evidence to show that any consumer did or would be inclined to prioritize payment for the debts referenced in Weltman's demand letters over any other debt they may have owed.

31. Plaintiff offered no evidence to show that any consumer did or would be inclined to pay the amount sought in Weltman's demand letters even if they did not owe the debt.

32. Plaintiff's expert witness did not present credible evidence from which the fact finder could infer that any consumer's were misled by Weltman's demand letter.

33. The expert testified that his research showed that 40% of the people who read the letter would think that a lawyer had "reviewed" the account.

34. His testimony also showed, however, that 20% of people thought a lawyer "reviewed" the account even when no mention of a law firm, or attorney was made in the letter.

35. His survey did not ask what a consumer meant when they said a lawyer "reviewed" the account; did not ask whether a consumer could have been biased based on collection actions they may have experienced or other criteria; did not ask whether consumers would have felt misled or confused if they knew an attorney was involved in the debt collection process to the same extent that Weltman attorneys were shown to have been involved; and, did not ask whether

a perceived attorney review would have influenced their decisions about whether and when to pay the debt reference in the letter.

36. The FDCPA prohibits a debt collector from using “any false, deceptive, or misleading representation or means in connection with the collection of any debt.” 15 U.S.C. §1692e. This includes using any “false representation or deceptive means to collect or attempt to collect any debt,” and making “false representation or implication that . . . any communication is from an attorney.” 15 U.S.C. § 1692e(3), (10).

37. This determination must be made from the point of view of the “least sophisticated consumer.” *Kistner v. Law Offices of Michael P. Margalefsky LLC*, 518 F.3d 433, 438 (6<sup>th</sup> Cir. 2008).

38. The CFPA prohibits any violation of the FDCPA, as well as “any unfair, deceptive, or abusive practice” in connection with consumer products or services. 12 U.S.C. §§ 5481(12)(H), (14); 5531(a); 5536(a)(1)(A), (B). The standard under the CFPA is the same as the standard under the FDCPA, but is viewed from the perspective of reasonable consumers.

39. If there is no violation under the FDCPA in this case, there can be no violation under the CFPA.

40. Courts have held that when an attorney signs a letter on law firm letterhead, the least sophisticated consumer may believe that the attorney was involved in the debt collection process. Thus, they have concluded that if the attorney is not meaningfully involved in that process, the letter may be deceptive or misleading under the FDCPA.

41. Weltman’s demand letters were truthful on their face.

42. Weltman attorneys were meaningfully and substantially involved in the debt

collection process both before and after the issuance of the demand letters.

43. Plaintiff did not prove by a preponderance of the evidence that Weltman's letters were false, misleading, or deceptive.

44. A misleading representation is only actionable under the FDCPA if it is material. *See FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 630-31 (6<sup>th</sup> Cir. 2014).

45. A representation is material under the FDCPA if it would influence the least sophisticated consumer's decision on whether and when to pay a debt. *See, e.g., Boucher v. Fin. Sys. Of Green Bay, Inc.*, 880 F.3d 362, 366 (7<sup>th</sup> Cir. 2018). Under the CFPA, a false representation is material if it is likely to influence a reasonable consumer to pay a debt. *See Fanning v. F.T.C.*, 821 F.3d 164, 173 (1<sup>st</sup> Cir. 2016).

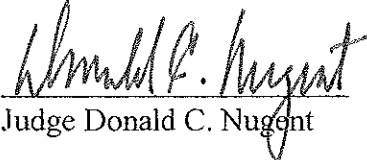
46. Even if Weltman's letters had misrepresented the level of attorney involvement, Plaintiff could not prevail because there is no evidence that any consumer's decision on when and whether to pay a debt was influenced by the inclusion of the attorney identifiers in Weltman's demand letters.

47. In light of the above factual findings and conclusions of law, the Court finds that Plaintiff has failed to prove its case by a preponderance of the evidence.

### CONCLUSION

For the foregoing reasons this Court finds that Plaintiff failed to prove by a preponderance of the evidence its claims in Counts One, Two, and Three of the Complaint. Therefore, judgment is entered in favor of the Defendant, Weltman, Weinberg & Reis Co., L.P.A. and against Plaintiff, Consumer Financial Protection Bureau, on all of its remaining

claims. All costs are assessed to the Plaintiff. This case is hereby terminated. IT IS SO ORDERED.

  
\_\_\_\_\_  
Judge Donald C. Nugent

DATED: July 25, 2018

**From:** Patterson, Jehan (CFPB) <[Jehan.Patterson@cfpb.gov](mailto:Jehan.Patterson@cfpb.gov)>

**Sent:** Monday, November 26, 2018 11:34 AM

**To:** Wooley, James R. <[jrwooley@JonesDay.com](mailto:jrwooley@JonesDay.com)>; Stratford, Tracy K. <[tkstratford@JonesDay.com](mailto:tkstratford@JonesDay.com)>; Doringo, Ryan A. <[radoringo@jonesday.com](mailto:radoringo@jonesday.com)>

**Cc:** Preis, Sarah (CFPB) <[Sarah.Preis@cfpb.gov](mailto:Sarah.Preis@cfpb.gov)>; Rainey, Zol (CFPB) <[Zol.Rainey@cfpb.gov](mailto:Zol.Rainey@cfpb.gov)>; Watson, Rebeccah (CFPB) <[Rebeccah.Watson@cfpb.gov](mailto:Rebeccah.Watson@cfpb.gov)>

**Subject:** CFPB v. WWR

Jim, Tracy, and Ryan,

So that we may comply with the Court's order granting in part and denying in part WWR's bill of costs (ECF 97), please provide the following information for your client:

Full name

Addressee (if applicable)

Address

Tax Identification Number

Please also advise whether WWR will accept payment of taxed costs by credit card.

Thank you.

Best,  
Jehan

Jehan Patterson  
Enforcement Attorney  
Bureau of Consumer Financial Protection  
Office: (202) 435-7264  
Cell: (202) 578-1384  
[consumerfinance.gov](http://consumerfinance.gov)

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CONSUMER FINANCIAL PROTECTION BUREAU  
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JERRY J SALINAS

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*Att. Officer of Weltman, Weinberg & Reis Co., L.P.A.*

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*Jerry Salinas*