

1 SUPERIOR COURT OF WASHINGTON, KING COUNTY

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3 MARTHA SCUDDER, a single )  
individual, )

4

)  
Plaintiff, )

5

) No.  
vs. ) 04-2-04721-8SEA

6

)  
LARRY GALLOVA, a married )  
individual, )

7

)  
Defendant. )

8

9

DEPOSITION UPON ORAL EXAMINATION OF

10

MARTHA JEAN SCUDDER

11

VOLUME 1

12

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9:52 A.M.

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JANUARY 12, 2005

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1524 ALASKAN WAY, SUITE 100

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SEATTLE, WASHINGTON

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REPORTED BY: CONNIE L. HOLTON, CCR No. 2975

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A P P E A R A N C E S

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FOR THE DEFENDANT:

10

MELISSA A. MacDOUGALL

11 Alexander & Bierman, P.S.  
12 4800 Aurora Avenue North  
13 Seattle, Washington 98103  
14  
15 ALSO PRESENT: LARRY GALLOWA  
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1 SEATTLE, WASHINGTON; JANUARY 12, 2004  
2 9:52 A.M.

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MARTHA JEAN SCUDDER,  
sworn as a witness by the Notary Public,  
testified as follows:

EXAMINATION

BY MS. MacDOUGALL:

Q. State your name, please.

A. Martha Jean Scudder.

Q. I am Melissa MacDougall, and we met a few moments ago. I represent Larry Gallowa in a lawsuit that you have filed against him. And I am going to be deposing you today, and asking you a series of questions. So thank you for coming in and thanks for your time.

Have you ever been deposed before?

A. Deposed?

Q. Have you ever been in a setting like this where an attorney was asking you questions with a court reporter?

A. Not asking me. No.

Q. But you have been in a deposition? You were at my client's deposition?

5

A. Yes.

Q. I am going to take care of some preliminary matters.

Could you state your residential address, please?

A. 10013 332nd Street South, in Roy, Washington 98558.

Q. Do you have a business address?

A. No.

Q. So this address on 332nd Street access both your residence and your business address; is that correct?

A. Correct.

Q. Any other addresses, P.O. Boxes, where you receive mail?

A. Yes. I have a post office box.

Q. What is that post office box?

A. 490 McKenna, M-C capital K-E-N-N-A, 98558.

Q. Is that in Roy as well?

A. Excuse me. This is 98580 for that street address.

22 Q. For the street address on 332nd Street the zip  
23 is 98550?  
24 A. Yes.  
25 Q. Great. Thank you. Thank you for clarifying

6

1 that.  
2 A. No. Wait a minute. I have to stop and think  
3 about which post office -- which zip. 98580 is the  
4 10013.  
5 Q. See, this was a test just to see how well you  
6 know where you live.  
7 Are you on any medications or suffering from  
8 any condition which might affect your testimony today  
9 or your ability to answer my questions?  
10 A. No.  
11 Q. Are you currently married?  
12 A. No.  
13 Q. Previously you were married, though; correct?  
14 A. Yes.  
15 Q. And what was the name of your husband?  
16 A. John.  
17 Q. And he has passed away; correct?  
18 A. Yes.  
19 Q. Can you give me the names of -- well, let me  
20 back up. Do you have children?  
21 A. Yes, I do.  
22 Q. How many children?  
23 A. I have three sons.  
24 Q. And what are their names?  
25 A. John Scudder Jr., Kenneth Roy Scudder, and

7

1 William Patrick Scudder.  
2 Q. You have some fine Irish names in there. Of  
3 your three sons, can you tell me where they all reside?  
4 A. John Scudder lives right behind me.  
5 Q. Okay.  
6 A. Kenneth Scudder lives in Puyallup. William  
7 Scudder lives in Fairbanks, Alaska.  
8 Q. Are any of those sons married?  
9 A. Kenneth is married and William is married.  
10 John is not.  
11 Q. What are the names of Kenneth and William's  
12 spouses?  
13 A. Kenneth's spouse is Shirley. And William's

14 spouse is Robin.

15 Q. Now, do you have a daughter-in-law Kathy  
16 Scudder?

17 A. She is not my daughter-in-law.

18 Q. They are not married?

19 A. They are not married. They just live  
20 together.

21 Q. I see. Is her name legally Scudder, to your  
22 knowledge?

23 A. Not to my knowledge, no.

24 Q. Do you know what her legal last name is?

25 A. Her legal name is Sarah Kathryn Phillips.

8

1 Q. And you said they live together. So she  
2 resides with John in the property behind you?

3 A. Yes.

4 Q. What is the name of your business currently?

5 A. Scudder's Parrot Depot.

6 Q. And how long has that been in operation under  
7 that name?

8 A. About two-and-a-half years.

9 Q. Is that a breeding and selling facility of  
10 birds?

11 A. Yes.

12 Q. I think at this point it would probably be  
13 very helpful to me to have you define some terms, so if  
14 I am saying breeding and -- can you just explain to me  
15 what your business does?

16 A. Our business is to propagate birds that are on  
17 the endangered species list that are sold only to other  
18 breeders.

19 Q. You sell only to other breeders?

20 A. Birds on the endangered species list.

21 Q. Do you sell any other birds?

22 A. Yes. I sell several other different kinds of  
23 birds. Raise and sell as pets and as future breeding  
24 stock.

25 Q. And are those sold to members of the public?

9

1 A. Some are.

2 Q. And are the others sold to breeders as well?

3 A. Yes.

4 Q. So if you hold yourself out as a business  
5 owner out to the public, you call yourself a breeder of

6 birds. So if I use that term, is that correct?

7 A. Correct.

8 Q. And you also sell birds. So if I refer to you  
9 as a seller of birds, no matter what type we are  
10 talking about, that would also be correct?

11 A. Correct.

12 Q. And if I refer to your business as an aviary,  
13 is that correct as well?

14 A. Yes.

15 Q. What is the formal definition, as you know it,  
16 of an aviary?

17 A. Aviary is the reproduction of species of  
18 birds. Ours happen to be 90 percent endangered  
19 species. And that's for the advancement of keeping the  
20 specie alive.

[*Editor's Note: Almost none of the birds which Mrs. Scudder breeds fall under the United States Endangered Species Act. Virtually all psittacines except budgerigars and cockatiels are listed on Appendices I or II of CITES but the majority of these are, in fact, not endangered. Even if one studies a specie defined as "vulnerable", that definition implies " a reduction of at least 20%...within the next ten years or three generations, whichever is the longer" ( IUCN Red List Categories, prepared by the IUCN Species Survival Commission, as approved by the 40<sup>th</sup> Meeting of the IUCN Council, Gland, Switzerland, 30 November, 1994). Therefore, Mrs. Scudder would have to breed her birds for at least another 50 yrs.(probably considerably more) before she could be said to be having any effect on "keeping the species alive."*]

21 Q. Now, you said Scudder's Parrot Depot has been  
22 in operation for two and a half --

23 A. No. Approximately two years.

24 Q. Approximately two years. Okay.

25 This is probably a good point to bring up, if

10

1 I ask you a question that you don't understand, please  
2 ask me to clarify it. I want to make sure when you  
3 answer my question I am getting the best testimony.

4 A. And that I understand.

5 Q. Exactly. Also if -- which was a good example  
6 with your address -- if you realize that you said  
7 something that you need to clarify, please let me know  
8 and I will give you that opportunity.

9 You also have the opportunity to go and talk  
10 to your counsel at any time or to take a break. I  
11 expect that we will be here most of the day, and I want  
12 to make sure that you feel free to take breaks as you  
13 need them. And we will break for lunch. Okay?

14 A. Yes.

15 Q. Let's see. How long have you been in the  
16 business of breeding and selling birds?  
17 A. Since 1970. My first breeding was about early  
18 '80.  
19 Q. That was on your own or with your husband?  
20 A. With my husband.  
21 Q. Did you have an aviary or breeding facility at  
22 that time as a business?  
23 A. Yes. No. It was a hobby at that time.  
24 Q. I see. When did you first become a formalized  
25 business of selling and breeding these birds?

11

1 A. Probably about 1985 or so.  
2 Q. What was the name of that business?  
3 A. It was M & J Enterprises.  
4 Q. M & J?  
5 A. Um-hmm.  
6 Q. Did the "J" stand for John?  
7 A. Yes.  
8 Q. What did the "M" stand for?  
9 A. Martha.  
10 Q. Oh, duh. Yeah. And how long was that  
11 business in operation?  
12 A. Up until two years ago.  
13 Q. Okay. And why did you change the name of it?  
14 A. After the allegations from Mr. Gallowa, we  
15 thought that a name change would be appropriate.  
16 Q. And by "we" do you mean -- well, who do you  
17 mean?  
18 A. Well, my sons. I conferred with my sons on  
19 that.  
20 Q. All three of your sons?  
21 A. No.  
22 Q. Which sons?  
23 A. Kenneth. Only Kenneth.  
24 Q. Does Kenneth help you out with any of the  
25 duties at the aviary currently?

12

1 A. No.  
2 Q. Did he ever help you out?  
3 A. Prior to his marriage, yes.  
4 Q. When was that?  
5 A. Oh, I think they have been married 26 years.  
6 Q. Goodness. Okay. You mentioned that you

7 thought it would be a good idea to change the name  
8 because of the allegations made by my client. This

12

9 might be a good time to set forth specifically which  
10 allegations you are referring to?

11 A. To the malicious unproven regarding the care  
12 of the birds.

13 Q. Can you tell me, as you sit here today, what  
14 you recall about what specifically was said that you  
15 allege my client said?

16 A. One of the things he said was that I was the  
17 Auschwitz of the bird world.

18 Q. Anything else?

19 A. Another was that -- I don't know how to say  
20 it. I don't know how to put it in the correct words.

21 Q. Well, just do the best you can. And if I  
22 don't understand it or I need to clarify, I will ask  
23 you some follow-up questions. Does that sound fair?

24 A. Yes.

25 Q. Okay.

13

1 A. He sent people to our facility that came on  
2 premise without permission. I found them walking  
3 amongst our breeder birds, which is absolutely illegal.  
4 I found them in my home.

5 When we were out feeding, they had entered my  
6 home. And there are no trespassing signs all over the  
7 place. There are also signs that say, "We refuse the  
8 right" -- "We have the right to refuse service to  
9 anyone."

10 Q. All right. Let me stop you there and break  
11 that down a little bit. By "we" and "our facility," do  
12 you mean you and your husband John?

13 A. Yes.

14 Q. Are you the sole owner of the business as it  
15 stands today?

16 A. I am sole proprietor, yes.

17 Q. Is your aviary a closed or an open facility?

18 A. It is a closed facility.

19 Q. And what do you mean by the statement, "they  
20 were going amongst the breeder birds, which is  
21 absolutely illegal"?

22 A. Because of the no trespassing signs.

23 Q. I see.

24 A. And we were out feeding, unaware that they had

25 come on the premises or in my home. And the front

14

1 doors are locked on my home. They had to come around  
2 to the side to get in.

3 Q. And when you say my client sent people, do you  
4 have any of the names?

5 A. One is Rene Ward.

6 Q. Any other names?

7 A. No. I don't have the names of the others.

8 Q. Do you know, as you sit here today, whether  
9 they were -- they or Rene Ward were associated with any  
10 agency, group, or organization?

11 A. I did not know who Rene was at that time.

12 Q. Do you now know?

13 A. Yes.

14 Q. And what organization or group do you  
15 understand that she is a part of?

16 A. She supports Mr. Gallowa.

17 Q. And what is your understanding of her support,  
18 how she supports him?

19 A. She goes out and -- the only way I can figure  
20 out that she found out where we were is from him.

21 Q. Is your aviary publicly listed anywhere?

22 A. No.

23 Q. Not online or any advertisement?

24 A. We were online and we advertise in Bird Talk  
25 magazine.

15

1 Q. Is your address listed in those?

2 A. No.

3 Q. Do you have a Washington State business  
4 license?

5 A. Yes, I do.

6 Q. Did you at that time, two years ago?

7 A. Yes.

8 Q. Is your business license current as of today?

9 A. Yes.

10 Q. Is the address of the business listed on the  
11 Washington State business license?

12 A. I honestly don't know where the physical  
13 address or the P.O. Box is. I honestly don't know. I  
14 just can't think of it.

15 Q. Do you know if members of the public, if they  
16 had your aviary name, if they were able -- do you know

17 if the Washington state -- let me start again with that  
18 question. That was going to be a bad one.

19 Do you know if members of the public are aware  
20 of your aviary name, if your business license is public  
21 records or public knowledge, if they could locate you  
22 through that?

23 A. I would imagine they could locate me through  
24 that. But my name is in Bird Talk magazine. But not  
25 the address. And --

16

1 Q. If the address -- I'm sorry, I didn't mean to  
2 interrupt you. Go ahead.

3 A. And with the Chamber of Commerce in Yelm,  
4 which we just joined, the address is not there also.

5 Q. What do you mean by Mr. Gallowa sent people to  
6 your facility? Do you know whether or not he directed  
7 them to it?

8 A. I don't know whether he directed them.

9 Q. Was he there?

10 A. He has never been there.

11 Q. How did you learn that Rene was sent,  
12 quote/unquote, by Mr. Gallowa?

13 A. Via his e-mails to other people.

14 Q. And I know there is a lot of information, and  
15 I know some time has passed, but do you know which time  
16 period of e-mails that you are referring to?

17 A. When all of this first started.

18 Q. When was that?

19 A. I honestly don't remember the date.

20 Q. Can you tell me the content of the e-mails  
21 that led you to believe that he was sending people out  
22 to your aviary?

23 A. They said so.

24 Q. The e-mails said so?

25 A. Well, the e-mails referred to Mr. Gallowa.

17

1 They didn't say they sent them. It said -- but I know  
2 the e-mails referred to him. The conversations back  
3 and forth.

4 Q. And what were they referring to him about?

5 A. They were telling him of what they found,  
6 which were also unfounded, about my facility.

7 Q. So let me paraphrase to make sure I  
8 understand. You saw e-mails from Rene Ward and some

9 other people?  
10 A. From Mr. Gallowa.  
11 Q. And back and forth between the two and back  
12 and forth between Mr. Gallowa and some other people  
13 referencing your aviary and the conditions that these  
14 people had seen or that they said they saw on your  
15 aviary; is that correct?  
16 A. Well, he was saying that he saw and he has  
17 never been there.  
18 Q. Mr. Gallowa was saying he had seen them?  
19 A. Right.  
20 Q. Was Rene Ward saying that she had seen the  
21 aviary conditions?  
22 A. Rene Ward, until I found her out amongst my  
23 birds, was never anyplace but in the house. And she  
24 came under the pretense of buying a bird.  
25 Q. Do you know what I think will be very helpful

18

1 at this point? I don't have a good sense of the  
2 location of the house and how many buildings there are.  
3 Would you be able to draw for me -- and it is not an  
4 art test -- so I have an understanding of where the  
5 house is, if you have a driveway leading up. Just kind  
6 of give me a visual here, if you would.  
7 A. This is 332nd.  
8 Q. Okay.  
9 A. We have a driveway coming into the house. The  
10 house is located about the middle of the property. The  
11 front door is here. The side door is here.  
12 Q. Which way is north on what you are drawing?  
13 A. This would be north. And this would be --  
14 MR. GALLOWA: West.  
15 A. Yeah. This would be west over here. And this  
16 over here is east. So this would be south.  
17 And the driveway comes around like this and  
18 wraps around, and we park up here because we live on  
19 the second story. The bottom part of the house is  
20 strictly for the birds. It has its own kitchen. It's  
21 got its own intercom system so we can hear what is  
22 going on downstairs. And we live upstairs.  
23 Q. Are there any other buildings other than the  
24 house?  
25 A. Oh, yes. There is a long building here. This

19

1 is -- there is a building here. There is a building  
2 here. There is a building here. There is a building  
3 here. There is a building here. Building here. A  
4 building here. And then I have some storage buildings  
5 here in the front, with our garage over here.  
6 Q. Thank you. I was going to ask you to label  
7 that.  
8 A. And then my feed storage building is back  
9 here. It is a container.  
10 Q. And just label this for me, the house.  
11 Because I want to ask you questions and I don't want to  
12 get mixed up.  
13 You have drawn one, two, three, four, five,  
14 six, seven, eight buildings.  
15 A. Yes.  
16 Q. The two areas that you labeled, one is a feed  
17 container, I assume does not house any birds?  
18 A. No.  
19 Q. And the garage, does that house any birds?  
20 A. Only ,d birds, should we get a new  
21 bird in.  
22 Q. Is there a cage or a series of cages inside  
23 the garage for that?  
24 A. There are individual cages in the garage, but  
25 no more than two or three. Because I never quarantine

20

1 more than one bird at a time. All birds are  
2 quarantined when they come to the facility.  
3 Q. Why do you only quarantine one bird at a time?  
4 A. Well, I don't normally buy more than one bird  
5 at a time.

[Editor's Note: Note the conflict with below, see section/page 94]

If I buy a pair, then the pair is  
6 quarantined together because we don't split the pairs  
7 up. 20  
8 Q. Now, all of the other buildings, do they all  
9 house the birds?  
10 A. Yes.  
11 Q. That you have drawn? Are they all permanent  
12 buildings, non-movable buildings?  
13 A. They are an animal -- called an animal  
14 enclosure.  
15 Q. What is that?  
16 A. That's what the county calls them.

17 Q. Are they barns or --  
18 A. No. They are a greenhouse.  
19 Q. They are all greenhouses. All the buildings?  
20 A. Well, the idea is to greenhouse. Some of them  
21 have a solid roof, but most of them have a six-mil  
22 plastic roof.  
23 Q. What are the sides made off?  
24 A. Six-mil plastic. They are taken off in the  
25 summer. The sides are, the roofs are not.

21

1 Q. Why are they taken off in the summer?  
2 A. Because of the heat. And they need the air  
3 circulation.  
4 Q. So these are solid enclosures with the plastic  
5 around?  
6 A. No, they are not solid.  
7 Q. They are not solid? Okay. Are there windows  
8 in them?  
9 A. No, it is all clear plastic.  
10 Q. But the plastic is removable?  
11 A. On the sides. We do not remove the plastic  
12 off of the top. But it is all clear. So that they can  
13 see the sunlight and they can see what is going on  
14 around them. It is all an open effect.  
15 Q. What type of birds are housed on the lower  
16 level of the house?  
17 A. My baby room where I put -- we raise --  
18 artificially hatch all of our babies. We have a room  
19 that has incubators in it to put the eggs in. I have  
20 an Isolette room for my tiny babies because they are  
21 raised in a human Isolette.  
22 And I have another room that is for babies in  
23 cages with playpens on it so they could be out of their  
24 cages at certain times of the day.  
25 Q. And this is all located in the lower level of

22

1 your house?  
2 A. This is all located in the lower. It is -- it  
3 is okay.  
4 Q. How many babies currently are at that lower  
5 level today?  
6 A. Maybe ten.  
7 Q. What is the maximum capacity that you have in  
8 the house for the babies? What is the maximum amount

9 of birds you could house in the house?

10 A. 100.

11 Q. Have you ever housed a hundred in that house?

12 A. No. I average 79 to 90 in the peak time.

13 Q. When is peak time?

14 A. From -- hatching time usually starts because  
15 they start laying -- well, they lay -- different birds  
16 lay at different times of the year. So I have babies  
17 all the time. Right now it is African season. March  
18 through July is Amazon season. July through October is  
19 my Macaw season.

20 Q. So there are always babies being hatched and  
21 cared for --

22 A. The only month I usually don't have babies is  
23 December. I still am feeding babies from the previous  
24 month, but we have no eggs in the egg incubator. That  
25 gives me -- that's an in between -- in between the

23

1 different species laying.

2 Q. One thing I want to remind you about, just for  
3 our court reporter, is I will try not to talk over you,  
4 and if you will let me finish my question. And that  
5 way she is not trying to take down two conversations at  
6 once.

7 Actually, this would be a good time for you to  
8 tell me all the types of birds, before I start asking  
9 where they are housed. What all types of birds do you  
10 raise, sell, breed, have at your aviary?

11 A. Do you want specific types of birds or  
12 general, like African birds?

13 Q. Go ahead and tell me the general first.

14 A. I raise African birds, Amazons, cockatoos,  
15 macaws. And then I have some very, very rare species  
16 that belong to different countries that aren't listed  
17 under those -- that umbrella.

18 Q. Now, of the birds that you have listed, are  
19 all of those on the endangered species list?

20 A. Everything is on the endangered species list  
21 now. Some are on appendix 1 some are on appendix 2.

22 Q. Do you have any birds in your facility, then,  
23 which are not considered endangered?

24 A. No.

25 Q. Of the buildings that are outside of the house

24

1 that you have drawn on this diagram, can you label for  
2 me where each one of these types of birds are housed?

3 A. Do you want me to label them here?

4 Q. Yes. That would be helpful.

5 A. I forgot one house.

6 Q. That's okay.

7 A. Well, actually, this goes behind the garage.

8 Q. Okay.

9 A. That's why I forgot it. Do you want to see  
10 this?

11 Q. Okay. Let me ask you some questions.

12 A. You can't read my writing.

13 Q. Before I forget, we will go ahead and mark  
14 this as Exhibit 1. And then we will refer to it as  
15 Exhibit 1.

16 (Exhibit No. 1 was marked for identification.)

17 MS. CABALO: Melissa, would it be helpful if  
18 Martha labeled buildings one through however many? So  
19 when she is referring to whatever species on your  
20 exhibit, you will have a record of which building she  
21 is referring to? Outside of the house and garage and  
22 the feed, which is, obviously, labeled on its own.

23 Q. (By Ms. MacDougall) Sure. Let me. Mrs.  
24 Scudder, how do you refer to the buildings when you are  
25 talking to anyone who is involved with the aviary?

25

1 A. This is the long house.

2 Q. And that houses what type of birds?

3 A. There is Conures in the south end of it and  
4 there is Congo Greys and Senegals in the west end of  
5 it.

6 Q. And you call that the long house?

7 A. That's the long house.

8 Q. Go ahead and write that sort of over in the  
9 corner there. Great. Okay. And the smaller building  
10 that is just above the long house?

11 A. That's our Green-wing Macaws and it is listed  
12 as a Green-wing Macaw.

13 Q. And that's how you refer to it?

14 A. Yes.

15 Q. That's how I will try to refer to it then.  
16 And the building that is over on the west end?

17 A. This is just called the Macaw house.

18 Q. And what does it house?

19 A. All the Military Macaws. The Red-fronted

20 Macaw, the Blue and Gold Macaw.

21 Q. Let me ask you at this point, so I just don't  
22 get confused. Are any of the babies housed in any of  
23 these buildings outside?

24 A. No.

25 Q. Babies are only housed in the house?

26

1 A. Yes.

2 Q. The building next to the Macaw house, what is  
3 that called?

4 A. That is our Amazon house.

5 Q. And that is how you refer to it?

6 A. Yes.

7 Q. Then we have the feed building next?

8 A. Correct.

9 Q. And then what comes next?

10 A. We have the Philippine Blue Nape house slash  
11 Vasa house. Because the house is divided and this part  
12 is for the Vasa parrots.

13 Q. The part to the east?

14 A. Yes. And this part is our Philippine Blue  
15 Napes. And they are not listed as Amazons. The Vasa  
16 is listed as an old world parrot but not an African  
17 parrot.

18 Q. Now are you these two types of birds or  
19 species of birds -- I want to use the right term -- are  
20 they housed completely separately, is that what the  
21 slash --

22 A. No. It just means they are all just in this  
23 one house.

24 Q. I got you. You have a smaller building right  
25 in front of that house?

27

1 A. That's a cockatoo building. That's my Rosy --  
2 considered the Rosy building.

3 Q. And I'm curious, why is it considered that?

4 A. Rosy is a specific type of Rose-breasted  
5 Cockatoo. This building --

6 Q. Above the Rosy building?

7 A. -- above the Rosy building is my building that  
8 I have put all my males in that I need to find hens  
9 for.

10 Q. Let me go back. Does that say "males"? It  
11 looks like it says "Amazon"?

12 A. It says Amazons. These are all Amazons except  
13 for the two cockatoos.

14 Q. Got you.

15 A. But the males are there so they don't disturb  
16 the pairs. I have kind of got this reversed. This is  
17 the Timber Gray building. We just moved these  
18 cockatoos. Do you want me to erase that?

27

19 Q. Yes. Just put a slash through that.

20 A. Then there are cockatoos here. There is  
21 another building here with more cockatoos in it.

22 Q. Are there any cages outside any of these  
23 buildings that you have drawn for me on Exhibit 1?

24 A. Yes. I have two cages about right here. Oh,  
25 they are the same size. They happen to have -- these

28

1 are cages that I have out front normally for people to  
2 view because they can't go back here.

3 But presently one pair is housing an Illiger  
4 Macaw, one of the real endangered macaws. And the  
5 other cage is housing a pair of Severe Macaws. But  
6 they are not in the house. They are covered, but they  
7 aren't in a house.

8 Q. Have these cages always stood in this location  
9 from the time that you owned and operated the same area  
10 at this property?

11 A. No.

12 Q. How long have these cages been in these  
13 locations that you have denoted on Exhibit 1?

14 A. Probably two years at the most. Because there  
15 are times where I do move these cages around.

16 Q. Do you happen to know the size or approximate  
17 size of those cages?

18 A. These cages?

19 Q. I'm sorry, the two outdoor cages that we are  
20 talking about.

21 A. They are approximately 6 feet in length, 4  
22 feet wide, and 4 feet tall.

23 Q. I don't have a good sense of a lot of the  
24 birds that you described. So can you tell me the size  
25 of the two types or species of birds that you described

29

1 to me that are contained in those cages now?

2 A. These are not the Mini Macaws, they are an

3 intermediate-sized Macaw.

4 Q. So intermediate would be about how tall, and  
5 weigh how much?

6 A. Oh, even the heaviest bird doesn't weigh more  
7 than four pounds. And we usually go by grams when we  
8 are weighing birds. They weigh probably about -- both  
9 of these pair probably weigh about 800 grams at the  
10 most. That would be a very fat bird. And dangerously  
11 fat. They are head to tail this long. What is that?  
12 Two feet?

13 Q. Would you estimate that would be about two  
14 feet?

15 A. Yes.

16 Q. Do you measure them by wingspan?

17 A. No. Head to tail.

18 Q. Do you know what the wingspan is on the birds  
19 that are kept in these cages?

20 A. Well, see, some of these birds in the wild  
21 have to fly a long way so they are long-distance  
22 fliers. And when they are long-distance fliers for  
23 this size Macaw, their wing span is probably this big.

24 Q. Close to two feet again?

25 A. Yeah.

30

1 Q. Any other outdoor cages around the perimeter  
2 of the property that you have drawn for me as  
3 Exhibit 1?

4 A. No. That should be it.

5 Q. So my understanding is that these buildings,  
6 even though they have removable panels, all contain the  
7 cages or enclosures, however you house the birds under  
8 a roof; is that correct?

9 A. Under an arched roof like a greenhouse.

10 Q. And in the summer the side panels are removed?

11 A. Yes.

12 Q. How many acres is this property?

13 A. Five acres.

14 Q. Let's see. So you said you changed the name  
15 to Scudder's Parrot Depot. And that was about two  
16 years ago you think?

17 A. Um-hmm.

18 Q. Previously it was M & J Enterprises?

19 A. And the reason we should probably put a slash  
20 in there, M & J Enterprises/Scudder's Exotic Birds. I  
21 forgot that.

22 Q. You had a business license as M & J  
23 Enterprises?  
24 A. Yes. That covered -- my husband used to drive  
25 a truck. And we owned our own truck, and that covered

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1 the trucking business and the birds.  
2 Q. Did you have a separate business license for  
3 Scudder's Exotics?  
4 A. No. It was all together.  
5 Q. Have you gone by any other names --  
6 A. No.  
7 Q. -- as a business?  
8 A. No.  
9 Q. Currently do you have any other side  
10 businesses, subsidiary organizations, anything that  
11 falls underneath Scudder's Parrot Depot? Did I say  
12 that --  
13 A. No.  
14 Q. Scudder's Parrot Depot is what you are now?  
15 A. No. We have no other --  
16 Q. So no other names or entities?  
17 A. No.  
18 Q. Since the time you first began breeding and  
19 selling birds with your husband, and then you have  
20 continued it on today as your own, as sole proprietor,  
21 has the focus or the purpose of the business changed?  
22 A. No.  
23 Q. I assume, perhaps incorrectly, that you have  
24 expanded somewhat over the years; is that correct?  
25 A. Yes.

32

1 Q. How many birds today are housed on this  
2 five-acre facility?  
3 A. See, it is hard to say because as my babies  
4 are sold that fluctuates.  
5 Q. Sure. Just can you give me a range?  
6 A. 400.  
7 Q. And then that varies depending on how many  
8 babies you have?  
9 A. No. That is, basically, what the breeders  
10 are. That is not including my babies.  
11 Q. So 400. And just define for me, when you say  
12 "breeder birds," exactly what you mean so I am going to  
13 use the term correctly.

14 A. A male and a female sexed.  
15 Q. And does it mean birds that are capable of  
16 breeding, or birds that have definitely bred from you  
17 and you have gotten successful babies from?  
18 A. They are capable. We don't get babies from  
19 everybody.  
20 Q. As a business owner, if you have a pair of  
21 birds or a bird that isn't producing babies, what do  
22 you do with that bird then?  
23 A. If they have not produced in three years, and  
24 they have been producing on a regular basis for us, I  
25 have them -- Dr. McDonald go in and check and see if

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1 the female's ovaries are okay. If they have not  
2 atrophied as being too old or something like that, or  
3 scarred up, or whatever.  
4 Q. And who is Dr. McDonald?  
5 A. Dr. Scott McDonald.  
6 Q. Is it M-A-C or M-c?  
7 A. M-c.  
8 Q. Do you know his office address?  
9 A. No, I don't. It is in Chicago. He comes  
10 three times a year to my facility.  
11 Q. What is the purpose of his three visits?  
12 A. He comes to surgically sex babies.  
13 Q. Is he a licensed veterinarian?  
14 A. Yes. He is a licensed veterinarian in the  
15 State of Washington.

[Editor's note: Dr McDonald is licensed in the State of Washington currently but allegedly practiced without a license for years, including at the Scudder facility, until this was called to the attention of the WA Board]

16 Q. But his office is in Chicago, Illinois?  
17 A. Yes.  
18 Q. Do you have any knowledge of why he is  
19 licensed in the State of Washington but has an office  
20 in Chicago, Illinois?  
21 A. He does surgically sexing all over the United  
22 States, and he is licensed in all the states that he  
23 surgically sexes in.  
24 Q. And he comes three times a year to provide the  
25 surgical sexing for you?

34

1 A. The surgical sexing and a yearly walk-through.

2 Q. What is the purpose of the yearly  
3 walk-through?

4 A. Just as a veterinarian. Because we do not  
5 handle these caged birds that are breeders. He is one  
6 of the veterinarians that just comes through and does a  
7 walk-through and looks at each and every bird, but does  
8 not touch.

[*Editor's Note:* This would appear to belie concerns about either a lay person merely walking through carefully without touching birds, or any fears about a new Ordinance in Pierce County which might include walk-throughs by a competent veterinarian]

9 Q. When you say "we don't handle," do you mean  
10 you also do not handle these birds?

11 A. Correct.

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12 Q. I don't understand. Explain to me why you  
13 wouldn't handle those?

14 A. Well, these are basically birds that have  
15 reverted back to being wild. Many of them are birds  
16 that I have raised and kept as breeding stock. But  
17 when you put them together as breeders, they become  
18 very defensive for their mate, and to protect their  
19 cage and their nest box. And if you want to be bit,  
20 you reach in and you get them.

21 Q. Well, what happens if they need any actual vet  
22 care?

23 A. Then we catch them and we quarantine them in  
24 the garage in an isolated warm cage.

25 Q. And does Dr. McDonald provide that vet care,

35

1 then, if they are sick or ill?

2 A. If it is something that -- with the fecals  
3 that we get that I don't have the medication for, Dr.  
4 Brown does. Dr. Brown in Yelm is my veterinarian.

5 Q. What is Dr. Brown's first name?

6 A. Jerry.

7 Q. Is that a man?

8 A. Yes.

9 Q. And he is located in Yelm?

10 A. Yes.

11 Q. Do you happen to have an address for him?

12 A. No.

13 Q. Does he operate under his name or under a vet  
14 clinic?

15 A. Yelm Veterinary Clinic. He is one of the  
16 owners.  
17 Q. You mentioned if you don't have medicine.  
18 A. When we take the fecal into Dr. Dhillon, they  
19 always come back with a variety of medicines that are  
20 resistant or -- resistant and -- what does that stand  
21 for? Sensitive. And then we have the choice of the  
22 sensitive medications to use.  
23 Q. And do you have a supply of medicines on your  
24 facility?  
25 A. I have a supply, yes. Not of big variety.

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1 Just one or maybe two.  
2 Q. Are you able to treat some of these birds then  
3 on your own?  
4 A. Yes. Which all farmers do. They don't call a  
5 vet for every cow that is sick or every horse that is  
6 sick or every pig that is sick.  
7 Q. I asked you about your Washington State  
8 business license. Now, you are located in Pierce  
9 County; is that correct?  
10 A. Yes.  
11 Q. Do you have to get any county licensing?  
12 A. No.  
13 Q. And I assume, then, no Roy City licensing  
14 either?  
15 A. No. We are not in the City of Roy. We are  
16 just in their area.  
17 Q. Do you hold any other licensing as a breeding  
18 or selling facility or as an aviary?  
19 A. No, there is no need to.  
20 Q. Why not?  
21 A. That's all they do. Why do I need another  
22 license for something I don't do. Or I misunderstood  
23 you.  
24 Q. Yes. I guess I didn't ask my question very  
25 well. I'm wondering if other than having a Washington

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1 State business license, which in any business you could  
2 sell clothes and have a business license. I am  
3 wondering if, to your knowledge, if aviaries have to be  
4 licensed as an aviary by any other agency or anything?  
5 A. No.  
6 Q. And as a breeder facility or as a seller of

7 these exotic birds you are not required to hold any  
8 other licenses?  
9 A. No.  
10 Q. I know you said Kenneth had helped out many  
11 years ago --  
12 A. Right.  
13 Q. -- when the business was M & J Enterprises.  
14 Do either of your other sons, John and William, help  
15 out at all today at your facility today?  
16 A. Today no.  
17 Q. Have they in the past?  
18 A. Yes. They all did as teenagers when we were  
19 collecting our birds.  
20 Q. How many employees do you currently have at  
21 your business?  
22 A. I have a caretaker.  
23 Q. Is that someone employed by you on a payroll?  
24 A. No.  
25 Q. What is that person's name?

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1 A. **Vivian Graves.**  
2 Q. Does Vivian live somewhere on this property?  
3 A. Yes. She lives -- there is a fence here, and  
4 then this is all horse pasture and donkey pasture. She  
5 has a mobile home over here on my property that I  
6 provide for her.  
7 Q. Who owns the mobile home?  
8 A. She owns the mobile home but I provide the  
9 power, the telephone, the water. Because she is unable  
10 to work. So in a facility like ours if you are hurting  
11 real bad, we aren't set on a time, time, time, time.  
12 Q. Sure.  
13 A. So you can take your breaks when you need  
14 them.  
15 Q. Is this basically a room and board in exchange  
16 for work-type situation?  
17 A. Yes.  
18 Q. Do you know why Vivian is unable to work?  
19 A. She is physically unable.  
20 Q. She provides care for your birds; correct?  
21 A. She feeds.  
22 Q. Is she physically able to do the feeding?  
23 A. Correct. Yes.  
24 Q. How often does she have to feed?  
25 A. She feeds three to four times a week. And any

1 time that we are not there. If we go somewhere for a  
 2 weekend or anything, she is in charge of the facility  
 3 at that time.

4 Q. When you say, Any time we are not there or we  
 5 go away for the weekend, who are you referring to?

6 A. Bob.

7 Q. Who is Bob?

8 A. Bob Vincent.

9 Q. And who is that? What relationship to you is  
 10 that?

11 A. He is my significant other.

12 Q. Does he work on the aviary?

13 A. Yes.

14 Q. And you said you were a sole proprietor. Does  
 15 he own any share of this facility or property?

16 A. No.

17 Q. I noticed you are wearing a wedding band. You  
 18 are not married, though?

19 A. No. That is our commitment to each other.

20 Q. Does Vivian perform any other duties, care  
 21 taking duties for the birds other than feeding?

22 A. She puts perches in with us. Washes the food  
 23 dishes and anything other than the medicating. She  
 24 does not do any of that. She tells us if there is a  
 25 problem. If one of the birds doesn't look right to

1 her, she conveys that to us.

2 Q. Are any birds kept in her mobile home?

3 A. She has her own pets, yes.

4 Q. Are they birds?

5 A. Yes. And she has dogs.

6 Q. Does she have any of the type of birds that  
 7 you raise and breed? Any exotic birds?

8 A. Yes.

9 Q. Am I using that term correctly?

10 A. Exotic birds? Yes.

11 Q. What does Mr. Vincent do when you say he helps  
 12 out, correct, at the aviary?

13 A. Yes.

14 Q. What are his duties, for lack of a better  
 15 word?

16 A. He keeps all the heavy maintenance done. He

17 does all of the paperwork, and the bill paying, and the  
18 record keeping.

19 Q. How long has he performed those functions for  
20 the aviary?

21 A. Two years. This is his -- yeah, two years.

22 Q. When did you first come to know Mr. Vincent?

23 A. He came to us -- he came to work for me in  
24 August 2002 -- 2003.

25 Q. Does he live on the property?

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1 A. Yes.

2 Q. And is that in the house that you have  
3 described the living quarters upstairs?

4 A. Yes. When he came to work for me, just coming  
5 to work as an employee, I have a master bedroom  
6 downstairs, you know, that he lived in for a year.

7 Q. Does anybody live in that master bedroom now?

8 A. No. It is just a guest room.

9 Q. Did he have a salary or paid hourly when he  
10 was an employee?

11 A. No, because he got his room and board.

12 Q. Anybody else living on the property other than  
13 you, Mr. Vincent, and Vivian Graves?

14 A. No.

15 Q. Anybody else that comes on the property to  
16 help out in any capacity?

17 A. I have a friend if I need help with babies,  
18 she can come and help me at any time.

19 Q. Does she help on a regular basis?

20 A. No.

21 Q. And do you pay her any sort of compensation?

22 A. No.

23 Q. You said that John and Kathy's -- whose last  
24 name I forget. Not Scudder, but lives behind you; is  
25 that correct?

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1 A. Yes.

2 Q. Kathy Phillips?

3 A. Yes.

4 Q. Describe for me where they live.

5 A. Well, there is a fence line here, like this,  
6 and John and Kathy have a road access on my property to  
7 get back to theirs. And they live back here.

8 Q. So Vivian's trailer is somewhere off on the

9 south; correct?

10 A. Right. And she accesses her property via  
11 John's egress. I guess that's what you call it. But  
12 it is on my property. And I pay the taxes on that.  
13 Because that's classified as part of my five acres.

14 Q. And then John and Kathy, do either of them  
15 currently provide any assistance for you in any  
16 capacity?

17 A. No. No.

18 Q. Now, I believe I have the understanding in  
19 setting up these depositions that I have misnamed Kathy  
20 as Kathy Scudder in calling her for a deposition, that  
21 I have learned that there are restraining orders in  
22 some capacity between the two families; is that  
23 correct?

24 A. Yes.

25 Q. Do either of those restraining orders involve

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1 you personally?

2 A. No.

3 Q. Are they --

4 A. Well, yes, they do.

5 Q. Tell me the circumstances so I get a good  
6 understanding of that.

7 A. Well, they don't allow me to talk to my  
8 grandsons.

9 Q. "They" being?

10 A. Kathy and John. They can have no contact with  
11 me.

12 Q. That's what the restraining order says?

13 A. No. That's what they say. The judge told  
14 them no, that I had every right to talk to my  
15 grandsons. But they are afraid to talk to me.

16 Q. The grandsons are?

17 A. Yes.

18 Q. Was this part of a court proceeding where you  
19 were trying to get contact with the grandkids?

20 A. No. There was an instance where John and  
21 Kathy came to my home, pounded on my front door, and  
22 were ranting and raving about this thing going on with  
23 the Pierce County Council. And when I answered the  
24 door, both of them were standing -- like my door opens  
25 in like this. I was standing here in front of the

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1 door. Bob was standing beside me.  
2 Q. Bob Vincent?  
3 A. Yes. In my front room were two guests, which  
4 they could not see -- in my den, not my front room. In  
5 my den. Kathy barged her way through the door. And  
6 Bob says, "Excuse me. Do not talk to your mother like  
7 this."  
8 And John got a telephone call on his cell  
9 phone so he stopped to answer his cell phone. And I  
10 was here holding the door open, Bob was right beside  
11 me. Kathy tried to squeeze in between Bob and the  
12 doorway. And she said some not-so-nice words. She  
13 lunged at him like this and grabbed him at the throat.  
14 So he just stood up like this. Did not touch  
15 her with his hands. And said, "I'm sorry, you have to  
16 leave."  
17 Q. And at some point somebody went to court over  
18 this, is that correct, to get a restraining order?  
19 A. I did. I initiated that.  
20 Q. So you went to the -- is it the Pierce County  
21 --  
22 A. Pierce County.  
23 Q. Was it in Superior Court or District Court?  
24 Do you know?  
25 A. We just went and filled out the papers and

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1 went before a judge.  
2 MR. GALLOVA: I have to run out and plug my  
3 meter.  
4 MS. MacDOUGALL: Go ahead. Is this a good  
5 time to maybe take a break?  
6 MS. CABALO: Yes.  
7 (Recess taken.)  
8 Q. (By Ms. MacDougall) We were talking about the  
9 restraining order and how you initiated going into  
10 court and spoke with the judge. And I assume explained  
11 the circumstances of what had happened during that  
12 incident; is that correct? When did the incident  
13 happen?  
14 A. I honestly don't remember the date.  
15 Q. Is it recently, within the last month or two?  
16 A. Oh, no. It was almost a year ago.  
17 Q. Almost a year ago. And is the restraining  
18 order still in effect today?  
19 A. I'm assuming it is. I don't go past that

20 point.  
21 Q. Do you keep a copy of it at home?  
22 A. Yes, I have a copy of it at home.  
23 Q. And is it for Kathy and John, against Kathy  
24 and John?  
25 A. It is basically against Kathy.

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1 Q. Against Kathy. And what is Kathy not  
2 permitted to do?  
3 A. Well, neither one of them are permitted to  
4 come on the property because they don't use the nicest  
5 language and they are -- and there is no contact. No  
6 telephone contact. Nothing.  
7 Q. And that is with you as well as the aviary; is  
8 that correct?  
9 A. Well, the aviary has nothing to do with it.  
10 Q. So they are not allowed on any of the aviary  
11 property, to be clear? Any of your property?  
12 A. That's right.  
13 Q. And they are not permitted in your personal  
14 home?  
15 A. No.  
16 Q. Are they permitted any contact with Mr.  
17 Vincent?  
18 A. No.  
19 Q. And no contact with you, as well; is that  
20 correct?  
21 A. Correct.  
22 Q. And do you know if Kathy and/or John also have  
23 restraining orders?  
24 A. Yes.  
25 Q. They do? And is that for no contact -- for

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1 you to have no contact with them?  
2 A. Correct.  
3 Q. And is that for Mr. Vincent as well?  
4 A. Yes.  
5 Q. And then I assume as a result of this, then,  
6 you have no contact with the grandchildren; correct?  
7 A. Yes. They won't allow it.  
8 Q. Kathy and John?  
9 A. Correct.  
10 Q. And you understand that I have scheduled  
11 Kathy's deposition for tomorrow; correct?

12 A. Yes.

13 Q. And obviously you have a right to be there as  
14 one of the parties to the case. If you choose to be  
15 there, you are not going to have a problem with sitting  
16 in a room with her with these various restraining  
17 orders; is that true?

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18 A. Well, because of the restraining orders I  
19 don't think I will be here.

20 Q. All right.

21 A. Because that's going against them.

22 Q. Other than the incident which occurred almost  
23 a year ago, and then getting the restraining order,  
24 have there been any other problems or incidents between  
25 what I am going to call the two families, between you

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1 and Kathy and John?

2 A. Not on my aspect, no. I don't know what they  
3 think.

4 Q. And has Mr. Vincent had any contact or  
5 incidents with John and Kathy?

6 A. No.

7 Q. And you referred to him as Bob. What is his  
8 full name?

9 A. Robert Leo Vincent.

10 Q. "L"?

11 A. Um-hmm. Jr.

12 Q. How long has he been in his capacity as your  
13 significant other?

14 A. I don't know when it all happened. I know  
15 when he came to work for me. But as the relationship  
16 grew, it just grew. I mean, it was not like one day it  
17 is, Oh, do you want to be my partner the next?

18 Because I am not that kind of a person.

19 Q. But today you have a commitment to him?

20 A. Yes.

21 Q. In 2004 did you have a commitment to him?

22 A. Yes.

23 Q. Now, you said he was not a business owner or  
24 co-owner or own any share in the aviary or the aviary  
25 business or property; correct?

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1 A. Correct.

2 Q. Do you have any informal agreements with him

3 as to the business or the share of the profits?

4 A. I'm not sure how to answer that because he has  
5 a commitment to me. And we share everything. You  
6 know, he does all the billing, all the paperwork, all  
7 the records. I take care of the babies.

8 Q. Have you ever discussed the proceeds or profit  
9 sharing between the two of you as far as the aviary is  
10 concerned in the business?

11 A. No. We have a trust. A living trust.

12 Q. And what does that living trust spell out?

13 A. What is happening if both of us should die at  
14 the same time in an accident or something. What will  
15 happen with the birds and the property. And that's  
16 still in the planning stage, because that takes a long  
17 time to work out.

18 Q. Do you have any provisions either in writing,  
19 in the planning stages, or that you discussed, what  
20 would happen to the aviary and the birds and the  
21 property if, God forbid, you should die?

22 A. We have been discussing it, yes. And in the  
23 future plans, yes, it is in the planning stage.

24 Q. Right now, as you sit here today, is it your  
25 intent that Mr. Vincent will continue to run the

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1 property and the aviary?

2 A. Yes.

3 Q. Do you have any intention as far as actual  
4 legal ownership of the aviary of the property?

5 A. We have never discussed it to that extent.

6 Q. Sure.

7 A. I shouldn't say never. Excuse me. Because we  
8 could have discussed it and we probably have. But he  
9 is to take over because of the endangered species that  
10 we do have.

11 Q. Do you have any training or certificates that  
12 you personally have obtained over the years or  
13 undergone for running an aviary, raising these birds,  
14 breeding these birds?

15 A. No.

16 Q. So on-the-job-training, is that fair to say?

17 A. When my husband and I started this business,  
18 there was nothing written.

19 Q. No training you could go to or seek?

20 A. No. There --

21 Q. Go ahead.

22 A. They do have avicultural meetings yearly with  
23 the American Federation of Aviculture that my husband  
24 and I have attended many of. And Dr. Dhillon with the  
25 University of Washington -- not the University of

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1 Washington. The Cougs. Washington State has an annual  
2 meeting that we go to on bio-security.

3 But that's all now. That is all current.

4 Back when I started all of this, no. There was nothing  
5 written. A lot of European papers but not United  
6 States papers.

7 Q. Does Mr. Vincent have any training or hold any  
8 certificates in any of the areas of running an aviary  
9 whether it is raising or breeding these birds?

10 A. There are no certificates.

11 Q. Nothing today?

12 A. No training available. He's researching. He  
13 reads everything that he can about the species that we  
14 have. He's come a long ways with learning on what he  
15 does. He is very conscientious. And loves the animals  
16 as much as I do.

17 Q. When he first came to you, did he have a  
18 background in raising and breeding birds?

19 A. He had birds as a child. I guess his parents  
20 had some type of an Amazon. I'm not sure.

21 Q. Had he worked at an aviary prior to coming to  
22 your aviary?

23 A. No.

24 Q. I'm curious then. If he had no experience how  
25 -- or let me start with how. How did he come to the

52

1 aviary and begin to work for you?

2 A. He came via a mutual friend of mine. She knew  
3 that -- this was after my husband had passed away, and  
4 she knew that I needed somebody who was as interested  
5 in the animals as I am.

6 Q. And so, basically, she gave you the name or  
7 contact information?

8 A. She brought him to me.

9 Q. Who is the name of that friend?

10 A. Judy Adams.

11 Q. Is that the same person who helps you out  
12 occasionally with the babies?

13 A. Yes.

14 Q. And then you met Mr. Vincent and decided,  
15 basically, to try him out as a helper?  
16 A. Yes.  
17 Q. And as far as you are concerned it has worked  
18 out, and he is doing well for you?  
19 A. Yes.  
20 Q. You mentioned that the aviary is -- I don't  
21 know if you said advertised at all. But I will use  
22 that word. Advertised online. Do you have a website?  
23 A. Yes. It is not currently up because it is  
24 being revised.  
25 Q. Okay.

53

1 A. It is Parrot Depot.  
2 Q. Parrot Depot.  
3 A. No, wait a minute. It is parrot dash depot at  
4 MSN dot com.  
5 Q. And it is not up and running now you are  
6 saying?  
7 A. No. He is revising it. Update.  
8 Q. Will it be when it is completed advertising  
9 the types of birds that you are breeding and have for  
10 sale?  
11 A. Yes.  
12 Q. Do you sell any other bird products or  
13 anything else other than the live birds themselves?  
14 A. I have people that come to me to buy my seed.  
15 Q. Is that going to be advertised on that  
16 website?  
17 A. On that website, no.  
18 Q. So other than the feed that these people come  
19 to you on an individual basis; is that correct?  
20 A. Yes.  
21 Q. And the birds, which you already told me you  
22 sell to breeders and sometimes members of the public.  
23 Any other sales of bird equipment? Cages? I don't  
24 know what else there might be.  
25 A. No.

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1 Q. Since the aviary has been in operation you  
2 have exclusively sold birds and on occasion seed, then;  
3 is that correct?  
4 A. Yes.  
5 Q. Is the aviary your sole source of income?

6 A. No.  
7 Q. What are the other sources of income?  
8 A. I receive an income from my deceased husband.  
9 Q. Is that a pension? Social security?  
10 A. No. Well, I get a portion of social security.  
11 They took some of mine away and gave me some of his.  
12 And I have a State -- I don't know if you call it a  
13 pension.  
14 Q. What is the total amount? Well, let's back  
15 up. Do you receive it monthly, these amounts?  
16 A. Yes.  
17 Q. What is the total amount monthly that you  
18 receive?  
19 A. I honestly don't know because it is put  
20 automatically into the bank.  
21 Q. Do you watch your bank balance and check it?  
22 A. Not normally. Bob does all of that.  
23 Q. Prior to Bob checking or handling the bank  
24 balance did you do that?  
25 A. Yes. In between after my husband died. Prior

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1 to that my husband did it all. All the purchasing,  
2 everything.  
3 Q. And when you were managing your bank account,  
4 do you know what the amount you receive monthly from  
5 the state or the government was?  
6 A. The state is approximately \$2,000. And the  
7 social security was approximately 900. But that's gone  
8 down.  
9 Q. So is it fair to say, as you sit here today,  
10 that you likely receive an amount similar to, close to  
11 \$2,900 monthly?  
12 A. Close to that, I would guess. Yes.  
13 Q. So it is directly deposited into your personal  
14 bank account; is that correct?  
15 A. Yes. It is a mutual bank account now. Bob is  
16 on my account.  
17 Q. And he has full access, I assume, to this  
18 joint account?  
19 A. Yes. So do each of my sons.  
20 Q. All three of them?  
21 A. Um-hmm.  
22 Q. Now, I asked you a question when I said is  
23 this your personal account, and you said it was joint.  
24 And I have been asking the sources of your income.

25 Does the aviary have a business banking account

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1 separate from you?

2 A. No.

3 Q. So the account that -- let me back up. If you  
4 sell a bird and you receive a profit from that, if you  
5 put the money into an account, does it go into your,  
6 you, Martha Scudder's, bank account?

7 A. Yes.

8 Q. So there is no separate business entity  
9 banking account; is that correct?

10 A. Not a separate business. We do have another  
11 banking account, but it is a reserve account that we  
12 keep money in as for the months that we have no babies  
13 coming in. Because our feed bill stays the same.

14 Q. What is your feed bill monthly?

15 A. Approximately, before vegetables and fruits,  
16 1,800 to 2,000 a month.

17 Q. And is that for, you said, before vegetables  
18 and fruits?

19 A. Right.

20 Q. What is the 18 to 2,000 for?

21 A. That is seed and pellets and the bean mix that  
22 we purchase to cook for the birds. And the vitamins  
23 and the veterinary care. And anything that has to do  
24 with the birds.

25 Q. And that's all in the 1,800 to 2,000 per month

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1 cost?

2 A. Yes.

3 Q. Seeds, pellets, bean mix, vitamins, and vet  
4 care?

5 A. Well, if I have to have something that needs  
6 veterinary care, no, because, I mean, it's \$50 to walk  
7 through the vet door.

8 Q. Do you have an idea what your average monthly  
9 expenses, then, are?

10 A. No.

11 Q. For the aviary?

12 A. No. Bob takes care of all that. You know, it  
13 would just be a stab in the dark.

14 Q. So approximately, the seed, pellets, bean mix,  
15 vitamins is the 1,800 to 2,000 per month?

16 A. Um-hmm.

17 Q. And then you have an occasional vet care on  
18 top of that?  
19 A. Right. And then I have got the fruits and the  
20 vegetables on top of that.  
21 Q. Do you know how much that costs per month?  
22 A. No, I don't. Because it depends on what is in  
23 season for the fresh fruits and vegetables.  
24 Q. Do you have a range of what it costs you per  
25 month?

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1 A. I would say not more than 2,000. I don't  
2 know, though.  
3 Q. When I was asking you about the website and  
4 you gave me the MSN dot com, is that the e-mail address  
5 for the business?  
6 A. I'm trying to remember if it is dot or a dash  
7 or underscore. And I think it's an underscore.  
8 Q. That's okay. If somebody was e-mailing you  
9 and asking you a question about, Do you have any birds  
10 for sale? They would reach you via that?  
11 A. They can. And most of them do, via Bird Talk  
12 magazine.  
13 Q. You are still advertising in Bird Talk?  
14 A. Yes.  
15 Q. Let's backtrack just a little bit.  
16 What did you do to prepare for the deposition  
17 today?  
18 And don't tell me about any conversations that  
19 you had with your attorney. You can tell me if you met  
20 with her, but I don't want to know the substance of  
21 those conversations.  
22 A. I met with Cat.  
23 Q. Did you review any documents?  
24 A. No.  
25 Q. Did you review any of the e-mails or

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1 allegations that you say were made by my client?  
2 A. We talked about them.

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3 MS. CABALO: I am going to object to just all  
4 this being attorney/client privilege. But go ahead and  
5 continue.  
6 Q. (By Ms. MacDougall) You understand I don't  
7 want you to divulge the conversations you had between

8 the two of you.

9        So no documents or records? You basically  
10 just talked to your attorney; is that true?

11       A. Yes.

12       Q. Did you and Mr. Vincent, outside the presence  
13 of your counsel, speak about this deposition?

14       A. Yes.

15       Q. Can you tell me what the substance of those  
16 conversations were?

17       A. Just to be calm. Answer all the questions to  
18 the best of my ability.

19       Q. Anything else?

20       A. No.

21       MS. MacDOUGALL: We are at 11:30, so let's  
22 take our lunch break now. And let's -- do you want to  
23 meet with me?

24       MR. GALLOWA: Yes.

25       MS. MacDOUGALL: So let's see. Come back at a

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1 quarter to one. Is that acceptable?

2       MS. CABALO: Yes.

3       (Deposition recessed at 11:31 a.m. to be  
4 reconvened at 12:45 p.m.)

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AFTERNOON SESSION

12:46 p.m.

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(Mr. Gallowa was not present for the remainder of the deposition.)

CONTINUING EXAMINATION

BY MS. MacDOUGALL:

Q. Mrs. Scudder, have you had any prior residences in Washington state other than the one that you have given me the address on the record?

A. At one time we owned this five acres. We owned the five acres in front of that. And we lived on that five acres. But we no longer. And we had that seven acres that John Junior is on. So we owned all of that.

But right now only five acres. The front five acres was sold and I gave John Junior the back.

Q. Are you a native of Washington state?

A. No.

Q. How long have you lived in Washington state?

A. I got married in 1957, we lived till '62 -- that was in Moses Lake. Then we moved to California until 1970 -- July of 1979.

Q. When you were living in California, did you

raise and breed and sell birds?

A. No. We started collecting birds when we were down there, but they were nowhere near old enough to breed.

Q. When you mentioned earlier that the birds that you have are on the endangered species list, what list is that? Is there --

A. It is a CITES list.

Q. A CITES list. So the CITES Treaty; is that correct?

A. Yes.

Q. So they are listed on this as endangered?

A. All psittacines are endangered. And that's what they are classified. Because there are other birds that are also on there that are not a psittacine.

Q. Do you know if that is spelled C-I-D-E-S --

A. No. It is P-S-

Q. Oh.

19 A. Don't ask.  
20 MS. CABALO: P-S-I-T-T-A-C-I-N-E.  
21 Q. (By Ms. MacDougall) Prior to filing this  
22 lawsuit, have you ever been a party to another lawsuit?  
23 A. No.  
24 Q. Has the aviary ever been a party to a lawsuit?  
25 A. No.

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1 Q. Your former husband, your deceased husband  
2 John, was he ever a party to a lawsuit?  
3 A. No.  
4 Q. What about Mr. Vincent? Do you know if he has  
5 ever been a party to a lawsuit?  
6 A. No.  
7 Q. No, you don't know, or, no, he has not been?  
8 A. No. Just with his ex-wife.  
9 Q. A divorce?  
10 A. Yeah, a divorce.  
11 Q. I assume you have had no criminal convictions;  
12 is that true?  
13 A. No.  
14 Q. Ever had a judgment signed against you?  
15 A. No. I have never even had a ticket.  
16 Q. Well, congratulations.  
17 A. Oh, I shouldn't say that. I did about 40  
18 years ago.  
19 Q. Well, now I have got you, don't I?  
20 A. Yeah.  
21 Q. Other than Mr. Vincent, the lady who  
22 occasionally helps out, Judy Adams, and Ms. Graves,  
23 have we covered everybody who helps out on your  
24 facility currently?  
25 A. Sometimes the veterinary hospital will have

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1 somebody come just for the experience of seeing the  
2 birds and handling the babies. So they know how to  
3 handle the birds at the clinic. But it is not very  
4 often anymore because they are pretty stabilized now as  
5 to their techs.  
6 Q. Is that the Yelm Veterinary Hospital?  
7 A. Yes.  
8 Q. And they send a student out; is that correct?  
9 A. No. It was just, this was years ago, probably  
10 20 years ago, they used to send their new techs

11 graduating out to handle the birds so they weren't  
12 afraid of them. But their turnover is virtually zero  
13 with their techs and so forth.

14 Q. Does anybody currently come and visit the  
15 aviary then?

16 A. I have friends that come all the time, but not  
17 to visit the aviary.

18 Q. So nobody else comes out from the Yelm  
19 Veterinary Clinic today?

20 A. No.

21 Q. Any other people that come and visit --  
22 outside of friends -- to visit the aviary or tour the  
23 aviary?

24 A. Nobody is allowed to tour the aviary, but they  
25 do come if they are looking for a particular baby,

65

1 specie of bird.

2 Q. So a potential buyer?

3 A. A potential buyer.

4 Q. Why is no one permitted to tour the aviary?

5 A. Because it is a closed aviary. The least any  
6 little thing will upset the birds and stop them from  
7 breeding.

8 Q. And that includes the entire facility?

9 A. The entire facility. However, Dr. Dhillon  
10 brings veterinary -- graduating veterinary students  
11 out. Sometimes once a year, sometimes twice a year.  
12 But they are only in selected areas where there is no  
13 breeding going on.

14 Q. Would that be inside the house where you have  
15 the babies?

16 A. The whole facility.

[*Editor's Note:* Once again, Martha Scudder has no compunction about lay persons or pathologists walking through her facility, but claims in her Declaration, above, that somehow the walk-through of Dr. Tracy Bennett, an Avian Board-Certified Veterinarian, induced great wastage of birds.]

17 Q. So they are allowed in certain portions of the  
18 building?

19 A. If there is nobody breeding in these  
20 buildings, they are allowed to see them. But if there  
21 is any breeding or pre-breeding going on, they are not.

22 Q. How often does Dr. Dhillon --

23 A. Once a year.

24 Q. And what is the group size of the students

25 that he brings?

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1 A. This time it was -- I can't remember if it was  
2 three or four students.

3 Q. And this time being when?

4 A. Last week.

5 Q. Last week. January 2005. And he brought a  
6 group of students to tour the aviary, three or five  
7 students; correct?

8 A. No, three or four.

9 Q. Three or four. Excuse me.

10 A. I don't know why I don't remember.

11 Q. What areas? Do you recall what areas he was  
12 allowed to take the students?

13 A. He was allowed to see the amazons and the  
14 macaws only, because I have birds breeding in this area  
15 and birds breeding in this area. And the babies in the  
16 house.

17 Q. Were you present at the visit?

18 A. Oh, yes.

19 Q. Is this visit any sort of an inspection on the  
20 part of Dr. Dhillon?

21 A. He looks at all the birds very cautiously, and  
22 that's what most inspections are, rather than handling  
23 the birds. Because we do not, as I said earlier,  
24 handle these birds unless absolutely necessary.

25 Q. If Dr. Dhillon notices a problem with a bird

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1 -- well, let me back up.

2 Has Dr. Dhillon ever noticed a problem with a  
3 bird and then brought it to your attention when he was  
4 out?

5 A. No.

6 Q. So he is basically coming out as a -- is it  
7 fair to say as a teaching tool for his students?

8 A. Well, he is the professor at the Avian Health  
9 and Food Service, and he is over all the poultry in the  
10 State of Washington. Or all the fowl division from,  
11 you know, ostriches to pheasants to chickens.

12 Q. Does he provide any vet care to any of your  
13 birds?

14 A. No. He just does the necropsies and when I  
15 take a fecal in for an exam, a test.

16 Q. Now, the necropsies are essentially what we

17 call autopsies on humans; is that correct?  
18 A. Correct.  
19 Q. So now, remind me again on this map where  
20 John's property is. Is that --  
21 A. John's property is back here.  
22 Q. And is John the owner of the Happy Hookbills  
23 Ranch?  
24 A. Yes.  
25 Q. Are you in any way connected with that, you

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1 personally?  
2 A. No.  
3 Q. Is your aviary in any way connected to Happy  
4 Hookbills?  
5 A. No.  
6 Q. Is John the sole owner; do you know?  
7 A. To my knowledge he is the sole owner.  
8 Q. So you have no business or even a helping  
9 relationship between the two aviaries?  
10 A. No.  
11 Q. Are John and Kathy, by any chance, on your  
12 same refuse garbage collection; do you know?  
13 A. We are on the same route, yes. But they have  
14 their own containers and we have ours.  
15 Q. Who is your refuse company?  
16 A. They call it Pierce County Refuse. They call  
17 it LeMay Enterprises.  
18 Q. Oh, I have heard of that.  
19 A. They are the same.  
20 Q. Do you happen to know the person who is  
21 responsible -- the employee, I guess, who is  
22 responsible for your personal pickup?  
23 A. No.  
24 Q. We were talking earlier, and I apologize, I am  
25 jumping all around here. We were talking earlier about

69

1 the seed that you were feeding the birds, and you gave  
2 me a range estimate. Do you have any receipts in your  
3 possession for the monthly cost of feed?  
4 A. Not here.  
5 Q. Do you have them at the aviary or in the  
6 aviary --  
7 A. Bob has them. Again, he takes care of all  
8 that, all the purchases and all the bill paying.

9 Q. And the type of food that you described, I  
10 know you listed vegetables and fruits and seed, and  
11 vitamins. Have I left anything out that you feed them?  
12 A. Well, our vitamins consist of three different  
13 types of vitamins mixed together. And then we feed  
14 them oil.  
15 Q. And is the type of food and the manner of  
16 feeding the same today as it was, let's say, five years  
17 ago?  
18 A. Yes.  
19 Q. So the same diet per bird's needs?  
20 A. Yes. And every five years that diet is gone  
21 over with Washington State as to the needs of breeding  
22 parrots.  
23 Q. Any particular agency?  
24 A. No. Dr. Dhillon takes care of that. He is  
25 over all poultry, fowl.

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1 Q. Tell me how that works, that he goes over the  
2 diet?  
3 A. I send a sample. I take a sample in to him.  
4 Q. Sample of the feed or the seed?  
5 A. Of the mixture, yes.  
6 Q. And he performs an evaluation; is that  
7 correct?  
8 A. I think he sends it over to Pullman and has  
9 them do it over there. He doesn't do it at his lab,  
10 no. I don't know.  
11 Q. Do you, the aviary, have in your possession  
12 any records for the results of the feed testing, we  
13 will call it?  
14 A. No.  
15 Q. Has Dr. Dhillon ever told you that there was  
16 any problem with the type of seed you were giving?  
17 A. No. Except that our birds are healthy,  
18 good-feathered-looking birds.  
19 Q. Has anyone ever mentioned that there was a  
20 problem?

[*Editor's Note:* Multiple notes in Dr. Dhillon's necropsies are critical of both Mrs. Scudders feeding techniques and the condition of her birds]

Any vet or agency that there was a problem  
21 with any of the seed that you gave to the birds?  
22 A. No.  
23 Q. I apologize if I ask you an uneducated

24 question, but do all the birds get the same type of  
25 seed? Do you purchase one type of seed for all the

71

1 birds?

2 A. No. It is a combination of seeds. But all  
3 birds get the same diet. If we had a diet for each  
4 specific bird or specie, it would be prohibitive to  
5 feed because there is a lot of birds that are only  
6 nectar-eating birds, and some birds are only  
7 fruit-eating birds and so...

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8 Q. And you give fresh fruits and vegetables  
9 currently?

10 A. All the time.

11 Q. And has that always been the case in your  
12 aviary?

13 A. Yes.

14 Q. Are these birds fed at a certain time of day,  
15 like morning and night?

16 A. They are fed once a day.

17 Q. Once a day. Is that in the morning or night  
18 or doesn't it matter?

19 A. Midday.

20 Q. We were also talking about some of the sources  
21 of your income, and you mentioned your pension and  
22 social security. Do you have any real estate property,  
23 other than the aviary, that you derive any rental  
24 income from?

25 A. No.

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1 Q. Do you know what the total annual income that  
2 you derive from the aviary is?

3 A. No.

4 Q. Do you know the monthly income that you derive  
5 from the aviary?

6 A. There are some months there is nothing because  
7 I don't have any babies for sale. Or they are not  
8 producing.

9 Q. Did you receive an income from the aviary in  
10 December? December 2004. Sorry.

11 A. That's hard for me to say.

12 Q. Okay.

13 A. I know you don't understand why. But that's  
14 not my end of the business.

15 Q. So Mr. Vincent takes care of that. And so  
16 your testimony is you don't know if there is money  
17 coming in?  
18 A. I know I sold one bird privately.  
19 Q. And how much did you receive for that?  
20 A. \$900.  
21 Q. And that was in December?  
22 A. Yes. Well, no, it was in November because  
23 there were no sales in December.  
24 Q. Do you file annual or quarterly taxes?  
25 A. Quarterly.

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1 Q. As a business?  
2 A. Yes. I think it is quarterly. Again, I don't  
3 know.  
4 Q. Does Mr. Vincent take care of that?  
5 A. Yes.  
6 Q. You as a business owner have to sign the tax  
7 returns though; is that correct?  
8 A. He just sends it in, I think.  
9 Q. So you would have filed, you think, four times  
10 for 2004?  
11 A. With the state I would assume so. But like I  
12 said, my husband did it when he was alive, and Bob took  
13 over about three or four months after he came when I  
14 saw that he was very capable of doing that and taking  
15 that pressure off of me.  
16 Q. Other than Mr. Vincent or your husband, have  
17 you ever hired an accountant to prepare your taxes?  
18 A. Yes.  
19 Q. Who was that?  
20 A. I can't remember the name.  
21 Q. Do you know when you sought the assistance of  
22 an accountant?  
23 A. I don't remember the last year. I don't.  
24 Q. But you believe that you have filed, as  
25 required, quarterly business taxes; and Mr. Vincent, at

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1 least now and for the past two years, has taken care of  
2 that?  
3 A. Yes.  
4 MS. MacDOUGALL: Counsel, I think we have  
5 asked for taxes, and if there is any dispute you and I  
6 can talk about it later.

7 I am asking on the record now, formally, that  
8 we get provided -- the discovery that I have looked at,  
9 and in talking with Mr. Bierman, who is principal in  
10 this case, and still is, that we have not received all  
11 of the taxes. So I am asking and then if you want to  
12 address it now or if you want to talk about it later.

13 MS. CABALO: I want to say something on the  
14 record.

15 I am sure I need to go back to our discovery  
16 file. My understanding of where we left off is that  
17 your office put in a request to the IRS because  
18 Martha's records were incomplete from her end. I don't  
19 know for sure. I need to check on that. But that's my  
20 understanding where we left off.

21 MS. MacDOUGALL: I believe that I have -- and  
22 I cannot recall whether it is '96 or '97, but sometime  
23 in the late '90s -- I have at least one, if not two,  
24 tax file records.

25 I am certainly asking for '98, '99, and on

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1 through 2004, given the claims for damages in this  
2 case.

3 MS. CABALO: Sure, we can discuss that.

4 MS. MacDOUGALL: Sure, I just wanted to figure  
5 out where we are at on that. And I apologize, I just  
6 wanted to make that very clear.

7 THE WITNESS: Can we step outside?

8 MS. CABALO: Is that okay?

9 MS. MacDOUGALL: Sure. There is no question  
10 pending. Go for it.

11 (Recess taken.)

12 Q. (By Ms. MacDougall) Back on the record. Did  
13 you have something you wanted to add or clarify?

14 MS. CABALO: No.

15 MS. MacDOUGALL: Okay.

16 Q. (By Ms. MacDougall) We were also talking  
17 previously, Mrs. Scudder, about the ownership of the  
18 aviary and Mr. Vincent's involvement and whether you  
19 have had any discussions. And I know you told me your  
20 intention is for him to run it in the event that you  
21 would no longer be able to or be with us.

22 Do you have any formal or informal agreement  
23 regarding any proceeds of this lawsuit that you might  
24 get? Do you have any agreement with Mr. Vincent as to  
25 how those would be spent?

1 A. No.

2 Q. Does Mr. Vincent have any involvement beyond  
3 being your partner as a support? Does he have any  
4 other involvement in this lawsuit?

5 A. I don't think so.

6 Q. Okay. Let me go back to the taxes just  
7 briefly. Do you recall in 2003 taxes whether you  
8 received any tax refunds?

9 A. No.

10 Q. No, you didn't or you don't recall?

11 A. No, we did not.

12 Q. Have you ever operated at a loss, that you  
13 filed a loss on your taxes?

14 A. Yes.

15 Q. And in the years 1999 through 2004 have you  
16 operated at any loss?

17 A. '99 to 2004 we did not show any profit. We --  
18 see, this is a time when my husband was very, very ill.

19 Q. Okay.

20 A. And so I don't remember.

21 Q. And I apologize for asking about your husband.  
22 When did he become ill?

23 A. Oh, he became ill in the early '80s. But he  
24 was debilitated from almost everything. He would just  
25 tell me who to write the checks to and so forth because

1 he couldn't do that.

2 Q. When did he become debilitated?

3 A. In -- I don't know whether it was 2000 or  
4 2001.

5 Q. But about that time period. And is that when  
6 you operated at a loss or showed no profit?

7 A. I don't think -- I don't know that he filled  
8 any taxes out. I did not. So I don't know what he  
9 did.

10 Q. Tax issue aside, do you know if in 1999 the  
11 aviary was able to show a profit?

12 A. I honestly don't know.

13 Q. Is that your same answer for 2000 and 2001?

14 A. Yes.

15 Q. And what about 2002, was there a profit from  
16 the aviary?

17 A. No, I don't think so. See, this is when I was

18 spending so much time in the hospital with him that I  
19 had people who were feeding and stealing me blind and  
20 everything else during those years.

21 Q. And 2003 was the aviary able to show a profit?

22 A. No.

23 Q. And I apologize if we went over this. Did you  
24 have a profit for 2004?

25 A. I don't know, you would have to ask -- I don't

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1 know. Because I don't do that.

2 Q. I think you did answer that. I apologize.

3 Other than the cost for seed and some of the other food  
4 that you have listed which was your range of 1,800 to  
5 2,000, what are the other monthly -- let's take it  
6 monthly -- expenses for the birds?

7 A. Well, if there is veterinary care or if there  
8 is any dealings with Dr. Dhillon on lab work or if a  
9 bird should die, a necropsy, those are all extra over  
10 and above.

11 Q. How much does a necropsy cost?

12 A. I don't know. But, you know, that comes and  
13 we pay it.

14 Q. What about the lab work? Do you know how  
15 much?

16 A. I don't know.

17 Q. Do you have an idea of the range of veterinary  
18 care costs that you have paid?

19 I know you mentioned earlier that it cost \$50  
20 to walk into the door to be seen. So is \$50 the least  
21 amount you have ever paid for vet care? Would that be  
22 the bottom amount?

23 A. That would be the absolute bottom.

24 Q. And then what would be the top? What can you  
25 recall is the most expensive vet-care bill you have

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1 ever had to pay?

2 A. I don't remember.

3 Q. Now, your house, your living facility is on  
4 the property. Is there a mortgage that you have to pay  
5 monthly on this house?

6 A. Yes.

7 Q. What is the amount of that?

8 A. I don't know. We just had to refinance.

9 Q. What was it prior to the refinancing?

10 A. Around \$900.  
11 Q. Per month?  
12 A. Well, it was \$980 or something. I don't know  
13 for sure.  
14 Q. Is there a heating source for these outside  
15 buildings?  
16 A. There is an electrical source and we only use  
17 heat if absolutely necessary. These birds are  
18 climatized to this weather here.

[*Editor's Note:* In March of 2006, a formal complaint (see Complaint of Frances Davidson in the "Document" section) was filed with the Pierce County Sheriff because a structure containing birds on the Scudder-Vincent property could be readily observed to be protected only by torn visquene-like material. (A local resident who runs a sanctuary for exotic birds described the material used to cover the bird enclosures at Parrot Depot as nothing more than plastic sheeting.) This covering had major rents in it and was blowing wildly in a stiff wind. There was snow on the ground, frost on cars, and even during the day, the temperature was 39°. A picture of these conditions appears on the "Overview" page.]

19 Q. Is it like plug-in electrical heaters?  
20 A. No. It is an infrared like they use in the  
21 bus stops and the pull-off where you get off the  
22 freeway and go into the restroom. Like those electric  
23 heat.  
24 Q. Going back to the panels that you said were  
25 the plastic panels that were six millimeter panels that

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1 were removed, were those reusable panels?  
2 A. No.  
3 Q. So they are one-use put them up?  
4 A. And take them off.  
5 Q. Is this a hard plastic or a soft plastic?  
6 A. Well, it is a soft -- it comes in a roll.  
7 Q. So it is plastic sheeting?  
8 A. It comes in a 100-foot roll.  
9 Q. 100-foot roll of plastic?  
10 A. Correct. 100-foot by 20-foot wide.  
11 Q. Do you know what the cost of one of those  
12 rolls are -- is? Pardon my bad grammar.  
13 A. I'm not positive, but I think it runs around  
14 \$50 or 50 or more a roll.  
15 Q. When you heat the out -- what I will call the  
16 outer buildings, the buildings that are not the home  
17 with the infrared, does that cost of heating, does that  
18 show up on your personal electric bill?  
19 A. No.

20 Q. It is something separate?  
21 A. It is on a farm meter.  
22 Q. What is the cost monthly of that farm meter?  
23 A. I don't know.  
24 Q. What source of heat is in the house?  
25 A. I have -- it is propane.

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1 Q. A big propane tank outside?  
2 A. Yes.  
3 Q. Which is incredibly expensive this year I have  
4 found. Are you on a monthly system?  
5 A. Refill?  
6 Q. Yes.  
7 A. We are on a contract. So we are buttoned into  
8 a price.  
9 Q. Do you know what that price is?  
10 A. A \$1.15 a gallon.  
11 Q. You got a good deal.  
12 A. For three years.  
13 Q. That's a great deal. Does the business, the  
14 aviary, have a separate phone line, a business line?  
15 A. No.  
16 Q. So, I assume, you have a telephone in the  
17 home?  
18 A. Yes.  
19 Q. Is that just a regular residential line?  
20 A. Yes.  
21 Q. Is there only one line?  
22 A. We have two lines but we don't use the second  
23 line because my fax machine is down.  
24 Q. So one is intended for phone use and one is  
25 intended for --

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1 A. For fax only. Yes.  
2 Q. Do you know what those telephone numbers are?  
3 A. The regular home phone is (360) 458-4233. And  
4 the fax line is (360) 458-5037.  
5 Q. Do you have any advertising cost?  
6 A. Presently -- excuse me. Presently on this  
7 last number, the 5037, that's currently at Miss Graves'  
8 residence.  
9 Q. Oh, I see.  
10 MS. MacDOUGALL: What was my last question? I  
11 forgot.

12 (The Reporter read back the last question.)  
13 Q. (By Ms. MacDougall) Do you have any  
14 advertising costs?  
15 A. Bird Talk magazine.  
16 Q. How much does that cost?  
17 A. I don't know.  
18 Q. Do you know if it is monthly?  
19 A. It is quarterly.  
20 Q. Quarterly. Do you advertise each time?  
21 A. Yes.  
22 Q. Any other expenses related to the business,  
23 monthly expenses related to the business?  
24 MS. CABALO: Objection. Vague. Go ahead and  
25 answer.

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1 Q. (By Ms. MacDougall) Let me see if I can  
2 narrow it down.  
3 We talked about the phone that you have, and  
4 the heating source, advertising cost, cost of feed.  
5 Any accessory costs that you have to pay?  
6 A. Can we go back to the propane?  
7 Q. Sure.  
8 A. The propane heats only the up -- our living  
9 area. The heating area down below are wall units in  
10 the rooms.  
11 Q. What are those run by, the wall units?  
12 Electric?  
13 A. Yeah, they are electric. And the Isolettes in  
14 the incubator room and the egg room, they keep the  
15 rooms fairly warm just by their running.  
16 Q. And those are electrical too?  
17 A. Yes.  
18 Q. So what is your monthly electric bill?  
19 A. I don't know.  
20 Q. Let me see if I can ask the question a  
21 different way and shortcut this. Do you know the total  
22 monthly cost that you have to expend for the business  
23 each month?  
24 A. No.  
25 Q. Does Mr. Vincent know that?

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1 A. Yes.  
2 Q. The income that you receive from the aviary,  
3 is that solely from the sale of birds or feed?  
4 A. Oh, it was from the sale of birds. The sale

5 of the feed is minimal because I only have two or three  
6 customers that have been buying from me since they  
7 bought their birds years and years ago.

8 Q. So adding up the sources of income that we  
9 have talked about, and you mentioned your pension and  
10 social security and whatever you get a month from  
11 selling a bird, and am I correct that you don't know  
12 monthly what that total amount monthly income is; is  
13 that correct?

14 A. Correct.

15 Q. And do you know after, how much is left of  
16 that monthly income after expenses that go out for the  
17 aviary; do you know what that amount is?

18 A. No.

19 Q. And again, if I needed to go somewhere or to  
20 someone for the answers to these questions, would Mr.  
21 Vincent be the best person to ask?

22 A. Yes.

23 Q. Other than the birds that you sell that you  
24 are breeding that you are raising, do you board or keep  
25 any other birds for anybody else?

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1 A. There are maybe three people that I board  
2 birds for when they go out of town. And these are  
3 birds that I have raised myself.

4 Q. So that is a temporary, not ongoing, basis?

5 A. Oh, it is under two weeks. Most of them are  
6 just for three or four days or a weekend.

7 Q. The total that you gave me earlier of 400  
8 birds, which did not count babies, that obviously did  
9 not include these temporary transient birds; correct?

10 A. No. And may I go back to the 400?

11 Q. Um-hmm.

12 A. That was when I had my son Bill's birds on my  
13 property. And as of December 26th they were removed  
14 from my property. And so we have probably 300 pair  
15 instead of four.

16 Q. 300 pairs, so actually 600 birds?

17 A. Yes.

18 Q. Removed? What do you mean by removed? The  
19 birds were removed from your property?

20 A. They were asked to remove -- to have their  
21 birds removed from the property because they did not  
22 agree with the financial aspect of keeping their birds  
23 on our property.

- 24 Q. What does that mean? Explain that to me.  
25 A. Well, they were on breeder loan, which means I

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1 maintain the birds, I raised their babies, I sold their  
2 babies, and I kept every other baby for my pay for this  
3 in turn. And my daughter-in-law and I had a -- well,  
4 my daughter-in-law had a disagreement with me and  
5 accused me of keeping birds that I did not have or  
6 keep.

7 And so a year ago we told them, You know, if  
8 you don't trust me, remove your birds.

9 That, therefore, put them into a boarding  
10 situation rather than a breeding situation. And they  
11 objected to that so I asked them to remove their birds.

12 Q. Was that this past December?

13 A. Yes.

14 Q. So December 2004 that they actually removed  
15 them?

16 A. Um-hmm.

17 Q. You said your son. Which son were you talking  
18 about?

19 A. William.

20 Q. And --

21 A. Robin.

22 Q. And Robin. Thank you. And so they took their  
23 birds?

24 A. Yes.

25 Q. Do they have a separate breeding facility or

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1 aviary?

2 A. No.

3 Q. Now, are they the ones that live in Alaska?

4 A. Um-hmm.

5 Q. So did they move the birds to Alaska with  
6 them?

7 A. No. They moved them to my son John's house,  
8 facility.

9 Q. Which is the Happy Hookbills Ranch; is that  
10 correct?

11 A. Yes. Correct.

12 Q. I'm sorry, you were going to say something.

13 A. That's all right.

14 Q. How many birds total went over to the Happy  
15 Hookbills Ranch?

16 A. About 20 pair.  
17 Q. 40 birds, then?  
18 A. Thereabouts. Because she had some single  
19 birds that didn't have mates, you know, that went over  
20 also.  
21 Q. We talked earlier about your business license,  
22 and you told me that you never had, and you are not  
23 required to have, a separate license for the aviary.  
24 Have you ever had your business license suspended for  
25 any reason?

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1 A. No.  
2 Q. Have you ever had any complaints filed against  
3 the aviary? Any complaints whatsoever?  
4 A. Yes.  
5 Q. First of all, tell me who filed a complaint,  
6 and then we will get to the specifics.  
7 A. Well, without the documents -- without  
8 information in front of me, I can't tell you exactly  
9 who it was.  
10 Q. Okay.  
11 A. But it is in some of the things that Mr.  
12 Gallowa had in some of his e-mails to other people and  
13 so forth. So unless I have them in front of me, I  
14 can't say specifically who.  
15 Q. Do you believe Mr. Gallowa filed, officially  
16 filed, a complaint with any agency or organization?  
17 A. Yes.  
18 Q. And as you sit here today, do you recall what  
19 agency or organization?  
20 A. Yes.  
21 Q. What was the agency or organization?  
22 A. Pierce County Council.  
23 Q. Pierce County Council.  
24 A. And Pierce County Humane Society.  
25 Q. What was the substance? What did he say in

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1 his complaint?  
2 A. That we were the Auschwitz of the bird world.  
3 That our birds were not taken care of. And until I  
4 have the letter in front of me --  
5 Q. Sure.  
6 A. -- I can't say what else it was.  
7 Q. As a result of the complaints that you say

8 were made or filed by Mr. Gallowa, did Pierce County  
9 Council take any action against you?  
10 A. No.  
11 Q. Did Pierce County Humane Society take any  
12 action?  
13 A. I didn't get a ticket or -- if that's what you  
14 are asking. There was nothing written.  
15 Q. Was there any investigation of your aviary?  
16 A. Yes.  
17 Q. And was that by Pierce County Humane Society?  
18 A. Yes.  
19 Q. Do you remember when that investigation took  
20 place?  
21 A. January of last year.  
22 Q. Do you mean January of 2004 or 2003?  
23 A. 2000 and -- I guess it was -- had to be 2003.  
24 Q. I think you are correct on that. And I don't  
25 want to prompt you or put words in your mouth. I know

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1 we have just had a change over to 2005, and we have all  
2 been getting confused about that.  
3 So assuming that we are dealing with January  
4 of 2003, tell me what that investigation with the  
5 Pierce County Humane Society and your aviary entailed?  
6 A. I would like to see the documents first.  
7 Q. What do you recall about that investigation?  
8 A. They came to view -- this is not the first  
9 time they have been to my facility.  
10 Q. Pierce County Humane Society?  
11 A. Right. And never before have they ever  
12 questioned or documented anything wrong.  
13 Q. So let's back up, then. When is the first  
14 time that you recall Pierce County Humane Society ever  
15 coming out to your house?  
16 A. Oh, I don't remember when that was.  
17 Q. Is it fair to say more than five years ago?  
18 A. Could be. I don't remember.  
19 Q. About how many times do you think they have  
20 come?  
21 A. That's vague to me for -- from ten years ago,  
22 five years ago, 20 years ago.  
23 Q. How many total inspections do you think you  
24 recall the Pierce County Humane Society making on the  
25 aviary?

1 A. On the aviary?

2 Q. Yes.

3 A. One.

4 Q. Are there other Pierce County Humane Society  
5 investigations, other than the aviary, that remain on  
6 your property?

7 A. Yes.

8 Q. What were those of?

9 A. Pierce County Health Department.

10 Q. And what were they looking at? What were they  
11 inspecting?

12 A. They were inspecting for sick birds. And they  
13 found none.

14 Q. When was that?

15 A. In mid summer of 2003. I think it was mid  
16 summer, early fall. I don't honestly remember. I know  
17 it interrupted my breeding season.

18 Q. You said you were not given a ticket. So does  
19 that mean no citation?

20 A. No citations were ever issued.

21 Q. Were you ever fined by the Pierce County  
22 Humane Society?

23 A. No.

24 Q. Were you ever fined by the health department?

25 A. No. No citation was issued by the health

1 department either.

2 Q. As a result of any investigation of your  
3 aviary, your birds, your property, your breeding  
4 facilities, any investigation done by the Pierce County  
5 Humane Society, were any recommendations made to you by  
6 the humane society?

7 A. Not by the humane society, no.

8 Q. Did somebody make recommendations?

9 A. Yes.

10 Q. Who made recommendations?

11 A. Dr. Tracy Bennett.

12 Q. And what do you recall today that she  
13 recommended?

14 A. There was -- I can't say specifically. I need  
15 to see that document.

16 Q. And what is your understanding of Dr.  
17 Bennett's qualifications?

18 A. Dr. Bennett had never seen an aviary before to

19 my honest observation of the questions she asked and  
20 some of the things she wrote. Flock management is  
21 totally different than the individual pet bird in a  
22 home.  
23 Q. Do I understand your testimony, by that  
24 statement, that you don't think Dr. Bennett was  
25 qualified to make the recommendations that she made?

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1 A. Not on a flock-management position.

2 Q. Do you know if -- well, let me back up.

3 Are vets certified in certain areas, such as,  
4 is there an avian vet certification that you know of?

5 A. Yes.

6 Q. Do you know if Dr. Bennett is a certified  
7 avian vet?

8 A. She says she is. I don't know that. I have  
9 not seen her license.

10 Q. Has John, your son John's facility, Happy  
11 Hookbills, ever been investigated by the humane society  
12 that you know of?

13 A. I don't know.

14 Q. What about any organization such as PAWS or  
15 PETA? Have they ever raised any allegations about your  
16 aviary?

17 A. Not directly to me.

18 MS. MacDOUGALL: Do you mind if we take a  
19 short break?

20 MS. CABALO: Sure.

21 (Recess taken.)

22 Q. (By Ms. MacDougall) When you purchase birds,  
23 where do you obtain them?

24 A. It all depends.

25 Q. Can you give me a list of places that you

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1 obtain the birds from?

2 A. Most of them are from a private party that no  
3 longer wants their bird and they need a home for it.  
4 If I'm trying to purchase and make up, it is from other  
5 breeders. Some babies I buy for future breeding stock  
6 so that we have a diversity in the gene pool.

7 Q. Are all of your birds purchased from  
8 Washington state?

9 A. No.

10 Q. What other states are they purchased from?

11 A. I purchase them from Alaska. I have purchased

12 throughout the Midwest and the eastern part of the  
13 United States, Florida, California. It hasn't been  
14 recently, but they have come from all over.

15 Q. Prior to today's date, when is the last time  
16 that you purchased a bird?

17 A. About December the 14th of last year. Of  
18 2004.

19 Q. Was that a purchase of one bird?

20 A. **No. It was a purchase of four pairs of birds.**

[*Editor's note: Even this small number of birds exceeds Martha Scudder's earlier-stated quarantine capacity. Failure to adequately quarantine all incoming birds and all sick birds is a major deficit at this bird farm.*]

21 Q. What type of birds?

22 A. Two pair of Jardines, J-A-R-D-I-N-E-S. And  
23 two pair of Red-Bellied parrots.

24 Q. Where did you purchase those?

25 A. In Fairbanks, Alaska.

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1 Q. I assume those were shipped to you; is that  
2 correct?

3 A. They are being shipped. There is a  
4 restriction -- there is a restriction on shipping right  
5 now because of their cold up there.

6 Q. When will they arrive?

7 A. Whenever the airlines deems it that they can  
8 be on the flight, because there is heat and there is  
9 cold restrictions. We have no control over that.

10 Could we go back to the year 2003?

11 Q. Yes.

12 A. Okay. In January is when the humane society  
13 and Dr. Bennett came. In springtime, March or April,  
14 could have even been May, that Dr. Bennett came back  
15 for a recheck. And then again in September, late  
16 September, I think it was, or, you know, I'm sure it  
17 was late September --

18 Q. Of 2003?

19 A. 2003 -- the humane society came by themselves  
20 and did another inspection. And then in 2004, in  
21 January, Dr. Spurlock and Dana -- maybe it is not Dana.

22 MS. CABALO: Nedda, N-E-D-D-A.

23 A. From the Pierce County Health Department came  
24 out, took samples of birds.

25 Q. Okay.

1 A. And inspected the flock.

2 Q. All right. Let's work backwards.

3 January 2004, any action, fines, or citations issued  
4 against you?

5 A. There has never been an action or a fine or a  
6 citation issued.

7 Q. And in 2003, September, the humane society's  
8 inspection which they came alone without Dr. Bennett,  
9 did the humane society make any recommendations about  
10 the condition of the aviary or your flock?

11 A. No. They just said everything is good.

12 Q. Sometime in March or April 2003 when Dr.  
13 Bennett returned, any recommendations she made?

14 A. She made the recommendation to Wally Hall that  
15 she was pleased with all the improvements that I had  
16 done and everything looked good.

17 Q. Anything else you want to add?

18 A. No.

19 Q. Okay. Let me go back just so I don't lose  
20 track. The birds that you purchased December 14th,  
21 from Fairbanks, Alaska. Do you know what the total  
22 cost, the total bill for those bills was?

23 A. 2,100.

24 Q. Are those birds intended for sale, future sale  
25 or breeding?

1 A. They are intended for breeding. It doesn't  
2 mean they will breed for me, but that's what they are  
3 intended to do.

4 Q. Does the aviary maintain receipts for all the  
5 birds that it purchases?

6 A. No. The aviary -- and just our cancelled  
7 checks, our money transfer. The aviary in Alaska did  
8 not give me a receipt. And that's quite common.

9 Q. We have talked a lot about monthly income,  
10 income from the aviary, and I understand that Mr.  
11 Vincent takes care of all of that. Do you know, as you  
12 sit here today, the total amount of damages that you  
13 are claiming against my client as a result of the  
14 statements that you claim he has made that the aviary  
15 suffered?

16 A. I can guess.

17 Q. Okay. Let me clarify with a question. I  
18 would like to get your best testimony today for the

19 total amount of damage that you believe the aviary has  
20 lost as a result of Mr. Gallowa's alleged actions.

21 A. With the disruption of all the inspections in  
22 2003, I had birds kill their mates, I had birds crush  
23 their eggs or eat them, and that was all year. Because  
24 we were disrupted so many times, not just in January.

25 Anytime something unusual goes on in the

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1 aviary, it distresses the whole bird -- the whole  
2 flock.

3 Q. And we started with a January 2003 or  
4 thereabouts inspection; correct?

5 A. Yes.

6 Q. And so are you alleging that all of the  
7 inspections that have occurred at the aviary in 2003 by  
8 Dr. Bennett or by the humane society or by the health  
9 department are solely the result of Mr. Gallowa's  
10 actions?

11 A. Yes.

12 Q. As a result of the various inspections that we  
13 have talked about that went on in 2003, were you  
14 required to undergo any cleanup or any changes in your  
15 practices as a result of those inspections?

16 A. If I had the letter in front of me from Dr.  
17 Bennett, I could refresh my memory better.

18 Q. As you sit here today, do you recall making  
19 recommended changes?

20 A. She said nothing to me. It came in a letter  
21 to the humane society.

22 Q. If I understood your testimony correctly, I  
23 think you said that when Dr. Bennett came back out she  
24 was pleased with the progress you made; correct?

25 A. That's what Wally Hall told us.

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1 Q. Got you.

2 A. However, she never did a follow-up letter  
3 stating that.

4 Q. So at some point, as a result of Mr. Hall's  
5 information to you, passing on the recommendations, you  
6 made some changes to the aviary; is that correct?

7 A. Yes. We did all the recommended changes that  
8 were applicable. Some of them are not applicable  
9 because she is versing us against an individual pet  
10 bird owner.

11 Q. Do you believe you have any cause of action  
12 against Dr. Tracy Bennett?

13 A. Yes.

14 Q. You have not sued her in this lawsuit?

15 A. No.

16 Q. Do you believe you have a cause of action  
17 against the humane society?

18 MS. CABALO: I will object to that. That  
19 actually calls for legal speculation which my client  
20 can't testify about.

21 Q. (By Ms. MacDougall) You can go ahead and  
22 answer the question to the best of your ability.

23 A. Yes.

24 Q. Do you intend to institute a legal action  
25 against Dr. Bennett or the humane society, Pierce

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1 County Humane Society?

2 A. I'm not sure yet.

3 Q. Other than Mr. Gallowa, are there any other  
4 individuals that you believe are responsible for the  
5 actions, investigation, recommendations of Dr. Bennett  
6 or the Pierce County Humane Society?

7 A. I think Rene Ward.

8 Q. Anybody else?

9 A. Tigger Flanahan, I think that's her last name.

10 MS. MacDOUGALL: I am going to guess on the  
11 spelling on that one. F-L-A-N-A-H-A-N.

12 MS. CABALO: I think it is G-A-N. Her first  
13 name is Genitee, G-E-N-I-T-E-E. Nickname is Tigger.

14 A. Right. That's what I know her as, is Tigger.  
15 I have dealt with her for years.

16 Q. (By Ms. MacDougall) And how do you know Ms.  
17 Flanagan?

18 A. She purchased -- we actually did a trade in  
19 two birds. And the two birds she got from me both  
20 died. And she said the disease came from my facility.  
21 Which I have proof does not. Did not.

22 Q. And what proof do you have that the disease  
23 did not come from your facility?

24 A. The necropsy reports of all my birds. None of  
25 them had it. None of them. I have never had

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1 psittacosis.

2 Q. To your knowledge was there a necropsy done on

3 those two birds in Ms. Flanagan's possession that died?  
4 A. Yes. And two of her own birds.  
5 Q. And those --  
6 A. Four birds died.  
7 Q. Of psittacosis?  
8 A. Right.  
9 Q. And so if I understand your testimony, because  
10 your flock and the necropsies have never shown it, your  
11 statement is the two birds she got from you could not  
12 have gotten psittacosis from your flock?  
13 A. Correct.  
14 Q. Is there an incubation period on that disease?  
15 A. Seven to ten days. Average is seven.  
16 Q. So we were talking about the total amount of  
17 damage, and I know you started listing off some  
18 damages. You talked about crushing eggs, eating eggs,  
19 the 2003 disruption of the breeding zone.  
20 A. Mates killing mates.  
21 Q. Of all the damages that you're alleging are  
22 the result of my client's actions, do you have a total  
23 amount in dollar figure showing the damage you allege  
24 was caused from my client's actions?  
25 A. I don't know if Bob has that in his files

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1 specifically. I don't know.  
2 Q. Did you keep records of which birds died and  
3 the value or cost of each bird that died?  
4 A. Yes. I think he did. I'm sure he did.  
5 Q. I am going to ask that those get provided to  
6 us.  
7 MS. CABALO: I think we forwarded that to you  
8 yesterday because I received some updated information  
9 from them.  
10 MS. MacDOUGALL: I haven't been in the office.  
11 MS. CABALO: And so there are some  
12 spreadsheets there. I need to go over them in a little  
13 more detail to make sure we have everything forwarded  
14 to your office.  
15 MS. MacDOUGALL: And just as a formality,  
16 because I haven't seen it, and I know that we had asked  
17 for it before in discovery, I want to reserve my right  
18 to any questions on that after I see it.  
19 MS. CABALO: Sure.  
20 MS. MacDOUGALL: Just to let you know, now  
21 might be a good time to talk about timing. It is ten

22 after two now. I may not finish today.  
23 And what I guess I would like to get a sense  
24 from Ms. Scudder, since she is the one having to sit  
25 here answering my questions, is would you prefer me to

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1 go straight through till five, or if it looks like I am  
2 not going to finish, would you prefer that we break a  
3 little earlier and then take tomorrow morning to finish  
4 off?

5 THE WITNESS: I would rather complete today  
6 because I am a long ways from home.

7 MS. MacDOUGALL: I know that. Then I will do  
8 my best to press through today with the understanding  
9 that I have a lot of material to cover yet. All right.

10 Q. (By Ms. MacDougall) So you said that your  
11 counsel has let me know that there is a spreadsheet  
12 which possibly shows some of the values and the costs  
13 that the aviary is alleging it suffered as a result,  
14 allegedly, of my client's actions; correct?

15 A. Yes.

16 Q. But as you sit here today, you do not have a  
17 total dollar figure for me; is that correct?

18 A. Not a precise figure. I can give you an  
19 estimated figure.

20 Q. Please do that.

21 A. Probably at a quarter of a million in  
22 replacement costs, because there are some birds I can't  
23 replace, they are so rare. And these birds you just  
24 can't put them together like a pair of dogs or a pair  
25 of horses. They have to bond. So that takes in that

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1 timing.

2 Q. Did your business, as a whole, suffer in 2004  
3 because of what occurred with the inspections and the  
4 alleged losses in 2003?

5 A. Yes.

6 Q. How did the business in 2004 suffer?

7 A. I didn't have the babies for sale. I didn't  
8 have the reproduction. And the loss of the parents.

9 Q. Do you spend a certain amount, let's start  
10 monthly -- do you spend a certain amount monthly on the  
11 purchase of birds for the aviary?

12 A. No. We don't purchase whimsically.

13 Q. What about annually? Do you have an idea how

14 much annually?

15 A. No.

16 Q. Do you have an idea how much annually you had  
17 to expend in either 2003 or 2004 to recoup or replace  
18 the loss of some of these birds that we have just been  
19 talking about?

20 A. Well, right off the top, those four pair of  
21 birds that I just purchased from Alaska are replacement  
22 birds. Some of the others I have not been able to  
23 replace and probably will never be able to replace.  
24 And some of them I have to wait for my stock to grow up  
25 to be old enough to be replacements.

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1 Q. How many birds died that you allege the death  
2 was caused by the 2003 inspections?

3 A. Off the top of my head, I don't remember now.  
4 You know, it is in writing somewhere, I just don't know  
5 where.

6 Q. And if I asked you that same question for  
7 eggs, would you give me the same answer, that it is in  
8 writing somewhere but you don't know off the top of  
9 your head?

10 A. Right. Correct.

11 Q. And, again, if that information is not  
12 contained in the spreadsheet, I am asking that I get  
13 provided that.

14 Now, we talked about the outside cages in  
15 Exhibit No. 1. Is there any heat source provided for  
16 these outside cages?

17 A. No.

18 Q. Is it necessary for these birds --

19 A. No.

20 Q. -- to be in a heated cage?

21 A. No.

22 Q. Are they out here year round?

23 A. Yes.

24 Q. And I think you said, other than these  
25 buildings which all have cages which are under roofs,

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1 there are no outdoor cages back here; is that true?

2 A. They are all outside.

3 Q. But, I mean, they are under a roof is what you  
4 told me.

5 A. They are under a plastic, a greenhouse roof.

6 Some of them are a fiberglass roof like the macaws, but  
7 they are not totally enclosed.

8 Q. Are there any cages outside this area right in  
9 front of the house, closer to the 332nd Street on the  
10 diagram? Are there, other than these two cages, are  
11 there any cages sitting out in the open on any other  
12 part of the property like these two are?

13 A. No.

14 Q. No?

15 A. No.

16 Q. That's what I wanted to clarify.

17 A. Okay. Now that I am looking at this, I have a  
18 Quonset hut here that did have birds in it but is now  
19 empty. And we are using that as a storage for our  
20 witch ditch and our mechanical things. Our tractors  
21 and things like that, as kind of a garage thing, under  
22 cover.

23 These birds have all been moved over here in  
24 this house so all my Amazons are together.

25 Q. At one point this was, if I understand you

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1 correctly, this was an outdoor cage area housing birds,  
2 then?

3 A. Yes.

4 Q. I got you.

5 A. But now it is no longer. It is still there,  
6 but there are no birds in it.

7 Q. And the reason I wanted to make this very  
8 clear is, I know that you had said that these are under  
9 cover but not, probably, in a building that maybe we  
10 would describe as inside?

11 A. None of them are.

12 Q. I wanted to make sure, if I am talking about  
13 outside cages, I mean cages that are like these two out  
14 here. So I didn't want to confuse your testimony.

15 A. Well, I have cages on my front porch that I  
16 put my pet birds out in the summertime. And they are  
17 individual cages. And I have some pet birds that are  
18 never locked in a cage unless they are being  
19 disciplined. They have the roam of the front porch.

20 MS. CABALO: Let me, because I am confused.

21 MS. MacDOUGALL: Sure.

22 MS. CABALO: What you are referring to as  
23 outdoor cages, Martha, these have roofs on them also.

24 THE WITNESS: Yes. They are covered. Yes.

25 Q. (By Ms. MacDougall) But they are not

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1 contained within any building?

2 A. No.

3 Q. They are out. The cages or the enclosures  
4 that the birds are in, and these buildings that you  
5 have described, these are within an enclosure; would  
6 that be correct to say?

7 A. They are covered with plastic; is that what  
8 you are saying?

9 Q. They are enclosed.

10 A. But it is not a solid building.

11 Q. It could be picked up and moved?

12 A. It is a pole building, so the poles are in the  
13 ground. It would take some work.

14 Q. But you could move it?

15 A. But we can move it.

16 Q. And the plastic provides the side covering for  
17 them?

18 A. And the roofing.

19 Q. And staples to the poles, I assume?

20 A. To wood.

21 Q. And fastened?

22 A. Yes, fastened to wooden poles.

23 Q. All right. You mentioned that the birds are  
24 acclimated. Are there any temperature requirements for  
25 the exotic birds that you raise?

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1 A. No. Because these are not tropical birds,  
2 they are neotropical birds. I have some birds that  
3 come from the Himalayan Mountains at the 5,000 foot  
4 level. They stay there all year. So, no, they are a  
5 neotropical bird, not a tropical bird.

6 And they climatize very, very well. I have  
7 had birds outside for -- since 1970 -- 1980 here.

8 Q. What is the water source of the aviary?

9 A. Most of them are on automatic watering system  
10 with brass nipples and PVC piping.

11 Q. Has that always been the case?

12 A. Yes. Other than the ones that are on  
13 individual water bottles.

14 Q. How many, approximately, are on individual  
15 water bottles?

16 A. I don't know because we are switching

17 everybody over to the automatic watering system.  
18 Q. When do you expect that will be complete?  
19 A. I don't expect because everything changes all  
20 the time. You know, it is upkeep. So -- and if we  
21 decide to add to a building and make it wider, that  
22 means another system. So...  
23 Q. Is the aviary growing, expanding?  
24 A. I'm trying to get to replace the birds that  
25 died and get all my birds paired up. So if you want to

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1 call that expanding.  
2 I don't say it is expanding; I say it is  
3 replacement.  
4 Q. As a business owner, I know you said you  
5 couldn't tell me whether you showed a profit or loss  
6 for 2004. If you had to give a description of how well  
7 or how poor the business did for 2004, what would you  
8 say?  
9 A. I would say we probably barely broke even. If  
10 we broke even, it is that close.  
11 Q. And again to be clear, your allegations in  
12 this lawsuit are that that is a result of the 2003  
13 inspections which, again, you allege stemmed from my  
14 client's actions; is that correct?  
15 A. Yes.  
16 Q. Let's turn back to the allegations that were  
17 made. Do you know when -- do you recall when Mr.  
18 Gallowa first made any allegation about your facility?  
19 A. No.  
20 Q. Do you know if it was prior to 2003?  
21 A. Yes.  
22 Q. Sometime in 2002 that you know of?  
23 A. I think so, yes.  
24 Q. After Dr. Bennett's, let's say, final  
25 inspection, which I believe you testified was sometime

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1 in September of 2003?  
2 A. No.  
3 Q. I'm sorry?  
4 A. No. It was in March or April or May that her  
5 second visit came. From January was her first visit.  
6 Her second visit was in the springtime.  
7 Q. The visit in which you said she was out there  
8 and said she was pleased with the results?

9 A. Yes.  
10 Q. She didn't write a letter; correct?  
11 A. Correct.  
12 Q. She did not post a letter. But she let you  
13 know --  
14 A. No.  
15 Q. -- or Mr. Hall know?  
16 A. She let Mr. Hall know.  
17 Q. That she was pleased with your report, or your  
18 progress? Excuse me.  
19 A. Yes.  
20 Q. When did that visit take place when she was  
21 pleased with the progress?  
22 A. It was either in March, April, or May. And  
23 I'm not sure. It was in that springtime.  
24 Q. Got you. In 2003 though?  
25 A. Correct.

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1 Q. Got you. Do you allege that after Dr. Bennett  
2 stated to Mr. Hall that she was pleased with the  
3 progress, do you allege my client made further  
4 statements after that?  
5 A. Yes.  
6 Q. Do you know when those further statements were  
7 made?  
8 A. No.  
9 Q. Do you have an approximate time period?  
10 A. They continued. And they have continued.  
11 Q. And are you alleging he is still continuing to  
12 make statements?  
13 A. I wouldn't put it past him.  
14 Q. As you sit here today, do you know actually of  
15 any statements that he has made, let's say, within the  
16 last three months?  
17 A. Personally?  
18 Q. Yes.  
19 A. No. It is hearsay.  
20 Q. Okay. All right. Tell me just what is your  
21 understanding of what you believe are Mr. Gallowa's  
22 continued actions?  
23 A. He is still saying that the birds are not  
24 taken care of.  
25 Q. Okay.

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1 A. That they're dying. Which is not so. The  
2 same allegations that he put in his e-mails to the  
3 Pierce County Council and to the chat rooms that he is  
4 on.

5 Q. Is there a necropsy performed for every bird  
6 that dies at your facility?

7 A. Not if it is a known mate. If it is one of  
8 the mates that kills a mate. Because when a bird kills  
9 its mate, they tear its face apart and there is no need  
10 to have a 60 or \$70 necropsy done on a bird, you know,  
11 the mate killed.

12 Q. So the necropsies cost about 60 to \$70 per  
13 necropsy?

14 A. Well, it depends on the extensiveness of the  
15 pathological reports.

16 Q. Have you had to have necropsies performed in  
17 2004?

18 A. Yes.

19 Q. Do you know how many?

20 A. I know of ten.

21 Q. And as you sit here right now, do you know  
22 what the causes of death --

23 A. Yes.

24 Q. -- as determined by the pathologist?

25 A. Yes.

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1 Q. What were those?

2 A. Well, there is nothing that he could  
3 determine. But it was from a neighbor who was burning  
4 toxic things. He had a fire going and the fumes came  
5 onto our facility and destroyed some of my Philippine  
6 Blue Nape birds.

7 Q. When did this occur?

8 A. I'm not real positive, but it was -- it would  
9 have been September or October. It was after the burn  
10 ban went off. So I'm not positive when the burn ban  
11 went off.

12 Q. So sometime in September or October of 2004?

13 A. Yeah. It was -- it was probably nearer to  
14 October because I don't think the burn ban was off in  
15 September yet.

16 Q. Where were the birds located?

17 A. In this house right here.

18 Q. That is the --

19 A. Philippine Blue Nape/Vasa house.

20 Q. And where was the neighbor burning?  
21 A. Along this fence line right here.  
22 Q. So back behind the cockatoos?  
23 A. No. It was right behind them where the -- the  
24 north wind could bring the fumes down to them. And  
25 these are just very delicate birds.

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1 Q. Remind me, is that Amazon in there, again?  
2 A. Yes. These are Amazons.  
3 Q. Did they suffer any losses?  
4 A. No.  
5 Q. Cockatoos?  
6 A. No. Just my Philippine Blue Napes.  
7 Q. Was the plastic on at this point?  
8 A. No. It was too hot yet.  
9 Q. What is the name of your neighbor who was  
10 burning?  
11 A. Lyle Hagen.  
12 Q. When you noticed when he was burning, did you  
13 ask him to stop?  
14 A. Yes.  
15 Q. And what did he reply?  
16 A. They stopped immediately.  
17 Q. How long were they burning?  
18 A. A day. And I asked him to stop. We had not  
19 lost a bird as of yet, but I asked him to stop because  
20 it was infiltrating into our -- to the birds. And I  
21 said it is very toxic. It smells. He didn't offer --  
22 Q. I'm sorry, he didn't offer?  
23 A. He didn't offer anything else. He just put  
24 the flames out. But then there was still smoke and it  
25 smoldered for a couple of days.

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1 Q. Did you move any of the birds?  
2 A. No. You can't pick up and move these  
3 breeders. That would be disrupting them again.

[*Editor's note: A particularly enlightening bit of testimony. 16 parrots, many of them Tanygnathus species, some of them endangered, were allowed to suffocate, because moving them would have put them off their breeding.*]

4 Q. Did you put the plastic up?  
5 A. We put the plastic up in November.  
6 Q. Why not put the plastic up when the fumes were  
7 coming?

8 A. Because it is too hot, they would die of  
9 suffocation in the heat. And that would also trap what  
10 fumes would get in there if the plastic was -- if they  
11 were enclosed, because they are not air tight.

12 Q. So how many birds were total in here, in this  
13 -- this is the place where you lost the birds; correct?

14 A. Probably 20 pair or 20 -- a good 20 pair of  
15 Philippine Blue Napes and Mullers. And then four pair  
16 of Vasas. And I had three pair of Great Bills. And I  
17 lost all of my Great Bills.

18 Q. And so that was a total of ten birds?

19 A. Yes.

20 Q. And so your testimony is that it would have  
21 been more dangerous to move them as breeder pairs than  
22 just to leave them where they were?

23 A. Well, yes. And, you know, it was all over the  
24 valley. This little indentation that we live in. So  
25 it affected everybody.

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1 Q. So he was burning for one day, and as soon as  
2 you noticed it you asked him to stop?

3 A. Yes. And he did.

4 Q. And did you go to Mr. Hagen and ask him to  
5 compensate you for the loss of those birds?

6 A. No.

7 Q. Is the aviary insured?

8 A. No. You can't insure them.

9 Q. So you have no business insurance?

10 A. No. They will not insure birds.

11 Q. When any of the inspections took place in  
12 2003, were any of the recommendations made regarding  
13 any of the outside cages that you recall today?

14 A. The recommendations were made in the Amazon  
15 house.

16 Q. Do you recall anybody telling you that there  
17 was standing water underneath the cages and rotting  
18 vegetation and that needed to be cleaned up?

19 A. There is no rotting vegetation in January.  
20 The drip system that we used must drip in order to be  
21 affective.

22 And again, if I had that letter in front of  
23 me, I could go over it in detail.

24 Q. Sure. I'm just asking right now what you  
25 recall because I want to get an idea of what your

1 understanding and recollection is.

2 Were any recommendations, that you recall,  
3 made as to the drip water system?

4 A. Yes. She said they were rusty. And PVC pipe  
5 does not rust.

6 Q. So it has always been PVC pipe?

7 A. Correct. And it had frozen the night before  
8 they came. And they came like eleven o'clock in the  
9 morning, and we had not gotten out there to start  
10 repairing the split that had caused -- been caused from  
11 the previous night's freezing.

12 Q. So your testimony is Dr. Bennett's -- you said  
13 "she." I assume you mean Dr. Bennett -- statements  
14 that the drip system was rusting is incorrect?

15 A. Yes.

16 Q. Are any of the birds in any of the areas that  
17 your house handicapped in any way?

18 A. Not my adult birds. At that time I had some  
19 pets that were handicapped, but they were in the house,  
20 they weren't outside.

21 Q. Where in the house were they located?

22 A. Downstairs with my babies. I don't put babies  
23 down that are born handicapped. I raise them up and  
24 most of them go to children in wheelchairs, elderly  
25 couples who don't have anything. A cat or a dog -- or

1 a bird is less work than a cat or a dog to them. And I  
2 give them to them.

3 Q. What type of handicaps could these birds have  
4 or did these birds have?

5 A. I don't remember what was there when they were  
6 there. Most of it is foot problems.

7 Q. Just sort of explain to me generally what type  
8 of feet problems a bird can have.

9 A. They can break a foot just like anybody else,  
10 or a toe. A bird can bite a foot and injure the leg or  
11 injure the foot. Just normal things that happen with  
12 pets when they are -- or can happen to anything.

13 Q. And does that fall under the category of  
14 handicap, or are we talking about birds that have  
15 actual deformities, when you are saying the birds that  
16 you have are handicapped?

17 A. I'm talking about handicapped.

18 Q. So deformities or broken legs or anything  
19 under that category?

20 A. Well, I don't have birds that have deformities  
21 because their diet is just what they need. You get a  
22 crooked beak, but that happens in the wild.

23 Q. Do you keep records of the birds that you do  
24 give away to the children?

25 A. Not normally. I also give them to the

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1 retirement homes.

2 Q. What retirement homes?

3 A. Well, like an elderly -- an Alzheimer's home  
4 or any of the senior citizen homes that they have birds  
5 in their sitting rooms.

6 That's my pleasure and my joy to do.

7 Q. Do you have a specific home that you donate  
8 to?

9 A. No.

10 Q. Can you tell me the name of one of the local  
11 senior citizen's homes you have donated to?

12 A. The McKenna Home. I don't remember what they  
13 call it now. It has been under so many different names  
14 since we have lived here.

15 Q. Any other ones that you recall?

16 A. No. Because most of them go to individual  
17 children.

18 Q. Most of the birds go to individual children?

19 A. Yes. The last bird I gave away was to a blind  
20 boy.

21 Q. Was that a local boy?

22 A. No. He has since moved back to Tennessee.

23 Q. We talked earlier about, I will call them  
24 improvements, some of the improvements or changes that  
25 you made when you said Dr. Bennett was pleased with the

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1 progress. Do you have records showing any cost or  
2 expenditures that the aviary had to make to incorporate  
3 those changes?

4 A. I don't know because we buy, often times,  
5 like, we don't go in and buy one ten-foot piece of PVC.  
6 We will go in and buy 100 feet of it and keep it on the  
7 storage rack. Regular maintenance. And the nipples,  
8 those we keep because we have to change them  
9 periodically. So I don't know.

10 Q. You don't know if you keep the records of  
11 receipts for each purchase and things like that?  
12 A. Well, I'm sure they are.  
13 Q. So if you've kept receipts, possibly there  
14 could be some records showing PVC pipe, the brass --  
15 A. Nipples.  
16 Q. -- nipples. There was something else you said  
17 for the water system. But possibly there would be  
18 receipts showing --  
19 A. Yeah. They come from hardware stores. You  
20 know, because that's where you go to buy them.  
21 Q. Okay. Now you said Dr. Bennett did not write  
22 another letter talking about her being pleased with  
23 your progress?  
24 A. Correct.  
25 Q. Was anything published or written about this

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1 subsequent visit in which she was pleased with your  
2 progress, to your knowledge?  
3 A. Wally English wrote me a letter, I think, it  
4 is in the records, that she stated that she would --  
5 she had approved and was quite pleased with -- because  
6 we made all the recommendations. We corrected to her.  
7 Q. Do you know if Mr. Gallowa was given a copy of  
8 that?  
9 A. I would assume so since they are friends.  
10 Q. Who is friends?  
11 A. Mr. Gallowa and Tracy Bennett.  
12 Q. I thought you said that Dr. Bennett didn't  
13 write a letter that she was pleased with the progress?  
14 A. She did not, no. She told Mr. English -- not  
15 Mr. English. Mr. English is another Wally. Mr. Hall.  
16 She told him verbally.  
17 Q. Got you.  
18 A. And he wrote me the letter.  
19 Q. So I'm confused as to the friendship between  
20 Dr. Bennett and Mr. Gallowa, and how Mr. Gallowa would  
21 get a copy of Mr. Hall's letter. That's the part I'm  
22 confused about.  
23 A. Mr. Gallowa recommended Tracy Bennett to the  
24 humane society.  
25 Q. Okay.

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1 A. That's all that is needed.

2 Q. Help me out here. I am still confused as to  
3 how Mr. Gallowa would get a copy, to your knowledge, of  
4 Mr. Hall's letter based on his friendship with Dr.  
5 Bennett?

6 A. I don't know that he did. But any information  
7 he got from Tracy Bennett came from her to him.

8 Q. Got you. I understand now.

9 A. Mr. Hall, I'm sure, did not send him a letter.

10 Q. "Him" being Mr. Gallowa?

11 A. Yes.

12 Q. Got you. And just so we are clear, Mr. Hall  
13 is Wally Hall of the humane society?

14 A. Correct.

15 Q. Mr. Wally English has nothing to do with this  
16 case?

17 A. No. Mr. Wally English is a friend of ours and  
18 was curator of birds at the Point Defiance Zoo.

19 Q. Okay. Got you.

20 A. That's why I get confused with those two.

21 Q. That's okay. I was, clearly, confused myself.  
22 Thank you for clarifying.

23 All right. Let's go back to, you mentioned,  
24 the diet of the birds, which you said they have always  
25 gotten fresh fruit and vegetables. And you mentioned

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1 cooking the beans, did you say?

2 A. I didn't mention it. No.

3 Q. You were saying you cooked something?

4 A. We do a cooked food.

5 Q. Got you. And is it beans?

6 A. I need to clear this up.

7 Q. Sure.

8 A. Wally English was from the Seattle zoo,  
9 Woodland Park Zoo, not Point Defiance Zoo.

10 Q. All right. Let me completely back --

11 A. Back to the diet.

12 Q. What is it that you cook for the birds?

13 A. We cook a bean mix.

14 Q. A bean mix. Got you. And how do you cook  
15 that?

16 A. We cook it on the -- we cook beans, sometimes  
17 rice, sometimes a macaroni, a variety of corn. They  
18 are all dried beans, lima beans, garbanzo beans, pinto  
19 beans. Varieties of grain. And that's all cooked  
20 every day for the birds.

21 Q. Is this just a big pot on the stove?  
22 A. I fix two -- I don't know, they are pressure  
23 cookers. They are about this big by this big and I  
24 cook two of them. It makes a full five-gallon bucket  
25 full.

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1 Q. And that's pressure cooked, as you said?  
2 A. Yes.  
3 Q. And has that portion of the birds' diet always  
4 been carried out that way, always been pressure cooked?  
5 A. Yes.  
6 Q. You said there was some times that necropsies  
7 are not performed. In the case, for instance, when the  
8 mate kills its mate.  
9 Has there ever been any other situation you  
10 have not had a necropsy done on a bird?  
11 A. No.

[*Editor's Note:* Birds have been observed in the trash of the Parrot Depot]

12 Q. Have you ever -- well, let me back up.  
13 How do you dispose of the birds?  
14 A. Well, we don't get the birds back from  
15 necropsies.  
16 Q. So you personally have never disposed of a  
17 bird on your property?  
18 A. My pet birds I have buried when they have  
19 passed away.  
20 Q. And have you ever disposed of one of these  
21 exotic boards on your property by burying?  
22 A. No.  
23 Q. What about putting in the garbage?  
24 A. No.  
25 Q. Any other disposal on your property?

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1 A. No.  
2 Q. If they don't have a necropsy performed but  
3 you still need to dispose of a body, what do you do?  
4 A. I wrap it in double plastic bags and I either  
5 take it to Dr. Dhillon to dispose of or we incinerate  
6 it ourselves.  
7 Most times we incinerate at our facility. We  
8 never bury other than our pets.  
9 Q. Are you permitted to bury? Do you know?  
10 A. I don't know. Are you permitted to bury your

11 dogs or your cats on your property?

12 Q. I don't know. I live in the city limits so I  
13 am not sure. Go ahead.

14 A. There has never been a question. Everybody  
15 buries their pet dogs and pet animals except for the  
16 large animals.

17 Q. Yes. It would be quite difficult to bury a  
18 horse, would it not?

19 A. Well, that's illegal because it is too big.

20 Q. Are there any rules because you are an aviary  
21 or because they are endangered or exotic birds as to  
22 the disposal that you are aware of?

23 A. No. We incinerate because if there is -- so  
24 that the rodents don't get into them or the dogs. And,  
25 you know, it is a health issue with us whether we

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1 incinerate them.

2 Q. Have you ever had to euthanize a bird?

3 A. Yes.

4 Q. What method do you use?

5 A. I take it to Dr. Brown to have him euthanize.

6 Q. Is Dr. Brown your current veterinary provider?

7 A. Yes. And has been for 20 years. Or since he  
8 got out of school. I don't know which came first.

9 Q. Do you have a specific breeder you are selling  
10 your birds? One particular breeder that you sell the  
11 birds to?

12 A. No. They contact me because they know I have  
13 certain species. If I have one for sale or an extra  
14 one.

15 Q. So are these breeders basically from all over?

16 A. They are from all over the United States.

17 Q. Did you ever tell the humane society that you  
18 sold most of your birds through a breeder or broker in  
19 Philadelphia?

20 A. I never told the humane society, to my  
21 knowledge. They would have no reason to know. That's  
22 one of the major losses I have.

23 Q. What is? I'm sorry I don't understand the  
24 major losses.

25 A. My facility in Philadelphia has not purchased

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1 a bird in over two-and-a-half years from me because of  
2 the allegations on the e-mail.

3 Q. What is the name of that facility?  
4 A. Schultz's Bird Farm. That's loss of income.  
5 Q. They haven't purchased from you for over two  
6 years?  
7 A. Correct.  
8 Q. And your testimony is that's due to the  
9 allegations that are the subject of this lawsuit; is  
10 that correct?  
11 A. Yes.  
12 Q. At one point was the Schultz's Bird Farm a  
13 major purchaser of your birds?  
14 A. Yes.  
15 Q. When was that?  
16 A. From about 1998 or '99. I'm not really sure  
17 --  
18 Q. Late '90s?  
19 A. -- when they came onto the scene, until 2003.  
20 Q. But you don't recall telling the humane  
21 society that that was your purchaser?  
22 A. I would have no need to tell them. That's  
23 none of their business.  
24 Q. Do you sell birds to brokers who then pass  
25 them on to other individuals?

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1 A. Yes.  
2 Q. Is there a specific state or breeder other  
3 than the Schultz's Bird Farm that you're selling your  
4 birds to currently?  
5 A. Yes.  
6 Q. Who is that?  
7 A. Julie Corwin buys a lot of my birds.  
8 Q. Who is Julie Corwin?  
9 A. She is a broker in Renton.  
10 Q. Do you have any knowledge or control, once she  
11 receives those birds, who she passes them on to?  
12 A. No.  
13 Q. So she is not an agent of yours?  
14 A. She buys my birds wholesale and sells them to  
15 pet stores wholesale.  
16 Q. Got you. Do you know, who is Frankie or  
17 Frances Davidson?  
18 A. Yes.  
19 Q. Who is that?  
20 A. We helped Frances Davidson and her husband get  
21 started in birds when she was just getting started. My

22 husband and I.  
23 Q. Your husband John?  
24 A. Yes.  
25 Q. And how many years ago was that?

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1 A. I honestly don't remember.  
2 Q. And are you still a business acquaintance or  
3 any acquaintance capacity with Ms. Davidson today?  
4 A. No.  
5 Q. Is there a reason for that?  
6 A. Well, she sold her flock, and so I have not  
7 had any contact because of that.  
8 Q. Do you see her --  
9 A. I see her in Yelm, and we talk to each other.  
10 We are pleasant with each other. But there are no  
11 birds brought up. Because to my knowledge, I don't  
12 know if she has anything other than her own personal  
13 pets.  
14 Q. So she hasn't purchased any birds from you?  
15 A. Frankie has never purchased birds from me, to  
16 my knowledge, that I can remember.  
17 MS. MacDOUGALL: I'm sorry, but I need another  
18 restroom break.  
19 (Recess taken.)  
20 Q. (By Ms. MacDougall) When is the last time you  
21 sold a bird to Julie Corwin?  
22 A. I honestly don't remember.  
23 Q. Let's see. Do you know a Bill Larsen?  
24 A. Bill Larsen?  
25 Q. Does that name ring a bell?

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1 A. No.  
2 Q. We have already talked about Miss Flanagan.  
3 And is that the person who owns the Bird Cage that you  
4 were referring to as Tigger?  
5 A. Yes.  
6 Q. And the circumstances that you described  
7 selling a bird to her -- or two birds, excuse me, was  
8 that only one occurrence, one time that you sold her  
9 birds?  
10 A. No. I sold her birds in the past for many  
11 years.  
12 Q. Have you sold her a bird since she made the  
13 allegations that you sold her diseased birds?

14 A. No. She is now closed. She is not supposed  
15 to be in business.

16 Q. Do you know the circumstances surrounding  
17 that?

18 A. Because of the psittacosis. She is out of  
19 quarantine now so -- but I don't know. I understood  
20 that she sold her flock.

21 Q. Have you ever heard of Laneta, with an "L,"  
22 Wings and Things?

23 A. I have heard of Wings and Things. But it has  
24 been years since I sold a bird to them. I mean, I  
25 don't even remember when it was. Probably ten years

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1 ago. Maybe 15.

2 Q. Do you recall approximately two years ago  
3 selling a cockatoo to Julie Corwin and Julie  
4 transferring the bird to Laneta's Wings and Things?

5 A. I don't know any of Julie's clients.

6 Q. Were you ever notified that a bird you sold  
7 through Julie had any sort of disease or was sick?

8 A. No. I have never sold a bird through Julie.  
9 However, my daughter Robin did, not me.

10 Q. I'm confused. You never sold a bird to Julie?

11 A. **I never sold a sick bird. I don't sell sick**  
12 **birds.** If I have a bird that is not feeling well, they  
13 are not sold.

14 Q. You have used Julie Corwin as a broker;  
15 correct?

16 A. Yes.

17 Q. So you have sold her birds and then she sells  
18 them onto other breeders or --

19 A. No. I have no idea who her clients are. She  
20 is a broker.

21 Q. So have you ever been notified that a bird you  
22 sold her became sick or diseased?

23 A. No. Julie said I -- she has never sold -- I  
24 have never sold her a sick bird.

25 Q. Who is Lori Rutledge?

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1 A. Lori Rutledge is of -- I think her name is  
2 Cockatoo Rescue.

3 Q. Cockatoo Rescue and Sanctuary?

4 A. Yes.

5 Q. And what is your understanding of her  
6 involvement in that?

7 A. I know she is in a part of this whole  
8 organization with Tigger and Mr. Gallowa. And she,  
9 again, has never been to my facility.  
10 Q. And by "organization" --  
11 A. The PAWS and PETA group.  
12 Q. The PAWS and PETA group?  
13 A. Right. The animal rights activists.  
14 Q. Got you. Do you believe or understand that  
15 Ms. Rutledge has made any statements about your aviary?  
16 A. Yes.  
17 Q. Do you have any intent to bring any actions  
18 against Ms. Rutledge for any statements she made?  
19 A. I don't know yet.  
20 Q. Have you ever heard of the Happy Birds Aviary?  
21 A. Not to my knowledge. It is not a familiar  
22 name to me.  
23 Q. What about the Parrot Jungle?  
24 A. I used to sell to Parrot Jungle years ago.  
25 Q. Do you recall advising the Happy Birds Aviary

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1 of feeding times or feeding techniques for babies?  
2 A. That name is unfamiliar to me. But what you  
3 need to realize is everybody knows who I am.  
4 Q. Okay.  
5 A. I have been in the business for so many years,  
6 and word of mouth. Good word of mouth. But I don't  
7 know a lot of these people.  
8 Q. Okay. And, again, my questioning is just to  
9 get the best understanding I can of what you recollect  
10 as you sit here today.  
11 A. Those names are not -- Parrot Jungle. Was  
12 that Parrot Jungle you just said?  
13 Q. Yes. I said Parrot Jungle and I asked you  
14 about Happy Birds Aviary as well.  
15 A. The Happy Birds Aviary I have no idea. It has  
16 been 15 years probably since I have sold to Parrot  
17 Jungle.  
18 Q. What --  
19 A. These were all prior to Shultz's Bird Farm  
20 when we had -- when I was selling to them.  
21 Q. Do you know a Jan Harshaw, H-A-R-S-H-A-W?  
22 A. I have no idea who you are talking about.  
23 Q. Do you have any involvement with Dr. Stewart  
24 Metz in the World Parrot Trust?  
25 A. I know of him. Who he is, I don't know.

1 Q. Do you have any involvement or does the aviary  
2 have any involvement with Project Bird Watch?

3 A. No.

4 Q. What is the Parrot Pantry?

5 A. Parrot Pantry is a business that Mr. Vincent  
6 is starting.

7 Q. Is it associated with your aviary?

8 A. Well, Mr. Vincent is associated with me.

9 Q. I realize that. Is it a business partnership  
10 or entity of the aviary?

11 A. That is his own entity, not part of the  
12 aviary.

13 Q. Do you receive any --

14 A. He owns that.

15 Q. So Mr. Vincent owns the Parrot Pantry. And  
16 you do not own any portion or share of the Parrot  
17 Pantry?

18 A. No.

19 Q. And as business entities the Parrot Pantry and  
20 the Parrot Depot are not linked at all, have any  
21 association?

22 A. Well, yeah, we live together.

23 Q. I understand that.

24 A. I'm unclear as to what you are trying to ask.

25 Q. Is there any sort of business relationship or

1 linkage between the two? Are they sharing facilities?

2 Are they sharing profits, expenses?

3 A. Parrot Pantry is strictly an e-mail.

4 Q. What is Parrot Pantry? What does it sell?  
5 What does it do?

6 A. We sell -- it is not in operation yet.

7 Q. Okay.

8 A. So right now we are selling nothing.

9 Q. Are you going to be participating in Parrot  
10 Pantry?

11 A. I doubt it, because that's a business that I  
12 don't -- I don't like paperwork.

13 Q. Did any of the monies or profits from your  
14 aviary from the Parrot Depot go into funding for Parrot  
15 Pantry?

16 A. No.

17 Q. Do you know if it is a licensed business as

18 yet, Parrot Pantry?  
19 A. I don't know.  
20 Q. If at some point it does become --  
21 A. I don't know. I can't answer that because I  
22 honestly don't know.  
23 Q. That's fine.  
24 A. So I don't know if I am saying the right thing  
25 or not.

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1 Q. If at some point it does become a licensed  
2 business in the state of Washington, do you have any  
3 intent to be listed as one of the proprietors of Parrot  
4 Pantry?  
5 A. I will never be a proprietor. But it might  
6 fall under Parrot Depot's license. But Bob owns Parrot  
7 Pantry. The website name, Parrot Pantry, not me.  
8 Q. We talked about expanding or, as you said,  
9 replacing some birds from the aviary. Do you have any  
10 plans to increase or add locations other than what you  
11 have drawn on Exhibit No. 1? Outside property?  
12 A. On other properties?  
13 Q. Um-hmm?  
14 A. No.  
15 Q. Do you have any plans to expand your business,  
16 office, or aviary facilities to another building,  
17 different building?  
18 A. Well, I hope to build another Macaw building  
19 and separate the cages to be further apart. I mean,  
20 but as far as expanding in numbers? No. And that's  
21 all part of maintenance.  
22 Q. What about leasing or renting property?  
23 A. No.  
24 Q. Nothing like that? No plans?  
25 A. No.

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1 Q. Other than the 2003 inspections that we have  
2 talked about with the health department and the Pierce  
3 County Humane Society, and you mentioned the Pierce  
4 County Humane Society has performed other inspections  
5 on your property, is an aviary subject to any other  
6 regular state or investigatory inspections?  
7 A. I can't speak on that on state. No. But  
8 there are being -- federal regulations being written.  
9 Q. But as of yet nothing that you are aware of?

10 A. No. It is in the process. It is in the  
11 works. And then the state -- that supercedes anything  
12 the state does.

13 Q. Have you ever refused to allow Pierce County  
14 Humane Society to perform an inspection?

15 A. No.

16 Q. What about the health department?

17 A. This was the first time we were ever asked.

18 But no. So no.

19 Q. Do you know if Dr. Bennett's recommendations,  
20 as you sit here today, included a reduction of your  
21 flock?

22 A. Yes. I remember that very vividly.

23 Q. Am I correct in interpreting your tone that  
24 you don't agree with that recommendation?

25 A. I do not agree with it. No.

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1 Q. Can you explain to me why?

2 A. She has no right to say that I do not have the  
3 funds nor the means to take care of my birds.

4 Who is she to judge me? She knows nothing of  
5 what my background is and income is.

6 Q. Did you discuss that with Dr. Bennett?

7 A. No. That was in her -- that was one of the  
8 last statements that I remember in her letter to Wally  
9 Hall.

10 Q. During any of her subsequent visits did you  
11 discuss with her --

12 A. I have never discussed anything with her.

13 Sorry. I got very defensive over that.

14 Q. Did you discuss with Mr. Hall Dr. Bennett's  
15 recommendation to reduce the flock?

16 A. No. It is none of his business, either.

17 Q. What about anybody else from the Pierce County  
18 Humane Society?

19 A. No.

20 Q. And you know I have been asking you: Had you  
21 discussed?

22 Have you had any actual physical conversations  
23 back and forth with Wally Hall other than the letter?

24 A. Not over the aviary. Over my dogs. And I  
25 license all my dogs. But not over the aviary, we have

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1 had no conversations. Not that I can recall.

2 Q. Okay. And so in speaking with him either over  
3 the phone or in person with him, it has all been about  
4 dog licensing or you obtaining dog licensing?

5 A. And I have never refused to license my  
6 animals. It costs me over a \$100 a year to license my  
7 dogs.

8 Q. You mentioned the garage was for quarantined  
9 birds?

10 A. Well, it is for building new bird cages and  
11 nest boxes and cutting of perches. It does have a  
12 particular space for a couple of cages for quarantines.

13 As soon as these birds come from Alaska, they will go  
14 into quarantine into the garage.

15 Q. How long is the quarantine?

16 A. No less than 30 days.

17 Q. And why is that? Why do you have to  
18 quarantine them?

19 A. Because you don't know what the birds might  
20 have come in contact with on the airplane. I know they  
21 are clean in her aviary there, but you don't know what  
22 has been on the airplane with them.

23 Q. Sure. Do you have to quarantine other birds  
24 that are owned by you or bred by you?

25 A. Not my birds, no. I quarantine anything that

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1 comes that we purchase.

2 Q. Any new ones?

3 A. Yes.

4 Q. So if there is a sick bird, then, that doesn't  
5 need to get quarantined; is that correct?

6 A. If there is a sick bird, depending on what it  
7 is, it has to be medicated, it has to be in an area, in  
8 an enclosed area where I can handle the bird every day  
9 to make sure it gets its medication.

10 But I usually move the mate with it because  
11 they become so distraught being separated.

12 Q. Do you have any birds that are now in  
13 quarantine?

14 A. No.

15 Q. Is there any testing that the aviary is  
16 required to do prior to selling --

17 A. No.

18 Q. -- a bird? Is there a means or a way to  
19 determine whether or not birds that you sell don't have  
20 any sort of communicable disease or sickness?

21 A. No. You are asking if I know that they have a  
22 disease when they sell them?  
23 Q. No. I am asking if there is a means or a way  
24 or a method that you can determine, when you're selling  
25 a bird, that it does not have --

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1 A. I do not sell a sick bird who is not feeling  
2 well. That the eyes aren't sparkly and clear.  
3 You know, I have been in the business long  
4 enough to know when a bird -- and they have good days  
5 and bad days, just like we do. But I do not sell a  
6 bird that is off its feet or anything else.  
7 Q. Are there illnesses that a bird can suffer  
8 from that it would not have any outward signs?  
9 A. Yes. Birds mask their illnesses very, very  
10 good. Because if they didn't, in the wild they would  
11 be food for somebody else. So it is nature to try to  
12 cover any illness that they might have.  
13 Q. So if they have this ability to mask or cover  
14 their illness, how can you determine or insure that  
15 when you sell a bird that you are selling a healthy  
16 bird that doesn't have a disease or an illness?  
17 A. Because I worked with birds for so many years  
18 it is if -- you know, if I didn't know anything but my  
19 birds, I shouldn't be in the business.  
20 Q. Are there any diseases that have no outward  
21 sign?  
22 A. Yes.  
23 Q. What are those diseases?  
24 A. Pacheco is one.  
25 Q. What is that?

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1 A. It is a virus.  
2 Q. Is that a form of the herpes virus?  
3 A. No. The herpes simplex is a polyoma. And  
4 that is not always outwardly tellable, either.  
5 Macaw wasting you cannot tell that's what  
6 killed it until after a thorough battery of pathogenic  
7 work is done after the bird is dead.  
8 Q. Have any of your birds ever had any of those  
9 diseases?  
10 A. I have had birds that have come back from Dr.  
11 Dhillon with the statement saying that pathological  
12 reports are -- and serology reports are being done and

13 I will get the results. And on that original  
14 statement, necropsy statement, he says that for  
15 possibility of such and such a disease.

16 Q. Got you.

17 A. But I have never had one, to my knowledge, die  
18 out and out of any of those diseases. It has all been  
19 pending.

20 Q. Is there a test for the three diseases, the  
21 herpes, the Macaw wasting -- is the Macaw wasting a  
22 syndrome or disease?

23 A. It is a virus.

24 Q. So Macaw wasting?

25 A. So, no, there is no test for Macaw wasting.

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1 For the herpes virus, you generally know when your  
2 birds are coming down with this by the way they act.  
3 And you know something is wrong, and it is time to pull  
4 that bird and quarantine it and have what battery of  
5 tests possible for everything done. And that's what we  
6 do.

7 Q. And the first one that you mentioned the --  
8 how did you pronounce the Pacheco?

9 A. Pacheco. Now that's not right, either.

10 Q. I believe it is P-A-C-H-E-C-O.

11 A. I'm drawing a blank now as how to say it.

12 Q. Is that also a virus?

13 A. It is also a virus.

14 Q. Any testing for that available so you can  
15 determine prior to selling a bird that it has it?

16 A. No.

*[Editor's Note: A PCR-based test for Pacheco's virus is routinely available]*

17 Q. So to your knowledge the birds that you sell  
18 are healthy based on your visible observations but  
19 there isn't any testing performed to determine if a  
20 certain disease is present; is that correct?

21 A. If they take the bird to the veterinarian on  
22 their own accord and if it is not -- if it is a  
23 bacteria that is treatable, because that can start any  
24 time, just like a common cold does; if it is something  
25 that cannot be treated, I have only had that happen

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1 once. And that wasn't something they did. It was they  
2 starved the bird when they told me it had the baby,

3 when they told me they thought it had. The vet didn't  
4 say anything, that it had Macaw wasting.

5 And what came of it was the bird, they  
6 literally starved the bird. Because they saw they were  
7 feeding it seeds, and they saw the hulls in the food  
8 dish, so they thought the bird had plenty of food and  
9 didn't feed it. And it still was being hand fed twice  
10 a day.

11 Q. When you are saying "they," is that a  
12 particular person that you know of?

13 A. This happened probably ten years ago.

14 Q. Have any of your birds ever died because of  
15 starvation?

16 A. No. Unless the other mate has starved it.

17 But you can tell that when a bird is getting thin. And  
18 you follow up very closely to watch that pair of birds  
19 to see who controls the food dish. But I have never  
20 had one starve to death.

21 Q. Let's go back to the testing because I just  
22 want to be very clear. So no tests are performed by  
23 you for any of the communicable diseases prior to  
24 selling, is that --

25 A. No. Because I don't have communicable

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1 diseases.

[*Editor's Note: These critical denials are diametrically opposed to a large amount of necropsy evidence*]

2 Q. And you have never sold a bird that was sick?

3 A. Not knowingly.

4 Q. Have you ever sold a bird that somebody later  
5 came back and said, Gee, this bird that you sold me is  
6 sick?

7 A. Yes. And I asked for a veterinary report and  
8 they didn't have one. This has also been when I first  
9 started in the business many, many years ago.

10 Q. If you did hypothetically sell a bird and  
11 somebody did have the vet records, what would you do?

12 A. I would take the bird back, depending on what  
13 the vet was treating it for.

14 Q. If you sold a bird through a broker, would  
15 that still be the same case? Would you still ask to  
16 see the vet records and possibly take the bird back?

17 A. I have never had one come back from a broker  
18 even say I had illnesses in my birds.

19 Q. But if you did, would that still be the  
20 situation, that you would still ask to see --  
21 A. I have never not honored a rejection. If  
22 that's what you want to call it.  
23 Q. Okay.  
24 A. But I don't have them. That's why I deal  
25 mainly with brokers so I don't have to deal with the

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1 public.  
2 Q. We talked about -- I'm going to mispronounce  
3 it -- psittacosis. And you said your flock has not had  
4 that disease; is that correct?  
5 A. Correct.  
6 Q. So this may sound like an obvious question.  
7 If your flock has never had it, that must mean you  
8 never have to treat for it?  
9 A. I treat yearly with a tetracycline. And  
10 that's a good all-around antibiotic. But it also takes  
11 care of the respiratory symptom, which is what  
12 psittacosis is.  
13 And Dr. Dhillon and I set this up when he  
14 first came to Washington State University.  
15 And so you treat -- because our birds are  
16 outside where they can come in contact with wild birds.  
17 It won't be by the end of summer because they will all  
18 be netted in. And then the wild birds can't get in.  
19 Q. Other than your quarantine area in the garage,  
20 do you have any other area that you can move sick birds  
21 to?  
22 A. Yes. I can put them upstairs with me in an  
23 isolated area.  
24 Q. Have you ever moved them to another facility  
25 outside of your aviary?

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1 A. No. I have never had any sick birds that I  
2 could not take care of. Unless they were at the vets.  
3 Q. I'm trying to remember her name. Miss Graves,  
4 Vivian Graves, have you ever housed any of your sick  
5 birds at her trailer, mobile home?  
6 A. No. And I would not.  
7 Q. Why is that?  
8 A. Because I need to have them where I can take  
9 care of them.  
10 Q. Other than the Pierce County Humane Society

11 and -- excuse me. Other than the Pierce County Humane  
12 Society and the Pierce County Health Department, any  
13 another organization, agency, or individual ever  
14 discuss with you or investigate any conditions at your  
15 aviary?

16 A. The only individual that I know of is Rene  
17 Ward.

18 Q. I believe you said that Ms. Ward was directed,  
19 or I believe you said "sent" to your facility by Mr.  
20 Gallowa. Do you know if Ms. Ward is an employee of Mr.  
21 Gallowa?

22 A. No, I don't think she is.

23 Q. Do you know if she is an agent of Mr. Gallowa?

24 A. Well, I would classify that an agent if he  
25 says, Go check these people out.

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1 Q. If Ms. Ward was not an agent or was not an  
2 employee of Mr. Gallowa, do you have any other reason  
3 to believe that Ms. Ward was acting on anything other  
4 than her own behalf?

5 A. Yes.

6 Q. What is that?

7 A. Some of the e-mails that are not in front of  
8 me to Mr. Gallowa.

9 Q. To Mr. Gallowa?

10 A. I'm sure they were to him or to the humane  
11 society. And they were all conferring back together on  
12 the chat lines.

13 Q. And so e-mails from Ms. Ward; is that correct?

14 A. I'm assuming that's how it came about. I  
15 don't have all of his e-mails in front of me.

16 Q. What area of the property was Ms. Ward on?

17 A. She was in my house when we were out feeding.  
18 And then another time she came up, and she was  
19 wandering through the back end of here. And I don't  
20 know if she came over to here because we were way up  
21 here behind the garage.

22 She was wandering back here looking. And out  
23 here on our driveway coming in it is posted right here,  
24 and it is posted on both sides of my gate, "No  
25 trespassing."

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1 Q. I have not met Ms. Ward. Do you know the  
2 approximate age of Ms. Ward?

3 A. I can't tell ages. I mean, I wouldn't even  
4 guess.  
5 Q. Was she a younger person or older person?  
6 A. I would say she is in her mid forties or early  
7 fifties. Because I would guess you about 34, 32. But  
8 I don't know if I'm off or not.  
9 Q. Make sure you put that on the record.  
10 A. I am not good at guessing ages. If you look  
11 at kids nowadays in high school, and they don't look  
12 old enough to be in high school.  
13 Q. At any rate, she is an adult?  
14 A. Yes. She is an adult.  
15 Q. Did you prosecute her or institute any  
16 prosecution against her for trespassing?  
17 A. I don't recall.  
18 Q. When she arrived, was she on her own or with  
19 anybody else?  
20 A. She was on her own once.  
21 Q. One time she has been to your facility?  
22 A. No. She has been there at least twice.  
23 Q. And I believe you said my client, Mr. Gallowa,  
24 has not ever been on your property?  
25 A. No. He has never been there.

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1 Q. Did Ms. Ward cause any damage to your property  
2 while she was out there on either two visits?  
3 A. Well, that's what brought us around to the  
4 edge, because these Amazons were making so much noise.  
5 And they had already been fed. And they are very  
6 quiet, busily eating after they have been fed. And yet  
7 they were just raising all kinds of heck -- excuse me  
8 -- all kinds of heck. And the macaws were screaming.  
9 So we knew something was going on. So we came  
10 from up here behind the garage and went to see. And  
11 she was just coming back.  
12 Q. So what you mean by, brought you to the edge,  
13 brought you around to where she was; is that what you  
14 meant?  
15 A. Well, we came from back here behind the  
16 garage, and we had to come like this, and she was  
17 coming from this way. And we met her about right in  
18 here but we saw her down in there.  
19 Q. And my question was: Did she cause any  
20 damage?  
21 A. Yes.

22 Q. What was that?  
23 A. She upset the birds to the point where they  
24 were very, very distraught. And they don't like  
25 strangers.

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1 Q. As a result of the birds being distraught, was  
2 there any negative outcome or damage?  
3 A. Well, I know that the Amazons, the males  
4 chased their hens to the back of the cage. Because  
5 that is a common thing for them to do when a stranger  
6 comes by and is talking to them. When a stranger comes  
7 by, they are going to protect their area. So they will  
8 chase their hens to the back.  
9 And if they can get them in the nest box, they  
10 will chase them in the nest box. That is not a normal  
11 procedure every day when we are out there amongst them.  
12 Q. So other than chasing the hens to the back --  
13 A. That disrupts breeding.  
14 Q. Did it disrupt the breeding?  
15 A. Yes. To the Amazons.

16 That whole 2003 was distraught. Mr. Gallowa's  
17 point, to my knowledge, was to keep disrupting us as  
18 much as possible. Because any disruption will upset  
19 the birds. And different birds breed at different  
20 times.

21 Q. And, again, you say he sent Ms. Ward out  
22 there. And do you have any knowledge that she was  
23 somehow under his control to go out there?

24 A. I don't have the e-mails in front of me so I'm  
25 not going to say for sure.

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1 Q. But you don't believe she is an employee of  
2 his; correct?

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

4 Q. And you have already told me that she is  
5 obviously an adult woman and you did not prosecute her  
6 for trespassing; correct?

7 A. No. Because the first time she came under the  
8 pretension of -- pretense of purchasing a bird and  
9 seeing if I could help her out with some problems she  
10 was having with her birds.

11 Q. You mentioned you don't have your pet birds in  
12 a cage unless they are being disciplined. And I meant  
13 to ask you that. What did you mean by that?

14 A. Well, if they chew up my wooden handrails out

15 on my porch or -- birds are very destructive. And my  
16 one pet in particular, if she is mad at me, she will  
17 chew something up. And so then I put her in a cage for  
18 a couple hours.

19 Q. Do you have any other means of disciplining  
20 any of the other birds?

21 A. That's the only way. I don't discipline any  
22 of the breeder birds.

23 Q. Okay. We have talked about Pierce County  
24 Humane Society and the health department. Have you  
25 ever been notified that you violated any state

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1 anti-abuse laws, animal-abuse laws?

2 A. I have never been notified, no.

3 Q. So you have never been fined for any  
4 animal-abuse laws either?

5 A. No.

6 Q. Have you ever had a bird with Macaw wasting  
7 disease at your facility?

8 A. I had some birds pending, and then when the  
9 results came back from the university, it was  
10 inconclusive.

[*Editor's Note: In Kathy Scudder's testimony, Martha Scudder once pointed out a bird with "Macaw Wasting Disease" (Proventricular Dilatation Disease") in the Parrot Depot aviary for teaching Purposes]*

11 Q. So did you take any action or any steps to  
12 prevent any of the other birds from getting it?

13 A. How can you?

14 Q. So there is no --

15 A. It is like if you catch a cold and your  
16 husband gets it from you, or he can have a cold and you  
17 not get it from him. A virus will hit one bird and not  
18 another. And viruses are airborne. They can be  
19 trapped in, that's why it is a closed aviary.

20 Q. What about -- and now I don't know how to say  
21 it based on the spelling. Pacheco?

22 A. Pacheco. That's what I was talking about.

23 Q. P-A-C-H-E-C-O.

24 A. That's the herpes virus.

25 Q. Are there any steps that you can take to stop

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1 the spread of that disease in a flock?

2 A. Don't let people come in amongst your flock.

3 Q. Have you ever used Novocin, N-O-V-O-C-I-N, as  
4 treatment for the flock?

5 A. No. I use it to clean cages with. But not as  
6 a preventive treatment because it is not strong enough.

7 Q. Has it ever been recommended that you do that?

8 A. When we hose down the cages, we use a Novocin  
9 solution.

10 Q. But did anybody recommend that you do that?

11 A. Oh, years ago with Dr. Dhillon. Probably  
12 20 years ago and so that's what we do.

13 Q. Do you perform any testing to make sure this  
14 disease has been eradicated from a flock?

15 A. I have never had it.

[*Editor's Note: There is evidence of Pacheco's Disease in the necropsies from the Parrot Depot. Furthermore, Mrs. Scudder revealed a prescription for large amounts of acyclovir, the treatment for this illness.*]

16 Q. And I think you said your flock does not have  
17 psittacosis? Does not have?

18 A. Does not have.

19 Q. Do you know a Jennifer Johnson, a Dr. Jennifer  
20 Johnson?

21 A. The name is not familiar. Again, a lot of  
22 these veterinarians around the area, because I have  
23 been in business for so many years, they know of me.

24 Q. Okay. Have you ever had any discussions with  
25 anybody at the Pierce County Humane Society about Mr.

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1 Gallowa?

2 A. Not to my knowledge. That I can recall.

3 Q. Did they ever make any statements about him to  
4 you?

5 A. They just said that he is e-mailing them and  
6 complaining, and they have to follow through.

7 Q. When we talked earlier, you said you weren't  
8 certain whether you intended to file any lawsuits  
9 against the Pierce County Humane Society. Have you  
10 ever made any threats to them that you would sue them?

11 A. No.

12 Q. Do you personally know anybody at the Pierce  
13 County Humane Society on a personal-friendship basis?

14 A. No.

15 Q. Do you have any relatives, anybody employed by  
16 them that is related to you?

17 A. No.

18 Q. Are you familiar with Councilwoman Gellman,  
19 G-E-L-L-M-A-N?  
20 A. She is one of the councilwomen or persons that  
21 Mr. Gallowa was pressuring to pass this ordinance that  
22 he wanted.  
23 Q. And that's the ordinance dealing with  
24 licensing aviaries?  
25 A. And breeding of the birds.

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1 Q. Correct?  
2 A. Correct.  
3 Q. Has she or any of her committee members ever  
4 been to your facility?  
5 A. She has never been.  
6 Q. What about her committee people?  
7 A. Congress -- is he a congressman? He is not a  
8 congressman. Commissioner. Whatever they are. **Dick**  
9 **Murray has been to our facility.**

[*Editor's Note: Councilman Dick Muri*]

10 Q. When was that?  
11 A. Oh, a week or so before the hearing at the  
12 county council. He is a council member. County  
13 council member.  
14 Q. During that visit were there any discussions  
15 with or discussions about Larry Gallowa?  
16 A. Yes.  
17 Q. What was discussed?  
18 A. I don't remember.  
19 Q. Did you make any statements about Mr. Gallowa?  
20 A. Did I make any statements? I don't remember.  
21 Q. Did the councilman make any statements about  
22 Mr. Gallowa?  
23 A. Yes. That they were getting e-mail after  
24 e-mail after e-mail, and he would not let up.  
25 Q. Do you have any idea why Mr. Gallowa would, in

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1 your words, "would not let up"?  
2 A. I think between he and -- now, with the  
3 statement from Tracy Bennett stating that I needed to  
4 reduce my flock I think the plans were to send them to  
5 cockatoo rescue.  
6 Q. The plans were to send who?  
7 A. The birds that I was to get rid of.

8 Q. I see. And whose plan do you think that was?  
9 A. I think that was Mr. Gallowa's and Lori  
10 Rutledge's.  
11 Q. Do you have any idea why that might be their  
12 plan?  
13 A. Because they want my birds.  
14 Q. And, again, why do they want your birds?  
15 A. Because they are jealous. It is the only  
16 thing I can think of.  
17 Q. When the councilman was there, did they talk  
18 with you about the proposed ordinance?  
19 A. We had a copy of it.  
20 Q. Did you discuss it during that visit?  
21 A. No, not during that visit. To my knowledge I  
22 did not. But we had a copy of the ordinance as it was  
23 written.  
24 Q. Did you take any action to oppose that  
25 ordinance?

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1 A. Yes.  
2 Q. What was that action?  
3 A. We attended the council meeting.  
4 Q. We -- let me stop you there. "We" being who?  
5 A. Other aviculturists. The pigeon people. The  
6 AFA people were represented there. American Federation  
7 of Aviculture. 4-Hs were registered there. Hobbyists,  
8 RATTI people. These are all exotic birds.  
9 Q. So that's what you meant by "we," not you and  
10 Mr. Vincent?  
11 A. No. I encompassed the whole area.  
12 Q. Was Mr. Vincent present?  
13 A. Yes.  
14 Q. And by action you meant your presence at --  
15 A. The council meeting.  
16 Q. Did you speak?  
17 A. Yes, I did.  
18 Q. And can you paraphrase for me what you spoke  
19 of in opposition to?  
20 A. Well, the first thing I said is I am not a  
21 little old lady in a wheelchair. Because that's what  
22 he said. And that I have been raising birds since the  
23 mid -- I have been collecting birds since the mid '70s.  
24 That I am no longer a hobbyist, I am a professional  
25 breeder. That I do not sell diseased birds. I can't

1 remember what else.

2 Q. Are you a member of the AFA?

3 A. Yes.

4 Q. How long have you been?

5 A. Probably since its inception.

6 Q. When was that?

7 A. In the early '80s, I think. Late '70s.

8 Q. Do you know if Councilwoman Gellman or any of  
9 her committee has ever met with anybody from the AFA?

10 A. I don't know that.

11 Q. Do you know if, or do you recall if you ever  
12 purchased birds from someone called Tina Stockdale?

13 A. That name is not familiar to me.

14 Q. Are you familiar with a Nesting Box Aviary?

15 A. No. Like I say, I don't know a lot of these  
16 people. I have never even heard of them.

17 Q. Who is the Brett Law Group?

18 A. Brandt? That's this law group.

19 Q. Is Mr. Vincent represented by a Brett,  
20 B-R-E-T-T, that you know of?

21 A. Not that I know of.

22 Q. Okay.

23 A. He could have had something going before I  
24 ever met him.

25 Q. But to your knowledge --

1 A. To my knowledge, no. That also could have  
2 been -- I don't remember the attorney that he had with  
3 this last custody-thing over his children.

4 MS. MacDOUGALL: Got you. All right. Let's  
5 take a break.

6 (Recess taken.)

7 (Exhibit No. 2 was marked for identification.)

8 Q. (By Ms. MacDougall) I am going to hand you,  
9 Mrs. Scudder, and let your attorney look at what I have  
10 marked as Exhibit No. 2. And if you can take a look at  
11 that and determine for me whether that is your current  
12 Washington State business license?

13 A. I don't know my number, but I'm assuming it  
14 is.

15 Q. And what does that business license represent,  
16 at least on that Exhibit No. 2, that the business it is  
17 licensing is? What is the name of the business?

18 A. You are asking me what the name of the

19 business is?  
20 Q. What is written on there?  
21 A. Scudder's Parrot Depot.  
22 Q. Is that your business?  
23 A. Yes.  
24 Q. And what is the address that is listed under  
25 business location?

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1 A. 10013 332nd Street South. In Roy, Washington.  
2 98580.  
3 Q. And that is the location of the house; is that  
4 correct?  
5 A. Yes. And the aviary.  
6 Q. And the aviary. And I will represent to you  
7 that I located this by going on the internet and  
8 performing a search. And that address that pops up,  
9 you are telling me, is your residential address; is  
10 that correct?  
11 A. Yes.  
12 Q. Got you. And I do see this as issued as sole  
13 proprietor?  
14 A. Yes.  
15 (Exhibit No. 3 was marked for identification.)  
16 Q. (By Ms. MacDougall) Handing you what has been  
17 marked as Exhibit No. 3 for you and your counsel to  
18 take a minute to look at.  
19 And can you tell me, if you know, what that  
20 is?  
21 A. Yes.  
22 Q. What is that?  
23 A. This is a -- in our little area newspaper -- I  
24 don't remember the name of the interviewer. I guess I  
25 would be the interviewee. I don't know. Oh, Seth

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1 Truscott was there a week ago and did an interview on  
2 us because we had joined the chamber of commerce.  
3 Q. So was the purpose of that visit because you  
4 were new --  
5 A. Yes. To the chamber of commerce.  
6 Q. As business owners in the area?  
7 A. Yes.  
8 Q. And let me just make very clear for the record  
9 so you don't think I am trying to pull wool over your  
10 eyes. The copy that we have marked as Exhibit No. 3

11 says page 1 of 2. I will represent to you that when  
12 you pull up this article online, it doesn't give you  
13 the whole thing. And page 2 is an article about a  
14 local boy made good. So I didn't include that for you.  
15 So I do not have the whole article here for you.

16 When you referenced for me earlier in your  
17 testimony about a recent visit by Dr. Dhillon --

18 A. It happened to be the same day he was there.

19 Q. That's what I was going to ask you. And it  
20 looks like this article says that he brought students,  
21 WSU veterinary students from Pullman; is that correct?

22 A. Yes.

23 Q. It also states farm co-owners, listing you and  
24 Mr. Vincent. Do you see that in the article?

25 A. That's what he wrote.

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1 Q. That's what Mr. --

2 A. Mr. Truscott wrote.

3 Q. Where would he have gotten that information?

4 A. I don't know because I was with Dr. Dhillon.

5 Q. Got you.

6 A. Mr. Vincent was with him.

7 Q. You did not tell him that you and Mr. Vincent  
8 are co-owners of the farm?

9 A. No. Because I was with Dr. Dhillon and the  
10 students.

11 Q. What portion of the aviary facility was Dr.  
12 Dhillon taken to?

13 A. We walked amongst the Amazons and the Macaws,  
14 and the Philippine Blue Napes. The others are off  
15 limits because it is their breeding time.

16 Q. For about how many years has Dr. Dhillon  
17 brought students here to the aviary to show them  
18 around?

19 A. Ever since he has been a professor over there  
20 and been head of that diagnostic unit.

21 Q. Do you know about how many years that has  
22 been?

23 A. Probably pretty close to 20 years.

24 Q. Do you know --

25 A. But I'm not positive.

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1 Q. I understand. I won't hold you to that.

2 Do you know the purpose of Dr. Dhillon's

3 visits to the aviary?

4 A. Yes.

5 Q. What is that?

6 A. He comes for a walk-through with the students  
7 to have the students learn as much as they can in that  
8 hour that they are there about how flock management  
9 works with exotic -- with the exotic psittacines. And  
10 that they have the opportunity to see birds that they  
11 probably will never see again. With some of our  
12 appendix one birds.

13 Q. Does Dr. Dhillon visit or tour with students

14 on a regular basis at least once a year --

15 A. Yes.

16 Q. -- at your facility?

17 A. If he has any students going into avian  
18 medicine. If he doesn't have students going into avian  
19 medicine or poultry medicine ^ , they don't come.

20 Q. And I think you said Dr. Dhillon never noted  
21 any problems with the facility to you?

22 A. No. No. He has never. He just commented on  
23 how pretty the birds are and in good condition.

24 Q. So Dr. Dhillon has never said that he is  
25 showing the students your facility as an example of

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1 some things not to do --

2 A. No.

3 Q. -- to the flock?

4 A. Never.

5 Q. And you have never been made aware of that in  
6 any other capacity, that that's Dr. Dhillon's purpose?

7 A. His purpose is to bring the students to see  
8 what a psittacine is and the varieties that there are.

9 Q. And let me back up. Is Dr. Dhillon a licensed  
10 vet in the state of Washington?

11 A. Certainly. He has a master's degree and a  
12 Ph.D. degree. And he is over all of the poultry in  
13 Washington state. All of them from pigeons, to  
14 pheasants, to ostrich, to chickens, ducks, geese. He  
15 is over all of them in Washington state.

16 Q. Do you know if he is licensed to practice  
17 veterinary medicine in the state of Washington? I'm  
18 sorry, I probably should have been clearer.

19 A. I don't know that. I know he is a licensed  
20 veterinarian.

21 Q. And --

22 A. But he does not practice -- to my knowledge he  
23 does not practice on live birds. Because his specialty  
24 is the deceased birds. And experimenting with the  
25 poultry industry and eggs and so forth.

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1 Q. If you look at that last sentence. Can I get  
2 you to read the one where Mr. Vincent opened up the  
3 incubator?

4 A. Okay. I was with him when they were there.  
5 The students were there too. And I had just had a baby  
6 hatch that day. And this is not the egg incubator.  
7 This is a human baby incubator. And we opened it up  
8 long enough because these babies are smaller than my  
9 fingertip and weigh only four grams.

10 And so I took the baby out. And he brought  
11 the baby out. And they are in strawberry cups so the  
12 air circulates around them. And that's what that was.

13 Q. So that doesn't cause any disturbance?

14 A. Not on the tiny babies, no. If they were with  
15 the parents, the parents would kill them. That's why  
16 we artificially incubate our eggs, because the parents  
17 would kill them.

18 (Exhibit No. 4 was marked for identification.)

19 Q. (By Ms. MacDougall) I am handing what you has  
20 been marked as Exhibit No. 4. Let me ask you: Do you  
21 recognize that website?

22 A. It is not ours. No, I do not.

23 Q. Does it appear to be, at least across the  
24 bottom, for the website address for the Happy Birds  
25 Aviary?

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1 A. Yes.

2 Q. And you don't recognize that?

3 A. No. I don't recognize the picture. My  
4 Isolettes are nothing like that. My Isolettes are  
5 human baby Isolettes.

6 Q. Do you see on page 1 of this two-page exhibit  
7 that there is what appears to be a link provided to  
8 Scudder's Parrot Depot?

9 A. Yes. But she has no permission to do that.

10 Q. So --

11 A. I have no idea who Happy Birds Aviary is. So  
12 that's printed without my prior knowledge.

13 Q. So you did not grant permission to this  
14 person?

15 A. No.

16 Q. And you don't recall about advising her about  
17 feeding?

18 A. When people come to me with problems, I tell  
19 them what I know and what I would do. And I tell them  
20 that if they're having success with their babies, the  
21 way they are feeding, don't change it. You do what is  
22 comfortable for you.

23 May I see the second page?

24 Q. I'm sorry. I thought you had already looked  
25 at it.

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1 And looking at the second page, do you  
2 recognize any of those birds or that facility?

3 A. I can't, no. I don't. "Even though he looks  
4 big this Blue and Gold Macaw is still a baby."

5 I have no idea who this person is. But you  
6 can look at a Macaw and you can't tell whether that is  
7 my Macaw or Julie's Macaw or Frank Davidson's Macaw.  
8 They all look the same. And I don't have cockatiels so  
9 I know these aren't mine.

10 Q. Okay.

11 A. And I object to any of this without prior --

12 Q. Without permission?

13 A. Without permission.

14 (Exhibit No. 5 was marked for identification.)

15 Q. (By Ms. MacDougall) Handing you what has been  
16 marked as Exhibit No. 5. And does that look like your  
17 website, Parrot hyphen Depot?

18 A. It looks like Bob's. Yes.

19 Q. Your business is Parrot Depot?

20 A. Correct.

21 Q. So this would be for you, Martha Scudder?

22 A. Yes.

23 Q. So this is not --

24 A. Under reconstruction. This is the website  
25 that is under reconstruction.

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1 Q. Got you. And this is not Bob's business, the  
2 Parrot Depot?

3 A. No. That's my business.

4 Q. Okay. Can you read me the second sentence  
5 beginning with, "All of our babies" --

6 A. "All of our babies have new homes and 2004 was

7 a wonderful year."

8 Q. Do you recall your earlier testimony telling  
9 me that you suffered a loss and the business did not do  
10 well or about broke even?

11 A. We about broke broken.

12 Q. Then can you put this sentence with, finding  
13 the babies homes and 2004 --

14 A. They have all been sold. Well, not all of  
15 them, I have about ten babies left.

16 Q. Let me finish my question here. And then can  
17 you put that in context with your earlier testimony  
18 regarding not selling the babies and not -- or just  
19 about breaking even?

20 A. In 2003 I honestly don't remember how many  
21 babies we had. But our -- in 2004 because there was no  
22 disruption in the breeding pairs I had more production.  
23 And that's why we said it was a wonderful year.

[*Editor's Note: Julie Corwin indicated it was still a poor year: "in 2004 I still was only able to get about 10 or 15 birds from Martha due to her lack of production." (Declaration of J. Corwin, p.2)*]

24 In 2003 I had the fewest babies. I had 37  
25 babies, I think, or close to 40 for the whole year.

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1 And there have been years where I have had 150  
2 babies a year, prior to any of this investigation going  
3 on. So there are my losses.

4 Q. Is that an accurate representation of your  
5 business in 2004, that all of your babies found new  
6 homes and 2004 was a wonderful year?

7 A. No. I have ten yet that are not -- well,  
8 that's because I kept four of them for future breeding  
9 stock. But, yes, it is fairly accurate.

10 Q. And what is this statement, "We are expanding  
11 our services in 2005" mean?

12 A. Two parrots -- www.parrotpantry dot com.

13 Q. If I understood your earlier testimony, I  
14 thought that was Bob's business?

15 A. That is Bob's business.

16 Q. Is it now your testimony that Parrot Depot is  
17 expanding into Parrot Pantry?

18 A. No. That's his. He lives with me. We use  
19 the same computer. We use the same advertising.

20 Q. So what I'm trying to understand is who is the  
21 "We are expanding our services?"

22 A. It is like we are sitting right here.  
23 Q. So this is you and Bob are expanding?  
24 A. I don't do this. I don't do this computer  
25 work. That's his.

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1 Q. So you had no part of the drafting of this?  
2 A. No. I am computer illiterate. All I do on  
3 the computer is play games.  
4 Q. And so do you have an understanding of what  
5 "Please visit our new store and watch us grow" means?  
6 A. On the e-mail? On the website?  
7 Q. Um-hmm.  
8 A. We list what babies we have available, when  
9 they will be available.  
10 Q. Okay.  
11 A. And the Parrot Pantry is just coming into  
12 existence. It is not there yet. Did I answer?  
13 Q. Yes, you did.  
14 MS. MacDOUGALL: Now, we will mark one, two,  
15 three -- four pages as Exhibit 6.  
16 (Exhibit No. 6 was marked for identification.)  
17 Q. (By Ms. MacDougall) Let me take a moment and  
18 explain to you why I have put this together. It is a  
19 continuation of moving from one link to another. And  
20 so I want to set it up for you like this so I can ask  
21 you some questions so it makes sense.  
22 So even though I have page 1 of 1, I put it  
23 together in one exhibit.  
24 Now, the Parrots Pantry is Bob's business,  
25 correct?

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1 A. Correct.  
2 Q. And does it appear, at least from the pages I  
3 have provided to you, which I will represent to you  
4 that I pulled off the internet. That in addition to  
5 some seed and feed he is going to be selling some  
6 cages. And it looks like some toys.  
7 A. Only if they are ordered. We do not carry --  
8 he will not carry an inventory.  
9 Q. Okay. And then these look like they are  
10 samples of some cages?  
11 A. That are available to us. To him.  
12 Q. To him.  
13 A. Or anybody who wants to buy them that has a

14 license.  
15 Q. And, in fact, it does have Bob's e-mail here.  
16 Partially cut off. Is that at Parrots Pantry?  
17 A. Yes.  
18 Q. Would that be Bob Vincent?  
19 A. It says Bob at Parrots Pantry.  
20 Q. It looks like --  
21 A. The "Y" is missing on Pantry.  
22 Q. "Parrotspant." And is that your home phone  
23 number?  
24 A. Correct. Can you see this?  
25 MS. CABALO: Yes.

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1 (Exhibit No. 7 was marked for identification.)  
2 Q. (By Ms. MacDougall) Mrs. Scudder, this is the  
3 letter that we have been talking about that I think you  
4 said if you had in front of you, the recommendations.  
5 So I want to let you take a moment to look at that and  
6 see if it appears to be the letter that you are  
7 familiar with from Dr. Tracy Bennett.  
8 A. Yes.  
9 Q. Okay. And --  
10 A. To the humane society, not to me.  
11 Q. Right. Exactly. Were you ever given a copy  
12 of this letter?  
13 A. By the humane society, yes.  
14 Q. Right. But not by Dr. Bennett?  
15 A. Right.  
16 Q. Got you. Does it appear that the date across  
17 that is in March of 2003?  
18 A. It says July. Oh, I see. Yes.  
19 Q. Does it refresh your recollection -- and I  
20 just want to be very clear with dates, and I don't want  
21 to trip you up here -- that this letter was written  
22 about the spring 2003 investigation?  
23 A. She was very -- she came in January.  
24 Q. Right.  
25 A. But she did not write this letter until

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1 approximately this time. She did not -- she was not --  
2 what is the word? She was not in appropriate time.  
3 She was late writing it.  
4 MS. CABALO: Counsel, excuse me for  
5 interjecting. I don't believe my copy has this stamp.

6 It is hard to tell. Is that a fax line at the top of  
7 it, or is that the letterhead that I just don't have on  
8 my copy?

9 MS. MacDOUGALL: Well, there are many -- and  
10 let's put this on the record. There are many different  
11 copies of this letter. You see the Bates stamp on this  
12 one, "PCC."

13 I took this from Pierce County Council  
14 documents. I think Pierce County Humane Society has a  
15 copy. There are just so many documents in this case,  
16 as I was going through each one preparing, I selected.

17 So we have provided you with a copy of all --

18 MS. CABALO: I just want it on the record that  
19 Martha's copy, which she is familiar with may not have  
20 --

21 THE WITNESS: Has none of this stuff.

22 MS. MacDOUGALL: If you looked at the copy  
23 that she has gotten directly from the humane society,  
24 it may well not have this. Especially because this  
25 probably went to Pierce County Council. Which is where

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1 I pulled that from.

2 Q. (By Ms. MacDougall) But as far as the  
3 content, does it at least appear to you that -- Ms.  
4 Scudder, is the content the recommendations?

5 A. Yes.

6 Q. Got you. All right. Let's go through this.

7 I am going to pass it back and forth between  
8 the two of us. As far as housing, do you see that Dr.  
9 Bennett made the recommendation that the housing was  
10 too small for the size of bird? Do you see that?

11 A. Yes.

12 Q. Did you make any changes based on that  
13 recommendation?

14 A. No. Because she is thinking of -- you cannot  
15 put babies that are just feathering out into a big cage  
16 because they can fall and get hurt because they have no  
17 balance yet. They have to learn to climb like a baby  
18 learns to walk. And to crawl. And these cages are --  
19 most of them are 2 feet long by about 18 inches --  
20 18 inches wide by 2 feet tall.

21 Q. So your testimony is that you did not make  
22 changes as recommended by Dr. Bennett because you  
23 believe Dr. Bennett is incorrect in making --

24 A. I know she is incorrect. Can I go through

25 this on the second one?

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1 Q. Sure. Let me ask you questions about it  
2 because I'm trying to make good use of our time here.  
3 So I am trying to be a little bit efficient.

4 (Exhibit No. 8 was marked for identification.)

5 Q. (By Ms. MacDougall) Let me hand you what has  
6 been marked as Exhibit 8 and ask you if you have ever  
7 seen a copy of this?

8 A. I don't know if I have seen a copy of this or  
9 not. Heard about it. But I'm not positive. But,  
10 again, this is not correct.

11 Q. And so you dispute --

12 A. I dispute everything in there.

13 Q. And specifically, I'm asking you: Do you  
14 dispute that Dr. Bennett's number 3, under "consider  
15 the following to be cruel under the law; number 3,  
16 that, "The birds were housed indoors, were kept in  
17 cages too small to allow for natural flapping behavior  
18 and not provide enough space for the birds to get  
19 sufficient exercise."

20 You dispute that number 3?

21 A. I dispute that number 3.

22 Q. Okay. Number 2, on Exhibit No. 7, Dr.  
23 Bennett's talking about the lack of perches. Do you  
24 see that and do you recall receiving that  
25 recommendation?

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1 A. Yes.

2 Q. Did you institute any changes because of that?

3 A. We put in perches in to suit her but some of  
4 the perches were already chewed up when she came back  
5 for the revisit. You are constantly replacing perches  
6 in bird cages.

7 And of the bird cages inside, they don't have  
8 a perch up on the wire. Their perch is made so it sits  
9 sternly on the floor of the cage. Because these babies  
10 cannot -- don't know how to hold their balance yet.  
11 They are learning all of these step by step.

12 Q. Let me turn your attention to Exhibit No. 8.  
13 And do you recall testifying to me that the birds were  
14 acclimated to this climate?

15 A. The birds outside are acclimated to this  
16 climate.

17 Q. And do you see Dr. Bennett's statement under  
18 number 1, that the outdoor housing is inadequate to  
19 keep the tropical birds?

20 A. They were not a tropical bird. They are  
21 neotropical birds. Which means they vary from the high  
22 Andes down in Peru to the ocean. I mean, depending on  
23 what specie it is to where they live in the jungle.

24 Q. So do they require different temperature  
25 ranges if they are coming from --

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1 A. The jungle is not a constant temperature.  
2 Most people think it is always hot. It is not. Many  
3 times the jungle, even in the summertime, is cold. And  
4 by meaning cold, I mean in the forties and fifties.  
5 And down where they have had sometimes with their  
6 freaky weather have had frost.

7 Q. Do you know if it ever gets below freezing  
8 down at your facility?

9 A. Of course it does.

10 Q. And are these birds, in your opinion, able to  
11 withstand below freezing conditions?

12 A. Yes.

13 Q. So you dispute and disagree with number 1 that  
14 these birds need to be protected from elements and that  
15 it's --

16 A. They are protected from elements. They are  
17 totally covered, out of the wind. They are protected  
18 from elements.

19 Q. So her statement that the housing is  
20 inadequate to protect the birds from the elements is  
21 incorrect?

22 A. Yes. Because they are not out in the open.

23 Q. Have they ever been out in the open?

24 A. The only birds that are out in the open are  
25 these two birds here. Those four birds.

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1 Q. Is the plastic that is on the outside, the  
2 rolls of plastic, does it ever tear or rip?

3 A. We have to have air circulating in the house  
4 so it is not air tight. And we do have ventilation  
5 above the roof so that air can come in and go. But,  
6 yes, it can get ripped if a branch falls against it.  
7 It has to fall pretty hard because six-mil plastic is  
8 very, very thick.

9 Q. Do you replace it, then, if it gets torn?  
10 A. No, we tape it. We have a tape that the  
11 greenhouse people use when theirs tear.  
12 Q. When Dr. Bennett was out there, this would  
13 have been when the plastic was up; correct?  
14 A. Yes.  
15 Q. So she would have seen the plastic up around  
16 the enclosure; correct?  
17 A. Correct.  
18 Q. And even viewing that, she apparently was  
19 still of the position that that plastic was inadequate  
20 to keep birds --  
21 A. That's --  
22 Q. -- apparently?  
23 A. That's her opinion.  
24 Q. I apologize for jumping back and forth  
25 between. Let me refer you to Exhibit No. 7, number 3,

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1 under housing. Where she notes the lack of cleanliness  
2 and large amounts of feces.  
3 Do you dispute that finding?  
4 A. Yes. In these birds, in these exotic birds  
5 you do not interrupt them. The least amount of  
6 interruption that you can do with them is better for  
7 them. When the fecal will build up from one day to the  
8 next, during January and February, December, those  
9 months in there, the cages are cleaned once a month.  
10 She wants them cleaned biweekly and you cannot do that  
11 with breeder birds.  
12 Q. Do you know if any other breeding facilities  
13 clean their cages more often in the winter than once a  
14 month?  
15 A. I would assume that birds that are contained  
16 inside in an enclosed basement, like many of them are,  
17 they should be cleaned daily. But what normally  
18 happens is there is paper put on the floor and only one  
19 person does that changing. And they just change the  
20 paper. But it still disrupts the birds.  
21 Q. So your testimony is the timeliness of  
22 cleaning by Dr. Bennett was too often?  
23 A. Yes. She again is putting a flock management  
24 against a pet bird.  
25 Q. Okay.

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1 A. Single bird in a cage.  
2 Q. Number 4, which talks about the outdoor cages  
3 over mud and the standing water and rotting vegetation  
4 that we talked about briefly earlier. Do you see she  
5 notes that it favors the proliferation of many  
6 diseases? Do you see that in number 4?  
7 A. Right.  
8 Q. Do you dispute that?  
9 A. Yes.  
10 Q. What is your basis for --  
11 A. There is no mud in January. We have the drip  
12 system with the brass nipples. They must drip in order  
13 to work efficiently. And the night before they came  
14 was a very frosty night, got below 30 degrees, and the  
15 pipe, the PVC pipe split and had sprayed fine spray of  
16 water out into the aisleway, not over the birds. And  
17 created icicles.  
18 Q. So when Dr. Bennett says the water system was  
19 rusted and broken, she is incorrect in that on Exhibit  
20 No. 8?  
21 A. I have never seen PVC pipe rust.  
22 Q. And that PVC pipe was in place during this  
23 2003 visit?  
24 A. Yes. That PVC pipe in that house she is  
25 talking about has been in place for the last ten years.

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1 Q. Okay. So no improvements were made to the  
2 water system at the aviary as a result of this; is that  
3 true, then?  
4 A. No. We went and we replaced the section of  
5 pipe that had this hairline split in it. We did  
6 replace that.  
7 Q. And that was due to the splitage of the --  
8 A. That was due --  
9 Q. -- frost and the freeze?  
10 A. -- to the freeze.  
11 Q. We have to be careful, I am getting the look  
12 from the court reporter.  
13 MS. CABALO: Let her finish the question. And  
14 you will know what she has asked.  
15 Q. (By Ms. MacDougall) It is just as much my  
16 fault in that situation. So I apologize.  
17 A. We did correct the water systems that were  
18 split from that night's -- previous night's freeze.  
19 Q. Back to Exhibit No. 7, still on the water. Do

20 you see where Dr. Bennett references the water that is  
21 not clean and full of fecal material?

22 Do you agree or disagree with that?

23 A. We provide water dishes for the birds to bathe  
24 in. When they get in that water dish and bathe, they  
25 get the water dirty. The birds also can move that

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1 water dish anywhere in the cage they feel they want to  
2 move it to. And if they move it under a perch, and  
3 they sit on the perch and poop into the water, that's  
4 their bathing water.

5 They always drink out of the drip system where  
6 the water is fresh.

7 Q. So you dispute Dr. Bennett's statement on  
8 Exhibit No. 8 that the water was not available at all  
9 times. You dispute that?

10 A. There is always water available. When the  
11 dishes get dirty, when we are feeding and they are  
12 bathing and their dish is dirty, we replace it with a  
13 clean one.

14 Q. Just so that we can maybe shortcut this a  
15 little bit. Is it fair to say you disagree with this  
16 entire report, that is Exhibit No. 7? Would that be a  
17 fair statement?

18 A. Yes, I do.

19 Q. If you disagree with that, then, why were any  
20 changes made to accommodate some of the recommendations  
21 made by Dr. Bennett?

22 A. All the recommendations she made about the  
23 dishes, and the broken water lines were corrected. New  
24 perches were put in. That was corrected.

25 She says here that they received no regular

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1 veterinary care. Exotic birds cannot be disturbed and  
2 handled without disrupting their breeding cycle.  
3 Whether they are close to breeding or whether they are  
4 three months from breeding, the preparation for them to  
5 breed. They are not physically handled. They are --  
6 at any time I request Dr. Brown to come to the facility  
7 for a farm call, he comes.

8 Normally I take, if I have a problem, and I  
9 have to have the bird to him for whatever, they -- I  
10 take them into the clinic. But I stay with the bird  
11 and the bird returns back to me instead of staying at

12 the clinic.

13 She also says that I treat the flock twice a  
14 year. I do not. I treat the flock only once a year.

15 Q. And what is the treatment, what is it for?

16 A. With tetracycline. And as I said earlier, an  
17 all-around antibiotic. But tetracycline is what you  
18 also treat and prevent psittacosis with.

19 Q. Have you ever been told that tetracycline is  
20 not the drug of choice for treatment?

21 A. Again, she is talking about a single bird in  
22 her clinic that has psittacosis. She is not talking  
23 about flock management.

24 Q. So you dispute that particular statement from  
25 Dr. Bennett?

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1 A. Yes.

2 Q. Now, we have established that Dr. Bennett is a  
3 veterinarian; correct?

4 A. Yes.

5 Q. And does it appear from her signature on, I  
6 believe, Exhibit No. 7, that she is an avian vet?

7 A. When you talk to specialists, that's just a  
8 title. It does not necessarily mean that she has any  
9 extra education on it. It is a club. It is like a  
10 club. It is -- she is an avian -- she calls herself an  
11 avian specialist.

12 Q. But you dispute her qualifications?

13 A. I don't dispute her qualifications. I am  
14 stating that Diplomate ABVP, whatever that stands for,  
15 avian, is a registration that she joins because she  
16 wants to. Not because she has to. My veterinarian is  
17 every bit as qualified to deal with the birds as she  
18 is.

19 Q. And Dr. Brown has not made these  
20 recommendations to you?

21 A. No.

22 Q. Have you taken any courses from either long  
23 distance learning, universities, extension courses,  
24 anywhere, on veterinary medicine for birds?

25 A. No.

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1 Q. Let me have Exhibit No. 7 back, please.

2 Pardon me.

3 A. I didn't get to the other paragraphs on that

4 second page.

5 Q. That's okay. I may not ask any more  
6 questions. Just give me one more minute here.

7 Back to Exhibit No. 7. Under diet, do you see  
8 where Dr. Bennett states about the black oil sunflower  
9 seeds?

10 A. Yes.

11 Q. And I know you told me you dispute that whole  
12 statement or the whole exhibit. Tell me specifically  
13 what you dispute about Dr. Bennett's recommendations  
14 and the statements about the diet under number 1?

15 A. Number 1. We have a combination of several  
16 seeds, not just black oil sunflower seeds.

17 Q. Let me stop you. I know I am interrupting,  
18 but let me make this very clear.

19 Where did Dr. Bennett get the idea that black  
20 oil sunflower seeds were the staple of these birds'  
21 diet?

22 A. I have no idea. She saw my diet. And it is  
23 not even a quarter of the diet. And in the wintertime  
24 we need to increase the fat for these birds because  
25 they are outside.

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1 And Dr. Bennett believes that birds should be  
2 on a prepared diet by these companies. And it is a  
3 proven fact that many of the pellet diets are not  
4 conducive to breeding.

5 Q. Let me ask you about -- let me see. This is  
6 under medical care. And it spills into the next page  
7 under number 3 where Dr. Bennett states that many of  
8 the birds she saw showed obvious signs of illness. And  
9 congenital or traumatic defects. Do you see that?

10 A. Yes.

11 Q. And you knew that recommendation. And I  
12 assume you disagree with that statement?

13 A. Yes, I do. She came with a negative attitude.  
14 That's the first thing.

15 My birds are in excellent feather except  
16 during a molt. And every bird when they molt is a  
17 ratty looking bird. If I had a bird that I felt was  
18 not doing well outside, they would go in the garage.

19 Q. Are there birds on your facility with obvious  
20 defects or deformities?

21 A. No. There are some crooked beaks but that  
22 happens in the wild. That is not created by me or by

23 diet.  
24 Q. Do you have birds that have a protruding keel  
25 or are thin and lethargic?

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1 A. No.  
2 Q. Have you ever?  
3 A. Yes, I have had. When I caught a male -- or a  
4 hen not letting her male eat, she was eating all the  
5 goodies that she wanted out of it and would not let him  
6 get in the food dish. As soon as I put two food dishes  
7 in the cage he gained his weight back.  
8 Q. So that's the only time when you had a thin  
9 bird due to the situation you just described?  
10 A. Yes.  
11 Q. So it is not correct that many of your birds,  
12 many, suffer from the condition she is --  
13 A. That is not correct.  
14 Q. -- she is listing?  
15 And, finally, just to finish up, we talked  
16 about the beak deformities. What about the foot  
17 deformities? Do you have birds that have foot  
18 deformities?  
19 A. I have birds that miss toenails. But they can  
20 do that to each other. It is like you breaking a  
21 fingernail off.  
22 Q. All right. Let me hand you -- or let me look  
23 back to that to see if I have another question on  
24 Exhibit No. 7.  
25 Did you explain to Dr. Bennett that your

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1 regular veterinarian was Dr. Jerry Brown?  
2 A. She never gave me an opportunity. She never  
3 asked that question to me.  
4 Q. Do you see on the second page where she says,  
5 as far as she was able to ascertain they received no  
6 vet care. But you identified Dr. Dhillon and Dr.  
7 McDonald as your vets.  
8 A. They are not my regular veterinarians. But  
9 they are veterinarians that do walk-throughs when they  
10 are here.  
11 Q. Well, at this time when you were having this  
12 discussion where you identified those two, did you  
13 identify Dr. Brown as well?  
14 A. No. She did not ask who my private

15 veterinarian was. Or private practitioner was.  
16 Whatever you want to call it.  
17 Q. Can you explain to me if she didn't ask then,  
18 why she would make the statement that as far as she was  
19 able to ascertain the animals received no regular vet  
20 care? But you did identify Dr. Dhillon and Dr. Scott  
21 McDonald as your veterinarians?  
22 A. Well, Dr. Scott McDonald does all my surgical  
23 sexing. The bird either has to be surgically sexed or  
24 DNA sexed. And at that time many of the DNA sexings  
25 would come back wrong. So I always have any bird that

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1 I am keeping as a breeder surgically sexed.  
2 Q. So your testimony, as I understand it, that  
3 despite this statement, number 1, on page 2 of Exhibit  
4 No. 7, Dr. Bennett did not ever ask who your regular  
5 vet was?  
6 A. No, she did not.  
7 Q. And she never gave you the opportunity to give  
8 your doctor, Jerry Brown's name?  
9 A. No, she did not.  
10 Q. Do you see Dr. Bennett's statement that Dr.  
11 Dhillon is not licensed to practice veterinary  
12 medicine?  
13 A. Yes.  
14 Q. Do you know if that's correct or not?  
15 A. I know he does not see live birds. That does  
16 not mean he is not a licensed veterinarian.  
17 MS. CABALO: I do have some follow-ups. So I  
18 am not quite sure how much you have, and how long the  
19 court reporter can stay. This may necessitate Martha  
20 coming back tomorrow in any event.  
21 I don't have more than, say, five minutes of  
22 questions. But...  
23 MS. MacDOUGALL: Well, let's talk about that  
24 now. It is twenty till five. And I have several other  
25 documents to cover. Although I am done with Exhibit

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1 No. 7. And if you have follow-up, I don't think that  
2 we will finish.  
3 Is your preference we continue to go close to  
4 five, or does our court reporter need to break at this  
5 point?  
6 THE WITNESS: That's up to you.

7 MS. CABALO: I can power through. I would  
8 rather not have Ms. Scudder come back. I would like  
9 some indication, if you have any idea, how much longer  
10 you are going to be?

11 MS. MacDOUGALL: I will not finish in 15 or  
12 20 minutes. And I, unfortunately, cannot go past five.

13 MS. CABALO: Why don't we just continue  
14 tomorrow? That way you can ask all the questions you  
15 have and not have to worry about timing. And the court  
16 reporter can go home.

17 MS. MacDOUGALL: Let me just finish up and see  
18 if there is anything else on Exhibit 8 and we will put  
19 that away.

20 THE WITNESS: I will just have to maybe get  
21 Judy to help Vivian because it is stressful trying to  
22 feed birds outside and the tiny babies every two hours.

23 MS. MacDOUGALL: I do apologize. I am very  
24 sorry for the inconvenience.

25 Q. (By Ms. MacDougall) Let me ask you, just to

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1 be clear on Exhibit No. 8, you do disagree and dispute  
2 with everything on Exhibit 8 as well; is that correct?

3 A. Yes. Everything.

4 Q. All right. We can go off the record.

5 (Deposition adjourned at 4:41 p.m.)

6 (Signature reserved.)

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1 CORRECTION & SIGNATURE PAGE  
2 RE: SCUDDER vs. GALLOVA  
SUPERIOR COURT KING COUNTY; 04-2-04721-8SEA  
3 MARTHA SCUDDER; JANUARY 12, 2005  
REPORTED BY: CONNIE L. HOLTON

4

I, MARTHA SCUDDER, have read the within  
5 transcript taken January 12, 2005, and the same is true  
and accurate except for any changes and/or corrections,  
6 if any, as follows:

7 PAGE/LINE	CORRECTION	REASON
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21 Signed at \_\_\_\_\_, Washington,  
22 on this date: \_\_\_\_\_

23  
24

\_\_\_\_\_  
MARTHA JEAN SCUDDER

25

1 REPORTER'S CERTIFICATE

2

3 I, CONNIE L. HOLTON, the undersigned Certified  
4 Court Reporter and Notary Public, do hereby certify:

5 That the testimony and/or proceedings, a  
6 transcript of which is attached, was given before me at  
7 the time and place stated therein; that any and/or all  
8 witness(es) were by me duly sworn to tell the truth;  
9 that the sworn testimony and/or proceedings were by me  
10 stenographically recorded and transcribed under my  
11 supervision, to the best of my ability; that the  
12 foregoing transcript contains a full, true, and

13 accurate record of all the sworn testimony and/or  
14 proceedings given and occurring at the time and place  
15 stated in the transcript; that I am in no way related  
16 to any party to the matter, nor to any counsel, nor do  
17 I have any financial interest in the event of the  
18 cause.

19 WITNESS MY HAND AND SEAL this 24th day of January  
20 2005.

21  
22

23 CONNIE L. HOLTON  
24 Certified Court Reporter  
25 CCR No. 2975  
Notary Public in and for the  
State of Washington, residing  
in King County. Commission  
expires 11/29/07.