

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

SPECTRUM PHARMACEUTICALS, INC.,)
)
Plaintiff,)
)
-vs-) Case No. 1:24-cv-12489
)
THE BUXTON HELMSLEY GROUP, INC.,)
)
ALEXANDER ERWIN PARKER, and)
)
KELLIE ANN MOORE,) Chicago, Illinois
) February 27, 2025
Defendants.) 11:10 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LaSHONDA A. HUNT

APPEARANCES:

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1 APPEARANCES: (Continued)

2

3 Also Present:

MS. KELLIE ANN MOORE, Defendant
(Via telephone conference call)

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MR. AJAY PATEL, Spectrum Pharmaceuticals.

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MR. SAM SCHLESSINGER, Spectrum
Pharmaceuticals.

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1 (Proceedings heard in open court:)

2 THE CLERK: 24 CV 12489, Spectrum Pharmaceuticals
3 versus the Buxton Helmsley Group.

4 THE COURT: All right. Good morning, everyone. You
5 can probably just stay seated at counsel table. That might be
6 easier. Let's do appearances for the record, please.

7 MR. SADLER: Your Honor, thank you. Good morning.
8 Kevin Sadler, Baker Botts, for Spectrum. I have with me just
9 behind me, my partner Scott Powers.

10 THE COURT: You know what, just so that it's easier
11 for the court reporter, maybe just --

12 MR. SADLER: I should be standing.

13 THE COURT: No, that's quite all right. You can let
14 each person introduce themselves so that he knows where
15 everyone is seated.

16 MR. SADLER: Okay. Very good. So I'll just -- I'm
17 Kevin Sadler obviously, and then I will let everyone go around
18 the table, if that's all right.

19 THE COURT: Sure.

20 MR. POWERS: Good morning, your Honor. Scott Powers
21 from Baker Botts.

22 THE COURT: Okay.

23 MR. LAWRENCE: Good morning, your Honor. John
24 Lawrence, also from Baker Botts.

25 THE COURT: All right.

1 MR. SCHLESSINGER: Good morning, your Honor. Sam
2 Schlessinger here from Spectrum.

3 THE COURT: All right.

4 MR. PATEL: Good morning, your Honor. Ajay Patel from
5 Spectrum as well.

6 MR. HILDEBRAND: Matthew Hilderbrand, Baker Botts,
7 your Honor.

8 THE COURT: Okay. Thank you.

9 MR. GOTLOB: Good morning, your Honor. Evan Gotlob
10 from Lucosky Brookman for defendants Alexander Parker and
11 Buxton Helmsley.

12 THE COURT: All right.

13 MR. BLATNICK: Good morning, your Honor. Sam
14 Blatnick, also from Lucosky Brookman for the same defendants.

15 MR. PARKER: Good morning, your Honor. Alexander
16 Parker from the Buxton Helmsley Group.

17 THE COURT: All right. Thank you, everyone.

18 And I believe that we have Miss Moore on the line?

19 MS. MOORE: Yes, your Honor. Kellie Ann Moore,
20 unrepresented. I'm just appearing as myself. Thank you.

21 THE COURT: All right. Good morning, Miss Moore.

22 Okay. So, we have a few matters up. I have the
23 request -- plaintiff's motion for entry of default as to
24 Miss Moore, and then we have the application for a preliminary
25 injunction.

1 So, maybe it makes sense to start with -- with the
2 filings pertaining to Miss Moore so that we, you know, have a
3 sense of who is here participating and who is not.

4 And, Miss Moore, I will, you know, say, I -- I
5 understand that you're not here in person. If there is
6 testimony on issues before the Court, then you typically would
7 need to be here; but for today's purposes, let's just try to
8 address the question of whether you are in default at this
9 point. Okay?

10 MS. MOORE: Okay. I -- I'll try my best, but I would
11 like to request time to get counsel. Honestly, this is --
12 hasn't been fair at all.

13 THE COURT: Okay.

14 MS. MOORE: I don't -- I don't know how to address the
15 motion to bar. It was a matter involving patients who died at
16 Spectrum, and starting on the label, the products getting sold.
17 These are cancer patients who --

18 THE COURT: Okay. Miss Moore -- Miss Moore. Hold
19 on -- Miss Moore. So, it's a little difficult because you're
20 on the phone, and so, you know, there might be a lag in between
21 you speaking and me speaking; but the one point that I made was
22 that I don't want to go into the merits of the case with you on
23 the phone.

24 What I'd like to do is just try to figure out -- so,
25 it sounds like what you are requesting from the Court at this

1 point is some time to try to retain -- get your own counsel in
2 the case to represent you, is that correct?

3 MS. MOORE: Yes, please. Thank you, your Honor. Yes,
4 please.

5 THE COURT: Okay. Have you started reaching out to
6 lawyers to represent you in the case?

7 MS. MOORE: Yes, please. I'm trying to find people in
8 Illinois. I've never been in Illinois. I'm only in
9 California, so this has been challenging, but I'm trying.

10 THE COURT: Okay. So, at this point, you are
11 challenging -- are you still challenging service, whether the
12 motion was properly served on you -- I'm sorry, whether the
13 summons and complaint were properly served on you in
14 California?

15 MS. MOORE: Yes.

16 THE COURT: All right. And then why do you think that
17 the service was not proper?

18 MS. MOORE: California law requires that service be
19 given to an adult -- to the adult of the home, and no adult was
20 given a copy of the complaint in this home.

21 THE COURT: Okay. So then -- so hold on. Hold on,
22 Miss Moore, let me just ask you a question, just so that we're
23 clear because I believe that the plaintiff has said that a copy
24 was given to an adult on the property who answered to the name
25 of, "Are you Kellie Ann Moore?" So am I misstating that --

1 MS. MOORE: No.

2 THE COURT: Hold on one second.

3 MS. MOORE: Yes.

4 THE COURT: Am I misstating --

5 MS. MOORE: Yes.

6 THE COURT: Hold on, Miss Moore, one second. Okay?

7 I'll let you know when I want you to answer. All right?

8 MS. MOORE: Yes.

9 THE COURT: So, Mr. Sadler, is it the plaintiff's
10 position that by serving -- that service was properly
11 effectuated when the process server called out Ms. Moore's name
12 and gave a copy of -- handed a copy of the summons and
13 complaint to the person who turned around in response to that
14 inquiry?

15 MR. SADLER: Yes, your Honor. So, there were three
16 different bases for service.

17 THE COURT: Okay.

18 MR. SADLER: Mr. Lawrence is prepared to address the
19 motion in full, but just to summarize, yes, so handed it to the
20 person that responded, turned around when her name was called
21 out, left a copy on the premises, and then in addition, mailed.

22 THE COURT: Okay.

23 MR. SADLER: And that's all in the affidavits of the
24 process server.

25 THE COURT: Right. Okay. All right. So then,

1 Miss Moore, is it your position that you were not the person
2 who was handed a copy of the summons and complaint?

3 MS. MOORE: Yes.

4 THE COURT: All right. Do you know who was handed a
5 copy of the summons and complaint?

6 MS. MOORE: No.

7 THE COURT: All right. Does anyone else live with
8 you?

9 MS. MOORE: Yes.

10 THE COURT: All right. Hold on one second.

11 So, who else lives with you? Male or female?

12 MS. MOORE: Male, my husband, Sean. I have two boys
13 who are 14, and both have autism and disability. And we have a
14 nanny who is from Brazil who doesn't speak English, and she did
15 not give me a copy.

16 THE COURT: All right. About how old is your nanny?

17 MS. MOORE: I think she's 21, 22.

18 THE COURT: Okay. All right. And so it is your
19 position here that you were not the person who was handed a
20 copy of the summons and complaint?

21 MS. MOORE: Correct.

22 THE COURT: All right. I mean, that's her -- that's
23 your position here. Typically when a *pro se* litigant asks me
24 to -- for time to try to get a lawyer, I typically will allow
25 that.

1 I mean, I think the record should reflect, Miss Moore,
2 I know that you are an attorney. You have the training. You
3 have the background. This case has been pending since
4 November. I believe it was filed in November of 2024.

5 MR. POWERS: Early December.

6 THE COURT: Early December, yes. So, it was filed in
7 December. So, it hasn't been pending for that long. I think,
8 you know, if you want some -- want a brief amount of time to
9 try to retain counsel to represent you in this case, then I
10 will allow that, and I will hold off on ruling on the request
11 for a default.

12 But we will proceed today on the hearing that I have
13 on a preliminary injunction because I have the remaining
14 parties here --

15 MS. MOORE: Okay.

16 THE COURT: -- the remaining parties here before me.

17 MS. MOORE: I -- okay.

18 THE COURT: Go ahead.

19 MS. MOORE: Oh, I'm just -- I'm concerned about an
20 injunction, at least towards me.

21 Like I said, this -- this involves blood that was
22 shown in multiple labs in patients and Spectrum Pharmaceuticals
23 never told them. In fact, they sat on their hands for nine
24 months and never told -- never even told their doctors, which
25 that was the contract that Spectrum had with the patients in

1 the informed consent form.

2 THE COURT: So, Miss Moore -- so, Miss Moore, let me
3 stop you.

4 MS. MOORE: Yes.

5 THE COURT: That's not the issue that is before me.

6 MS. MOORE: Okay.

7 THE COURT: So, I understand --

8 MS. MOORE: Okay.

9 THE COURT: I understand -- hold on. Stop because we
10 can't both talk at the same time because my court reporter
11 cannot take down both of us speaking at the same time. Let me
12 just give you a little bit of context and a reference here.

13 So, the case that is before me, which I know that a
14 copy of the summons and complaint was left at your home,
15 whether it was actually physically handed to you, that's a
16 question you've disputed, but it was left at your home, and so
17 I'm assuming that you have looked at that complaint and you
18 understand that --

19 MS. MOORE: No.

20 THE COURT: Okay. Well. So then, for your benefit --

21 MS. MOORE: No. No copy is here.

22 THE COURT: Okay. So, you're suggesting -- you're
23 saying that you don't even have a copy of the complaint?

24 MS. MOORE: Correct.

25 THE COURT: Okay.

1 MS. MOORE: Correct, I don't have a copy of the
2 complaint.

3 THE COURT: All right. Have you looked online to see
4 what the complaint allegations are?

5 MS. MOORE: I tried to go to the link that was
6 provided to me by the paralegal from Baker Botts.

7 THE COURT: Okay.

8 MS. MOORE: I cannot access the court's records.

9 THE COURT: Okay. All right.

10 MS. MOORE: I tried.

11 MR. GOTLOB: Your Honor, Evan Gotlob. Just as an
12 officer of the Court, she has received a copy. We emailed her
13 a copy of the complaint.

14 THE COURT: Okay.

15 MR. GOTLOB: I just want to be clear so the Court
16 knows. I don't know anything about the process service, but we
17 have emailed her a copy of the complaint.

18 MS. MOORE: Oh.

19 THE COURT: So, a copy of the complaint has been
20 emailed to you, Miss Moore.

21 MS. MOORE: Email -- California -- I'm a California
22 resident --

23 THE COURT: Okay. Miss Moore -- Miss Moore --

24 MS. MOORE: Yes.

25 THE COURT: So, let me again say this. It is very

1 difficult trying to hold a hearing over the telephone. I set
2 this for your convenience because I wasn't going to ask you to
3 hop on a plane and fly to Chicago this morning. We've been
4 having hearings in this case, and this hearing has been set.
5 So, everybody else is here. I understand you couldn't be here,
6 but we're not going to start arguing about the merits of the
7 case.

8 What I have said to you is that --

9 MS. MOORE: Okay.

10 THE COURT: -- it has been represented by counsel that
11 they have provided a copy of the complaint to you. Whether you
12 feel like you've received that or not or whether you think the
13 service was proper, you have seen or it has at least been sent
14 to you a copy of the complaint.

15 So, I'm not asking you -- you said you don't have it.
16 Okay. So let me tell you what is before me because there is a
17 very narrow issue --

18 MS. MOORE: Okay.

19 THE COURT: -- before me. The only issues before me
20 have to do with the question of the laptop that you allegedly
21 kept after your employment was terminated in 2019 and whether
22 there is confidential information and proprietary information
23 belonging to Spectrum that was on that laptop that you have now
24 disclosed to others.

25 That's like a general what this case is about and

1 what -- and in particular, whether you have disclosed that to
2 Mr. Parker and his company and whether that has been used
3 improperly in violation of the confidentiality agreement.

4 That's all we have before me. I don't have your
5 whistleblower claims. None of that is before me.

6 MS. MOORE: Okay.

7 THE COURT: Okay?

8 MS. MOORE: That's interesting. That's interesting.

9 THE COURT: Right. That is the issue that is before
10 me, and whether I should issue -- enter a preliminary
11 injunction that would prevent you and/or Mr. Parker and/or
12 Mr. Parker's company from disclosing that confidential or
13 proprietary information that was -- that belongs to Spectrum.
14 That's the only -- those are the issues that are before me
15 today.

16 MS. MOORE: Okay. Would you like to hear about the
17 laptop?

18 THE COURT: So, I actually am curious about where the
19 laptop might be, since that seems to be the centerpiece of this
20 case, and -- but I want to -- I don't want --

21 MS. MOORE: I can tell you --

22 THE COURT: But I don't want you to tell me that yet
23 because let's finish up with this motion for entry of default
24 against you. And then I'm going to, again, put on hold -- I'm
25 going to give you 30 days to try to find a lawyer, so -- a

1 little bit less. So, that will take you to March 28th --

2 MS. MOORE: Thank you, your Honor.

3 THE COURT: -- for you to have a lawyer enter an
4 appearance in this case. Until that time, I will just enter
5 and continue the motion for entry of default against
6 Miss Moore, and if you don't have --

7 MS. MOORE: Okay.

8 THE COURT: -- a lawyer file an appearance on your
9 behalf at that point, then the case is going to go forward.

10 MS. MOORE: Okay.

11 THE COURT: Okay?

12 MS. MOORE: Okay. Thank you.

13 THE COURT: All right.

14 MS. MOORE: Thank you.

15 THE COURT: Okay. All right. So then, is there
16 anything further from the plaintiffs that I need to -- from the
17 plaintiff that I need to address with respect to the motion for
18 entry of default as to Miss Moore?

19 MR. SADLER: No, your Honor. The motion is fully
20 briefed, from our point of view.

21 THE COURT: Right. Okay. All right. So then, let's
22 put that to the side.

23 And then let me just state a couple of general
24 comments, which goes a little bit to what I was just discussing
25 with -- with Miss Moore.

1 So, as a threshold matter, in any case before me,
2 jurisdiction has to be established, and so I have reviewed all
3 of the materials that were submitted to me. I appreciate the
4 timeline somebody provided, came up with my own timeline,
5 figured out which documents are referenced in connection with
6 that timeline.

7 But I think the one question that I continue to have
8 is about jurisdiction, and that needs to be addressed because,
9 again, that's a threshold matter, and I have to bring that up
10 if I have questions about it.

11 So, the premise for federal question jurisdiction here
12 is the Computer Fraud and Abuse Act. So, there's a lot of
13 testimony about inappropriate or access to -- or unauthorized
14 access to this laptop; but I have no clue if the laptop still
15 exists, if Miss Moore still has it. I think there was an
16 August 2022 deposition that referenced that, but it's now 2025.

17 And so I would like to know -- and, Miss Moore, if you
18 would like to say something about the laptop, you can, or if
19 counsel has some independent knowledge of where this laptop
20 might be.

21 MS. MOORE: Yes.

22 THE COURT: So hold on a second, Miss Moore.
23 Go ahead.

24 MR. GOTLOB: Your Honor, Evan Gotlob for Mr. Parker
25 and Buxton Helmsley.

1 From conversations I've had with Miss Moore, the
2 laptop does still exist. It's not operational anymore, and it
3 is in her possession somewhere in California. I don't know if
4 it's at her home or not. We haven't really got into details
5 about it. But during my conversations with Miss Moore over the
6 past couple of months, the laptop is in her possession
7 somewhere in California, but it's not functional anymore.
8 That's the information I have, your Honor.

9 THE COURT: Okay. All right. Miss Moore, was there
10 something that you wanted to say on this point?

11 MS. MOORE: Oh. I wanted to say that the laptop -- I
12 offered to give it back to Spectrum a long time ago. I got a
13 phone call from the chairman of the board of Spectrum
14 Pharmaceuticals, William Ashton. I have a witness to this
15 phone call. He said, "Kellie, you are not to give that laptop
16 to anybody." Anyway, I think I have a tape of it, too.

17 On top of that, the chairman of the board questioned a
18 lot of things that they had done and the lies that were told,
19 and I had conversations with that chairman of the board back
20 then.

21 The laptop itself, I've never used it on the Internet,
22 so there's no computer Internet fraud or any of that kind of
23 stuff since this time.

24 THE COURT: Okay.

25 MS. MOORE: So, any -- any allegations that have been

1 fabricated are fabricated. I don't know where they're getting
2 it. That's not true.

3 THE COURT: All right. Mr. --

4 MS. MOORE: But the laptop itself, it's here.

5 THE COURT: Okay. So, Miss Moore, has anyone -- since
6 this conversation that you had with someone, I think you said,
7 from Spectrum about not sending the laptop --

8 MS. MOORE: The chairman of the board.

9 THE COURT: With the chairman of the board. Has
10 anyone since that time asked you to return the laptop?

11 MS. MOORE: Yes. I met personally with the -- with
12 the chief compliance officer and chief legal officer, Keith
13 Matthew McGahan, and his assistant, and another counsel, Ritesh
14 Srivastava. We met in a public place at a tea house.

15 And I put the computer on the table. I said, "Keith,
16 take it home." He goes, "No." I said, "Keith" -- and I
17 believe the conversation was taped by the Paul Hastings people
18 because it was a very strange -- people with their ears, but --

19 THE COURT: Hold on one second. Miss Moore, hold on
20 one second. You met with the chief compliance officer and the
21 chief legal officer of Spectrum?

22 MS. MOORE: That's correct.

23 THE COURT: Okay.

24 MS. MOORE: And he refused to touch the computer. He
25 would not touch it.

1 THE COURT: When did this happen?

2 MS. MOORE: Oh, I have to look at my notes.

3 THE COURT: Do you have a year?

4 MS. MOORE: I believe it was in 2019 -- it would be
5 about 2019, I believe.

6 THE COURT: Okay.

7 MS. MOORE: Because I was trying -- I told them --

8 THE COURT: So hold on. Hold on. I'm just trying to
9 pin down the timeframe.

10 So, in 2019, was this before you were terminated or
11 after?

12 MS. MOORE: It was after.

13 THE COURT: Okay. So then, since 2019, has anyone
14 ever asked you to return the laptop?

15 MS. MOORE: There -- there was -- they asked me to
16 return it. They gave -- they put a box on my doorstep. The
17 box was in the rain. There's no way I'm putting it in a box --

18 THE COURT: Hold on. Who asked you to return it and
19 when?

20 MS. MOORE: I believe it was Jane, who was one of the
21 Paul Hastings counsel from New York. She wanted it. And they
22 had a Fed Ex box put on my door. I told them -- I sent a copy
23 of the picture of the box, which was put in the rain and had
24 a -- I can't do it.

25 THE COURT: Okay. So hold on. Hold on. Hold on,

1 Miss Moore. That's a lot more detail than I need here. I'm
2 just trying to figure out --

3 MS. MOORE: Okay.

4 THE COURT: -- did anyone from Spectrum ask you to
5 return the laptop and when?

6 MS. MOORE: Um-hum, um-hum.

7 THE COURT: Okay? So, you told me 2019, that was the
8 conversation you had with the chief compliance officer and the
9 chief legal officer; and then sometime after that, someone put
10 a Fed Ex box on your door for you to --

11 MS. MOORE: No.

12 THE COURT: Okay. All right.

13 MS. MOORE: The box came first, and the rain box was
14 first, and that's why I said, "I will meet you in person."

15 THE COURT: Okay.

16 MS. MOORE: "I will give it to you in person."

17 THE COURT: All right. And did you do -- did you meet
18 someone in person to turn over the laptop?

19 MS. MOORE: Yes.

20 THE COURT: Who did you meet and when?

21 MS. MOORE: I met personally with Ritesh, Keith
22 McGahan, Keith Matthew McGahan. He was my boss. He was the
23 chief legal officer, and chief compliance officer of Spectrum
24 Pharmaceuticals.

25 THE COURT: Okay. Was this a second meeting that you

1 had with him after 2019?

2 MS. MOORE: No.

3 THE COURT: So, you're still talking about the 2019
4 meeting?

5 MS. MOORE: Just the one.

6 THE COURT: Okay. So, there was only one time -- hold
7 on. Hold on, Miss Moore. I just need you to focus and answer
8 the question that I'm asking you. Okay?

9 MS. MOORE: Okay.

10 THE COURT: So, after -- so, in 2019, you are saying
11 that is the only time that anyone from Spectrum asked you to
12 return this laptop?

13 MS. MOORE: To my knowledge, that's when it stopped,
14 yeah.

15 THE COURT: Okay. So, even when you had an
16 arbitration proceeding, right, with -- where you challenged
17 your termination --

18 MS. MOORE: Your Honor, no.

19 THE COURT: All right.

20 MS. MOORE: No. There was a JAMS proceeding, and
21 we -- and in my deposition, we discussed the laptop, but there
22 was no arbitration proceeding. In fact, Baker Botts asked that
23 my whole case be thrown out of court, and they did not ask for
24 discovery at all. They threw it out of the court.

25 THE COURT: Okay. So, nobody from Spectrum, whether

1 an employee of Spectrum or an attorney representing Spectrum,
2 has ever asked you since 2019 to return the laptop?

3 MS. MOORE: I don't believe so. This case has gone on
4 a long time, though, so I don't -- I wouldn't have -- I don't
5 have any specific memory of someone asking for the laptop,
6 other than what happened in the deposition, being which was
7 2022. And even then, they didn't want to talk about McGahan
8 not wanting to put his fingers on it. He wouldn't take it.

9 THE COURT: Okay. Are you at this point willing to
10 return the laptop to Spectrum?

11 MS. MOORE: At this point, it needs to go to -- to the
12 Department of Justice because it contains evidence of federal
13 crimes. It shows the blood data. It shows what they hid and
14 what they never told the patients. It was fraud on the FDA.

15 Accentio bought this product, bought Spectrum. They
16 should have known better. It was blood cancer. That is a
17 federal crime. It is not protected.

18 THE COURT: Okay. Got it. Thank you.

19 Is there anything further from the plaintiff on this
20 point?

21 MR. SADLER: Yes, your Honor. If you don't mind, I'll
22 stand.

23 THE COURT: Sure. Go ahead.

24 MR. SADLER: It's 38 years of habit.

25 THE COURT: Sometimes it's easier to just stand there.

1 MR. SADLER: So, I want to address a couple of things,
2 and I know your Honor recognizes that all that you've heard
3 from Miss Moore is not testimony and you're taking it --

4 THE COURT: Correct.

5 MR. SADLER: -- in that vein.

6 First, as it concerns the CFAA, this case is broader
7 than the physical laptop. The CFAA reaches not only electronic
8 devices, but information that has been pulled from those
9 devices --

10 THE COURT: Right.

11 MR. SADLER: -- and shared. We didn't bring a
12 conversion case just to get some worthless laptop back.

13 THE COURT: No. I understand that, but I think my
14 point, and the reason why I started there is because -- you're
15 right, I do understand this case is broader; but the question
16 that I have, you know, sort of continue to have is, so, yes,
17 there is a laptop that had some confidential information on it.

18 And the assumption seems to be that there is this
19 continued unauthorized access to that information on the
20 computer because that seems to be what the Computer Fraud and
21 Abuse Act covers; but presumably, if you've taken the
22 information off the laptop and you're accessing it through some
23 other computer, that doesn't, you know, mean that you don't
24 still have a claim.

25 I'm just trying to understand factually, because this

1 has gone on for so long, why are we still talking about a
2 laptop from four, almost five years ago?

3 MR. SADLER: Well, the issue, your Honor, is we
4 shouldn't be talking about it because it's really a side issue.
5 It might be mildly interesting, but what's important here is
6 the first time that we knew that our former lawyer, Miss Moore,
7 was sharing confidential information with some random third
8 party was not five years ago. It was not four years ago. It
9 was this past June, and we learned that from Mr. Parker.

10 What we learned later, and this is evidence in front
11 of the Court, we have two specific pieces of evidence that came
12 from --

13 THE COURT: Well let's -- I don't want -- so go ahead.
14 If you're going to tell me about something that comes from a
15 computer, then that's what I'm trying to hone in on right now.

16 MR. SADLER: Yes, your Honor. And one of the pieces
17 of evidence that Mr. Parker released in November as part of
18 carrying out his agenda was a screen shot of an email exchange
19 off a computer. Our records show that that email resided in
20 our email files and on her laptop.

21 I know there's been a statement made that, "Oh, the
22 laptop is broken, and I can't get into it." That's not
23 evidence of anything. What the evidence in front of your Honor
24 now is, I'm glad we cleared this up, she still has it, and at
25 least as of November 2024, images and information that reside

1 on both the Spectrum email servers and would have resided on
2 her laptop made their way to Mr. Parker through his law firms
3 and got published to the world. That is evidence -- that's not
4 argument, that is evidence in front of your Honor.

5 So, I think the jurisdiction on the CFAA is completely
6 solid. That is not the entire focus of the case because, of
7 course, Miss Moore had more confidential information in her
8 head. It wasn't limited to what's on the laptop.

9 And the evidence, again, not argument, evidence coming
10 from Mr. Parker, he says that Miss Moore has a trove of
11 non-public information about Spectrum.

12 THE COURT: Right. Let's -- again, let's not get into
13 that. Let's focus on this question that I have about the
14 Computer Fraud and Abuse Act claim.

15 So, I saw that email in there, the 2018 email. So, if
16 Miss Moore stored that document --

17 MS. MOORE: It's not from my computer, though.

18 THE COURT: -- somewhere else -- right. That's the
19 question that I have. What if she printed all of this out and
20 she took a picture and sent a screen shot? Does that still
21 make that evidence fall within the -- the Computer Fraud and
22 Abuse Act?

23 MR. SADLER: Absolutely, it does. It covers both the
24 devices themselves and information stored on the devices.

25 Imagine what a complete workaround to the CFAA if you

1 said, "You know what, the data, we just printed it all off, so
2 we're exempt from the CFAA."

3 THE COURT: But that's -- so, I think that is --

4 MS. MOORE: Mr. --

5 THE COURT: Hold on, Miss Moore.

6 That's where why I'm going to push back a little bit
7 because if you're saying that any time someone prints
8 information off the computer and it's unauthorized and then
9 they later -- because it was unauthorized, that that means that
10 any later allegedly improper use means that it falls under this
11 federal statute, I think you're reading that statute very
12 broadly. I don't think that's, you know, exactly what is
13 intended.

14 I thought the point of the statute is that, you know,
15 it is the unauthorized access to a computer, to information on
16 a computer that brings that type of a claim within the
17 jurisdiction of the federal courts.

18 But what you seem to be suggesting is that even if she
19 printed this off five years ago and then, you know, faxed it
20 over or -- to Mr. Parker, that suddenly, that brings it back
21 into -- into this -- it falls under the statutory provision.
22 And I just don't -- and there's not a whole lot of case law out
23 there about this statutory provision, but that seems like an
24 incredibly broad reading.

25 MR. SADLER: Your Honor, I would just tell you that it

1 has to and it does reach the data that was pulled as a result
2 of the unauthorized access. And let me give you another
3 example we have in this case to put your mind at ease that
4 we're not just resting on one thing.

5 Mr. Parker, in his declaration, gave a very detailed
6 account of statements he attributed to Miss Moore, her spin on
7 whatever was going on that she claims was going on inside
8 Spectrum about medical testing, clinical data. She's referred
9 to it here. All of that resided electronically in our system
10 and on her laptop.

11 So absolutely, it reaches this kind of conduct. Her
12 access to that information on that laptop has been unauthorized
13 since she was told to give it back, and she's admitted --
14 again, it's not testimony. She's admitted she has it. She's
15 admitted she was asked for it to be returned. It hasn't been
16 returned.

17 But more important than that is the broader scope of
18 information that she gleaned that she has that we think there
19 is plenty of evidence in front of your Honor right now --

20 THE COURT: Okay.

21 MR. SADLER: -- is being used and abused.

22 THE COURT: All right. Thank you, counsel.

23 MR. SADLER: Thank you.

24 THE COURT: Miss Moore, was there something that you
25 wanted to add on this question about the information on the

1 laptop? And I'm not -- you're not here testifying. You're
2 just making statements. I don't have you under oath. You
3 haven't filed anything in this case. But was there something
4 that you wanted to add here? And you don't have to.

5 MS. MOORE: I didn't -- I just think counsel is
6 misstating the -- misstating, and I still don't understand how
7 anyone could let these patients not know their blood shows
8 proliferation in response to the drug testing. That is
9 unfathomable to me.

10 I teach medical register fraud law for a living at
11 USC.

12 THE COURT: Okay.

13 MS. MOORE: There's no way I would ever, ever, ever,
14 I'm sorry, treat patients like that. That's horrible.

15 THE COURT: Okay. Thank you.

16 MR. GOTLOB: Your Honor, may I just briefly?

17 THE COURT: You sure can.

18 MR. GOTLOB: With due respect to Mr. Sadler, I think
19 that a lot of the information Miss Moore communicated to
20 Mr. Parker was from her knowledge, not directly from a
21 computer. Like, the Computer Fraud and Abuse Act was -- the
22 statute was made to prevent hackers from taking things off
23 computers. It wasn't made for an employee, who was a lawyer
24 at a company, that had knowledge from telling somebody else.

25 So, we appreciate and agree with your Honor's

1 jurisdictional issues because this was a company, Spectrum, at
2 least, that was based in Massachusetts. Miss Moore was in
3 California. We understand Assertio is now in this district.
4 That's why the plaintiff's counsel brought the case here. But
5 the computer has never been here.

6 And if we're talking about the computer itself, it's
7 been -- to my knowledge, and I think Miss Moore confirmed it --
8 I know she wasn't under oath. It's always been in California.
9 It's never been in Mr. Parker's possession. It's never been in
10 Mr. Parker's old attorney's possession. It's never been in our
11 possession.

12 And while I'm sure we'll get to this in the testimony
13 in the hearing later on, the two documents that are exhibits,
14 they're entered into your Honor's hearing, they could have been
15 a picture from a computer. They could have been a printout.
16 They're -- one's a half-a-page email. One's a couple-page
17 report. They could have been taken from anywhere.

18 Miss Moore has a lot of knowledge, like to what
19 Mr. Sadler said about Mr. Parker saying stuff in his releases,
20 that's from communications with Miss Moore. Nobody's disputing
21 that. But it's from her knowledge at the company. She knew
22 all of this stuff before she got terminated. So, we just
23 wanted to make that argument on the record, your Honor. Thank
24 you.

25 THE COURT: Okay.

1 MS. MOORE: Yeah, they terminated me --

2 THE COURT: So, Miss Moore, Miss Moore, Miss Moore,
3 hold on. So, I gave you a chance to speak. Okay? So, I think
4 I've heard everything that I need to hear on this point.

5 MS. MOORE: Okay.

6 THE COURT: I'm going to move on to another point.

7 So, I know that there is also an assertion here of
8 diversity jurisdiction because the parties are all diverse, but
9 I also had some questions about the amount in controversy and
10 whether that would be satisfied. If federal question
11 jurisdiction is not proper, how do you reach the amount in
12 controversy, given that the majority, I believe, of the claims
13 are seeking, for the most part, some kind of injunctive relief?
14 So that would be Counts 1 through 4, if you put the Computer
15 Fraud and Abuse Act claim to the side.

16 MR. SADLER: Yes, your Honor. We're at a point in
17 this case, of course, where there's been no discovery, no
18 experts retained. But this company has incurred not tens, but
19 hundreds of thousands of dollars just since June of last year
20 responding in attorney's fees, expenses. We had this short
21 seller attack that Mr. Parker orchestrated, which we'll get
22 into in testimony, in November to tank the stock.

23 I think it is -- there is no question that there is
24 \$75,000 or more in damages that we can recover in this case.
25 I don't believe there's seriously any question about it.

1 THE COURT: It wasn't clear to me. It seemed like the
2 focus of the case was injunctive relief, but I also did notice
3 a request for attorney's fees. Was that based on a contract?

4 MR. SADLER: Yes, your Honor. We have a breach of
5 contract claim, of course, against Miss Moore. We also have
6 the interference with contract claim against Mr. Parker for
7 what he did with Miss Moore. And so --

8 THE COURT: Right. But how do those -- so, you
9 referenced a provision in the agreement that would allow
10 attorney's fees for the breach of contract claim against
11 Miss Moore. Is that what you're relying on for the additional
12 tortious interference with contractual rights claim?

13 MR. SADLER: In part, your Honor. I think that our
14 damages are not limited to our attorney's fees, and I think as
15 we get into discovery and retain experts to address the damages
16 question -- but we're not relying solely on attorney's fees.

17 But if we were, we are so far past \$75,000 it's not
18 even funny.

19 THE COURT: Well, sure. I mean, I understand that,
20 but I guess that's why I was questioning the basis for seeking
21 attorney's fees because, you know, contract statutory
22 provision, that's what I was trying to assess.

23 I get it. You probably have more than \$75,000 at this
24 point, but it wasn't clear to me that for all of these -- these
25 counts against the various defendants, maybe against Miss Moore

1 because you've got the breach of contract claim against her and
2 there is apparently a provision in again the confidentiality
3 agreement that would allow some recovery of attorney's fees;
4 but it wasn't quite clear to me what would be the basis for
5 fees against BHG and Parker based on Counts 3 and 4.

6 MR. SADLER: I think there is a legal basis for it,
7 your Honor, and I think in addition, we are going to be seeking
8 to recover damages for the harm to Spectrum, to its reputation,
9 to its business, for having its flagship product attacked.

10 THE COURT: So, compensatory damages?

11 MR. SADLER: Yes. That's the kind of thing an expert
12 witness -- again, we're real early in this case, but we're
13 clearly past \$75,000.

14 THE COURT: I understand. Okay.

15 Anything that the defendants wanted to add on that
16 point?

17 MR. GOTLOB: No, your Honor, nothing that won't come
18 up during the hearing, so we can wait until then.

19 THE COURT: All right. Okay.

20 MS. MOORE: Your Honor --

21 THE COURT: Yes.

22 MS. MOORE: Just one comment. I know that the Baker
23 Botts firm seems to think there's another signed agreement. I
24 believe that that agreement -- I have -- I have other documents
25 that show that agreement is not valid. The way that my

1 contract was made with the CEO of Spectrum Pharmaceuticals, two
2 signatures are required for anything to be in my contract.

3 THE COURT: So, Miss Moore -- Miss Moore, if you want
4 to challenge the validity of that contract, then you need to
5 enter an appearance in this case, and you need to file an
6 answer.

7 MS. MOORE: Okay.

8 THE COURT: You can't just -- you're a lawyer. You
9 understand this. You can't just tell me on the record that
10 you disagree. I understand that you think there's some reason
11 why that contract might not apply, but you have to appear in
12 the case and respond to the complaint.

13 MS. MOORE: Okay.

14 THE COURT: Okay.

15 MS. MOORE: Okay. I'm sorry.

16 THE COURT: No, that's -- it's okay. It's -- you
17 know, I just want to make sure that you're here and you can,
18 you know, hear some of the -- what's going on in the courts,
19 but you're a bit limited in terms of your ability to
20 participate because you haven't filed your appearance in the
21 case and filed an answer.

22 So, you know, I at least wanted you to be here to know
23 what was going on in the case and to address the motions that
24 you filed in response to the plaintiff's request for entry of
25 default, but -- so, and then answer any specific questions that

1 the Court had as we start this proceeding.

2 MS. MOORE: Thank you. I appreciate that.

3 THE COURT: Sure, sure. And so I -- unless anyone has
4 an objection, I'm more than happy to allow you to continue to
5 listen in on the hearing, but you will not be allowed to
6 testify. You will not be allowed to, you know, raise any
7 objections, to speak. In fact, we probably would just mute
8 you, and you would be listening in. You don't have to. You
9 can get a copy of the transcript. But if you, you know, want
10 to, we'll leave the line open.

11 MS. MOORE: I'm just going to listen, but thank you
12 very much.

13 THE COURT: All right. Is there any objection to
14 Miss Moore listening in to this hearing?

15 MR. SADLER: No, your Honor.

16 MR. GOTLOB: No, your Honor.

17 THE COURT: Okay. All right. But let me remind you,
18 Miss Moore, this court proceeding cannot be recorded, so you
19 can listen in -- and just for everyone, that's one of the
20 rules, not even my rule, it's just a rule of the court. You
21 cannot record any of these proceedings. Okay?

22 MS. MOORE: Yes, I understand.

23 THE COURT: All right. Okay. So then, with respect
24 to what I need to know for purposes of the hearing today,
25 obviously, I've read through all of this, and there may be

1 particular information that both sides want to emphasize to
2 the Court.

3 I will say -- and I think I said this at the
4 hearing -- the telephonic hearing when we set this hearing
5 date, that I remain, you know, a bit puzzled here. I feel like
6 I'm reading two completely different cases when I look at what
7 is being presented before me.

8 From the plaintiffs, the way that the complaint seems
9 to read is that, you know, this is about a former employee who
10 kept confidential information, did not return it, and now she's
11 disclosing it to others in violation of, you know, these
12 agreements that she made with the company.

13 When I read the defendants' submissions, there's a --
14 you know, there's a whole shareholder derivative lawsuit that's
15 going on or potential action that's going on on the other side
16 that seems to be coloring some of what's happening in this
17 case, and it seems to be less about a laptop and more about
18 what information is out there and how that information is being
19 used.

20 In addition, there is, I think, a very important point
21 that's not been emphasized much about this whole -- these
22 whistleblowers who are out there who have information that
23 they're sharing with a law firm. Whether they're sharing that
24 with, you know, the -- Mr. Parker and his company is not clear.

25 And I think all of that colors a little bit how I am

1 viewing this because, you know, as the judge, I don't get to
2 know everything. You don't tell me everything. You tell me
3 what you want me to know so that I can rule in the case. And
4 that is what I will do.

5 But I have to say that as a former litigator, I try
6 to turn that side off; but in my mind, I'm trying to piece
7 together what seems to really be going on here. And I think
8 even when I look at the proposed order, the proposed
9 preliminary injunction order -- and I just looked at the
10 original one that was filed. I don't know if this request has
11 changed. But, you know, even there, I'm looking at it, and I'm
12 trying to understand: So, what is really at issue in this
13 case? I know that there must be something at stake because
14 I've got nine lawyers sitting in my courtroom who flew here
15 today for this hearing.

16 And so I say that because I get the basics of what
17 happened. I've read through a lot of these letters. I think,
18 you know, lawyers pull out pieces of the letter, pieces of
19 documents, or they rephrase it in their own way.

20 I have a decent sense of the fact that there are a
21 number of different issues going on here and that I think that,
22 you know, is playing a role in whatever it is that's being
23 sought from the Court. But I guess my general sense is this is
24 not just about a laptop, which is what Mr. Sadler said. It's
25 not. It's about the information and how it's being used, and I

1 definitely need some more of an explanation on a few of these
2 topics.

3 So number one, I think there's been references to the
4 fact that Miss Moore actually filed some lawsuit or had some
5 litigation against Spectrum. I don't know if that's just
6 referencing the JAMS proceeding and if, you know, there were
7 whistleblower allegations that came up in that lawsuit, but
8 that is not at all crystal clear to me from the materials that
9 I have before me.

10 Number two, I think defense counsel's point was --
11 was -- makes -- is one that's sort of in my mind as well.
12 The -- and of course, I completely lost my train of thought
13 about the point that you made that I was going to just raise.
14 It was the point that you just made earlier.

15 MR. GOTLOB: About the computer -- about the
16 information already being known?

17 THE COURT: Yes, yes, about -- oh, no, that in part,
18 about the fact that these alleged whistleblowers are sharing
19 knowledge, and to what extent the sharing of that knowledge,
20 even if it's knowledge to an individual or knowledge to a law
21 firm in connection with some potential qui tam action, should
22 be viewed in a different light.

23 In other words, this is not just about, again, an
24 employee who took some information and who said, "I'm just
25 going to go out and disperse it broadly to the world." There's

1 a whole potential whistleblower action that is going on, not to
2 mention many of these letters that were sent by BHG and
3 Mr. Parker were at least sent in the -- were at least sent in
4 his capacity as a shareholder of Assertio. Whether he is or
5 isn't, it was sent in that capacity and really did focus quite
6 a bit on whether some type of shareholder derivative action
7 should be filed.

8 And so again, I'm looking at all of that and not just,
9 were there -- was there confidential and proprietary
10 information that was shared with someone.

11 So, I put that out there just so that you understand
12 that I have the basic facts, but there are details that are
13 just puzzling to me and that I don't understand about the way
14 that this case has been framed. And, you know, you get to
15 frame your case how you want to frame it, but I think that is
16 information that I need to know as I'm trying to assess the
17 likelihood of success on the merits, which is always the
18 biggest issue here when I'm trying to look at the actual claims
19 that are raised in the complaint, as opposed to what seems to
20 be going on in the background but is also relevant, even if
21 it's not dispositive.

22 So, I say all of that so that you understand what I'm
23 looking for today. I don't need a, you know, point-by-point,
24 blow-by-blow, what day did you start? What's your background?
25 I don't need any of that. That's what I'm trying to assess

1 here when I'm looking at -- when I'm reviewing these documents
2 and I'm listening to this testimony.

3 MR. SADLER: May I address the Court, your Honor?

4 THE COURT: Sure. Or if you're ready to just proceed,
5 then we can proceed, if there are witnesses that you think I
6 need to hear from or if you believe that there's just oral
7 argument that you need to make here in the case.

8 I mean, I know we set it up so that I have exhibits.
9 You have potential witnesses. Maybe I do just need to hear
10 from these witnesses and get a sense of what on Earth seems to
11 be going on here.

12 MR. SADLER: Yes, your Honor. And we're prepared to
13 present two witnesses today. I want, in light of the questions
14 your Honor just raised --

15 THE COURT: Right.

16 MR. SADLER: -- to make a couple of things very, very
17 clear to your Honor.

18 THE COURT: Okay.

19 MR. SADLER: First of all, this case is not about
20 whistleblowers or whistleblowing. Right now, there is zero
21 evidence in front of your Honor, evidence, that anybody is a
22 whistleblower about anything.

23 But more importantly, even if somebody came as a
24 witness or Miss Moore later testifies that she believes she's a
25 whistleblower or Mr. Parker believes she's a whistleblower,

1 we're not here to shut down anybody from whistleblowing.

2 Miss Moore, who's not just any employee, like your
3 Honor -- she's former in-house counsel for a company, not just
4 any employee, if she's got a gripe, if she's got a complaint,
5 she is free to go to the FDA, the SEC, assuming they're still
6 open for business. Right? We're not trying to shut that down.

7 Whistleblowing is something you will hear from them,
8 not us, because this isn't about a whistleblower case. But the
9 term "whistleblower" is interesting and relevant in this way.
10 Maybe everybody else but me has a different understanding of
11 whistleblower, but I think if you claim to be a whistleblower,
12 what do you claim? You claim you know some secret something
13 that's not public. You think there's something wrong with it,
14 and you're just ready to go tell the world or tell somebody.

15 Well, the first part of that is what this case is
16 about. You're sitting on what you claim to be secret,
17 non-public, nobody else knows about it stuff. That's what
18 this -- that's what this case is about. But I will tell your
19 Honor, there's -- there's no evidence of a whistleblower
20 complaint. There's no evidence any complaint has been made to
21 any agency. But who cares? We're not here to shut that down.

22 You're going to hear testimony from our CFO that we
23 have a compliance department with email hotlines, a company
24 that maintains an outside presence. People want to
25 complain ---and this was true at Spectrum -- about what's going

1 on, no one is trying to shut that down. And I wanted to be
2 very clear about that up front.

3 You mentioned --

4 THE COURT: So then, let me ask you a question.

5 MR. SADLER: Yes.

6 THE COURT: Because the preliminary -- the proposed
7 order is very broad. It does not carve out any situation where
8 it would be appropriate if there has been some effort by an
9 alleged whistleblower to share confidential information,
10 because again, yours is a little bit broader, proprietary
11 documents, information.

12 What if I just know information because I worked at
13 the company? What if I'm a scientist who was there and has,
14 you know, some knowledge of, yes, I think there was something
15 wrong with, you know, the clinical trial data or something to
16 that effect?

17 Your order is very broad and does not carve out that
18 opportunity for anyone to share that information with a
19 governmental agency or to share that information with counsel.

20 Because you're right. I don't know if there is a
21 qui tam out there. If there is, it's likely still under seal,
22 and so there's no way that I would know that one is out there.
23 And those can remain under seal for many, many, many years.

24 And so, you know, again, but that's one thing that
25 stuck out in the -- for me because there are all of these

1 allegations about a number of whistleblowers and the fact that
2 Mr. Parker recommended or referred them to a particular law
3 firm -- to his law firm, to his legal counsel, and that they
4 were alleged -- they were apparently working with this legal
5 counsel.

6 But part of your claim against him seems to be that
7 he's aiding and abetting because he's referring those
8 individuals to legal counsel. That's why I raised the claim --
9 the question about: How do you handle a situation where you,
10 you know, obviously don't agree that these are valid
11 whistleblowers; but if they are, does that change the analysis
12 on this aiding and abetting claim?

13 MR. SADLER: So, two questions, and I'll answer both.

14 First of all, we're not asking the Court to enter an
15 injunction that prevents Miss Moore or Mr. Parker or anyone
16 else, for that matter, from going to any state, federal
17 regulator and making a complaint about Spectrum, period, full
18 stop. And --

19 THE COURT: Okay.

20 MR. SADLER: Your Honor could simply add a
21 paragraph -- I'm sorry if that wasn't clear -- to the effect
22 of, "Nothing in this order shall be construed to prevent
23 defendants from," et cetera, et cetera, et cetera.

24 THE COURT: Um-hum.

25 MR. SADLER: Going to proper authorities, state and

1 federal. So that's abundantly clear.

2 What is also abundantly clear is Mr. Parker is not a
3 state or federal authority.

4 THE COURT: Agreed. We don't -- I mean, I'm not
5 suggesting that. But again, I think that goes back to my point
6 about: Are we talking about documents, or are we talking about
7 independent -- or information? Because are you suggesting that
8 no one could talk to him and say, "Hey, I've got concerns about
9 this company"?

10 And I don't know. I don't know what the law is. I
11 haven't prejudged any of this. But that was the -- those were
12 the thoughts that I was having about all of this as I was
13 reviewing the documents and trying to think about: What is the
14 law here?

15 MR. SADLER: And so to that very point you just
16 raised, let's talk about Miss Moore because she's -- she's the
17 source of this before it ever gets to Mr. Parker.

18 As we agree, Miss Moore is not some ordinary
19 administrative employee. She was our former lawyer.

20 THE COURT: Right.

21 MR. SADLER: She is also bound, not just by all the
22 rules of ethics and confidentiality and all of that, she is
23 also bound by a separate confidentiality agreement, which is
24 also very broad. Those two fairly read together are that
25 whatever she did for the company while she was the lawyer and

1 doing her job, advising people, whatever data she saw, whatever
2 advice she gave, whatever questions employees came to her
3 about, "Can we do this, but not that," all of that is
4 confidential and cannot be disclosed to third parties.

5 And it doesn't matter that she's now a former lawyer.
6 I mean we put this in our briefing. She's still --

7 THE COURT: Right. There are still ethical
8 obligations that exist even once the relationship is
9 terminated.

10 MR. SADLER: And so let me draw the distinction to
11 help your Honor, because it might be one thing for even a
12 former lawyer to go to Mr. Parker, who's a hedge fund guy,
13 short seller, and say, "Hey, you know what? I used to work
14 for this company. I don't know. There might be some issues
15 there."

16 Well, that's not the record in front of your Honor.
17 The record in front of your Honor is that Miss Moore -- and
18 this will come out in the testimony, but it's pretty much
19 admitted by Mr. Parker -- she contacted him --

20 THE COURT: Why don't you present the testimony
21 instead of you telling me? You can.

22 MR. SADLER: No, I will do that, your Honor.

23 THE COURT: Right.

24 MR. SADLER: But I did want to zero in on -- you
25 wanted to know -- it's a fair question -- what is going on

1 here? What's really going on here? And I'm going to stick to
2 the law and the evidence.

3 There's not going to be any evidence in front of you
4 that anybody is a whistleblower about anything. There's no
5 evidence of shareholder litigation that Mr. Parker has brought.
6 There is no evidence of any legitimate excuse for Miss Moore to
7 breach her duties of confidentiality. You're just not going to
8 see any evidence about it.

9 THE COURT: I also note that we're not going to hear
10 from Miss Moore, so --

11 MR. SADLER: Understood.

12 THE COURT: Yeah, yeah. That's -- that makes it a
13 little difficult here, but I get your point.

14 MR. SADLER: I'm going to make one last point, and
15 then we're ready to call our first witness.

16 THE COURT: Okay.

17 MR. SADLER: Because this -- I want to answer your
18 question. You put it this way.

19 THE COURT: Or you can -- you can, you know, think
20 about it. I'll still give you a chance after I've heard
21 whatever witness testimony I need to hear.

22 I wanted to give both sides -- tell you what I am
23 thinking as this starts. Obviously, as I hear testimony, that
24 may change; but those were the questions that I had just in
25 preparing for this and trying to, you know, figure out: What

1 is it that I think I need to know?

2 Obviously, by the end of this, I would likely have a
3 different assessment of things.

4 MR. SADLER: I will just say this, your Honor, because
5 I did want to answer your question.

6 THE COURT: Okay.

7 MR. SADLER: And you'll hear this in the testimony,
8 but we're here because, in our view, our confidential
9 information hasn't just been taken; but it's been used to
10 attack the flagship product of this company, Rolvedon, which
11 you'll hear helps people with -- that are undergoing cancer
12 treatment.

13 This is not some trivial sideshow. You want to know
14 why there's a table full of folks over here? It's because this
15 is deadly serious. What's being done with this information --
16 and it is laid out in the evidence -- is not, "Oh, I just don't
17 agree with the way you're running the company." What's being
18 spouted from Miss Moore through Mr. Parker is, "Your drug is
19 unsafe. It shouldn't even be on the market." That's how
20 deadly serious this case is.

21 So, we'll be happy to call our first witness, your
22 Honor.

23 MR. GOTLOB: Your Honor, I'd like to have a chance to
24 argue just before --

25 THE COURT: Sure, you can. I mean, these are like

1 quasi opening statements, essentially.

2 MR. GOTLOB: With all due respect to Mr. Sadler, like,
3 all these lawyers are here because they're afraid of a qui tam
4 case and a whistleblower case. This is a whistleblower case.
5 It -- the whistleblower is listed, he mentions whistleblowers
6 in all of his press releases, Mr. Parker. So that's just not
7 true, like, this not a whistleblower case.

8 They're not here -- they care about their privileged
9 information, but they're worried that they're going to have a
10 big False Claims Act case.

11 And Mr. Sadler likes to say -- and I'm not
12 Miss Moore's attorney. I've obviously spoken to her before.
13 I've made -- multiple times, I've made the representation to
14 the Court. I was introduced to her through Mr. Parker. She's
15 shared no proprietary information with me besides her general
16 knowledge.

17 And she's entitled to share whatever she wants to the
18 Department of Justice or Attorney General's Office if they're
19 breaking the law or lying about clinical trials. I'm not
20 saying whether they are or whether they're not, but she's
21 allowed to share that.

22 So, her -- I did these cases for over a decade. So,
23 Mr. Sadler is completely incorrect when he says she can't share
24 it. She can share it with the Department of Justice. I could
25 walk in to my old friends upstairs here or in Boston or the

1 other offices that I worked and share that information, and
2 they could bring a False Claims Act. And those are
3 whistleblowers. And it's not just Miss Moore. It's more than
4 Miss Moore.

5 So, just so your Honor's clear, the reason why we have
6 three extremely experienced attorneys and two executives from
7 Spectrum/Assertio here is because they want to intimidate
8 Mr. Parker, Miss Moore, and any other whistleblowers not to
9 bring this forward in a False Claims Act case. That's why
10 we're here.

11 We're not here because Mr. Parker released two small
12 things on a November release against Spectrum. Mr. Parker was
13 releasing stuff against Spectrum since early 2024. If it was
14 such an urgency for them to stop them, why didn't they file
15 something then? Why didn't they file something in the
16 beginning of last year? Why didn't they file something in
17 November when it happened? They waited 30 days.

18 Why didn't they ask your Honor for a TRO hearing right
19 away? We were ready to go. We could have. They postponed it
20 seven weeks to come here today.

21 This case is not -- today we're here. Your Honor is
22 very limited, as your Honor said, to argue about the
23 injunction. There's no issue with the injunction in the long
24 run. Nobody's trying to release confidential information to
25 the press going forward. Obviously, Mr. Parker agreed to --

1 he's been under an injunction for three months now, I think
2 since early January, maybe two months, since early January.
3 So, that hasn't been an issue.

4 But that injunction said nothing about what your Honor
5 said about sending money to the Department of Justice, the
6 Attorney General's Office, the FDA, et cetera. And that's what
7 whistleblowers can do.

8 And, you know, they're here because people like
9 Miss Moore can't just get an attorney. She explained it to
10 you. She doesn't have an attorney. Mr. Parker has the means
11 to hire a firm that's expensive so he can defend himself and
12 he's not going to back down to a Big Pharma bully company that
13 comes to bring litigation against him.

14 But this case is clearly -- I know your Honor said
15 she's confused, so I just want to clarify a couple of things on
16 our side. This is about the False Claims Act case. It's not
17 about Mr. Parker's November release of an email that really
18 doesn't say anything and an internal report that we'll talk
19 about in the hearing.

20 He'll tell you that. He didn't reach out to Kellie
21 Ann Moore. He didn't call Kellie Ann Moore and say,
22 "Miss Moore, can you give me information? Who are you or other
23 whistleblowers?" She reached out to him. And you'll hear from
24 him today. And he was making these derivative claims, as your
25 Honor said, way before she even existed based on information he

1 got from somebody else that wasn't confidential.

2 So I just wanted the Court to be aware that this is
3 about the False Claims Act. That's why we're here. They want
4 all their documents back. They want all their documents back
5 so the Department of Justice can't have them.

6 Now, your Honor is correct. I've dealt with
7 whistleblowers who came to us and said, "Hey, what this
8 pharmaceutical company is doing is wrong," and then we
9 subpoenaed documents and got them anyway. So, yes, you can get
10 it that way.

11 But they're also -- because of the crime fraud
12 exception, an internal lawyer who had this confidentiality
13 agreement because of her duties is allowed to bring that if
14 there's crime or fraud committing -- taking place at the
15 company.

16 And you know who has nothing to do with her
17 confidentiality agreement and her employment agreement?
18 Mr. Parker. And you'll hear that today, and I just wanted your
19 Honor to be aware of that.

20 THE COURT: Thank you, Mr. Gotlob.

21 So, Mr. Sadler, it's about 12:17. About how long do
22 you think you'll take for your first witness? Should we take
23 like a 30-minute lunch break now before we start.

24 MR. SADLER: Sure.

25 THE COURT: I don't want you to get going and then

1 we're all here starving.

2 MR. SADLER: I think given it's already 12:15, that
3 the lunch break would be appreciated.

4 THE COURT: Okay. Is 30 minutes okay so we can start
5 back up at 12:45? I just want to make sure that everybody has
6 enough time today. I think there are only a couple of
7 witnesses. If you prefer 1:00 o'clock, that's fine also.

8 MR. GOTLOB: 1:00 o'clock would be great, your Honor.

9 THE COURT: 1:00 o'clock? Okay. Then why don't we
10 resume at 1:00 o'clock. So, we'll hear from -- it sounds like
11 there are two witnesses that we have today, so Mr. Patel and
12 Mr. Parker.

13 MR. SADLER: Right.

14 THE COURT: Okay. And about how long do you think
15 that will take? I just want to make sure that we've set aside
16 enough time.

17 MR. POWERS: For our side, for Mr. Patel, it's
18 probably on the order of 30 to 40 minutes, your Honor.

19 THE COURT: Okay. All right. And I think you'll
20 spend more time with Mr. Parker.

21 MR. SADLER: Yes, your Honor.

22 THE COURT: All right. And then the defense still
23 anticipates really only questioning Mr. Parker?

24 MR. GOTLOB: Yes. We're going to obviously cross
25 Mr. Patel.

1 THE COURT: Yes.

2 MR. GOTLOB: I don't think it will be as long as the
3 plaintiff's counsel's questioning, but we're going to have
4 questions as well.

5 THE COURT: Okay. Then I think it can all be done
6 this afternoon. So we'll be in recess until 1:00 o'clock.

7 MR. SADLER: Thank you, your Honor.

8 THE COURT: Thank you.

9 MR. SADLER: Would it be okay if we left all of our
10 materials?

11 THE COURT: Yep, you sure can. I think we lock the
12 courtroom. I think it's usually locked, but it should be fine
13 here.

14 (Lunch recess had from 12:18 p.m. to 1:05 p.m.)

15 THE COURT: Are you ready to proceed?

16 MR. POWERS: Yes, your Honor. I do have one
17 housekeeping item with respect to exhibits.

18 THE COURT: Sure. I was actually about to ask that
19 question.

20 So, do you have separate paper copies for the
21 witnesses, or do you prefer to just pull them up on the
22 screen?

23 MR. POWERS: We do have a paper copy for the witness
24 at the witness stand.

25 THE COURT: Okay.

1 MR. POWERS: There are a complete set of exhibits.
2 What I was going to raise is that we reached an
3 agreement that all exhibits could be pre-admitted without
4 objection, if that's suitable for your Honor, which is
5 Plaintiff's 1 through 31.

6 THE COURT: Right. Well, there are a number -- I mean
7 most of these are the same, so I guess it's fine that you each
8 want a set of exhibits that are listed as Plaintiff's or
9 Defendants'. I just wasn't sure why, given that the majority
10 of these are on both of your lists.

11 MR. POWERS: So, I'm not sure about that issue, which
12 we did not discuss specifically. I was just -- to avoid the
13 extra questions with each witness, "Are you familiar with this
14 document," and that sort of thing.

15 I think we could use the plaintiff's versions of the
16 letters that are in the record.

17 MR. GOTLOB: We can -- your Honor, we're fine with
18 creating like a joint table afterwards and using -- because I
19 think there's only one exhibit we have that they don't, and
20 that's the timeline. Everything else, all of our other
21 exhibits are within their exhibits, so that's fine.

22 THE COURT: Okay. All right. So, do you want to just
23 do their -- they'll just be labeled as Joint Exhibits?

24 MR. GOTLOB: That's fine. That's fine.

25 THE COURT: Okay. And so what I ask is -- I mean, if

1 there's no objection, you don't have to lay a foundation for
2 the document. You can just start asking questions. But if a
3 document is not used at the hearing, then I don't usually admit
4 it. So, I would just say after each exhibit, you can just say,
5 "Can this be admitted for the record?"

6 I'll always say, "Is there any objection," just to
7 make sure that there isn't. But I think that probably makes
8 more sense unless you believe that you're going to ask
9 questions about each and every exhibit.

10 MR. POWERS: Understood. Thank you, your Honor. So,
11 I will -- I will ask after we discuss each exhibit that they be
12 admitted at that time.

13 THE COURT: Okay. Yep.

14 MR. POWERS: Thank you, your Honor. And with that,
15 the plaintiff calls Ajay Patel.

16 THE COURT: All right. Step on up, Mr. Patel. Raise
17 your right hand.

18 (Witness sworn.)

19 THE WITNESS: I do.

20 THE COURT: Okay. Have a seat. Please speak into the
21 microphone and state and spell your name.

22 THE WITNESS: Ajay Patel, A-J-A-Y, P-A-T-E-L.

23 THE COURT: Okay. You can proceed.

24 MR. POWERS: Thank you, your Honor.

25 AJAY PATEL, PLAINTIFF'S WITNESS, DULY SWORN

1 DIRECT EXAMINATION

2 BY MR. POWERS:

3 Q. Mr. Patel, can you tell us who you are and what you do at
4 Spectrum and/or Assertio?5 A. Yes. I'm chief financial officer of Assertio Holdings, as
6 well as Spectrum Pharmaceuticals.

7 Q. And how long have you been with Assertio Holdings?

8 A. I've been with Assertio since middle of 2019.

9 Q. And what did you -- what was your first role at Assertio?

10 A. I joined the company as vice president/comptroller.

11 Q. And what -- after vice president/comptroller, what did you
12 do next at Assertio?13 A. I then transitioned into their chief accounting officer
14 role in early 2021, and I transitioned into the chief financial
15 officer role in November of 2023.16 Q. At a high level, what is it that a chief financial officer
17 does?18 A. The CFO's role is to manage the finances of the company,
19 both internal, external reporting, as well as manage the
20 functions that oversee treasury, taxes, and investor relations.21 Q. Now, I understood you to say that you're the chief
22 financial officer of both Spectrum and Assertio. What is the
23 relationship between those two companies?24 A. Assertio merged into Spectrum in the middle of 2023, and
25 Spectrum is now a wholly owned subsidiary of Assertio Holdings.

1 Q. And were you involved in the decision-making process that
2 led to that acquisition of Spectrum by Assertio?

3 A. Yes. I was part of the team that performed the diligence
4 as well as approved the acquisition.

5 Q. And just tell us a little bit about what that means to
6 perform the diligence.

7 A. Yeah, we -- as an overall company, we performed the
8 diligence over Spectrum, over all aspects of their business,
9 from operations to finance to legal; and then we -- we worked
10 with our advisors and consultants to perform those diligence
11 activities.

12 Q. And so through that process, did you become familiar with
13 Spectrum's business?

14 A. Yes.

15 Q. And did you become familiar with Spectrum's management
16 processes and procedures?

17 A. We did.

18 Q. What kind of company is Spectrum?

19 A. Spectrum is a commercial pharmaceutical company. It has
20 one product on the market, Rolvedon, which is used in the
21 oncology space. It is an oncology-supportive product.

22 Q. How long has Rolvedon been on the market?

23 A. Rolvedon was launched at the end of 2022.

24 Q. And does Assertio have consolidated financial reporting
25 with its subsidiaries?

1 A. Yes. Assertio reports for public filings on a consolidated
2 basis of all its wholly owned subsidiaries.

3 Q. And I recognize that Assertio would not yet have published
4 its fourth-quarter results from 2024, but what can you tell us
5 about Rolvedon sales for the first three quarters of 2024?

6 A. Rolvedon sales were approximately \$15 million a quarter,
7 and that represents approximately a little over 50 percent of
8 the total company revenue.

9 Q. And when you say total company revenue, are you referring
10 to Assertio Holdings?

11 A. Yes.

12 Q. So, \$15 million per quarter, or \$45 million for the first
13 three quarters?

14 A. Yes.

15 Q. In Spectrum's line of business, is confidentiality
16 important?

17 A. Absolutely. Spectrum is part of a public company, as well
18 as performing operations in a highly regulated industry, so
19 confidentiality is of the utmost importance due to intellectual
20 property, trade know-how, and other business activities.

21 Q. And are you familiar with how Spectrum protects
22 confidentiality within the company?

23 A. Yes. It's the same way Assertio does. There are policies
24 in place that all employees have to follow in terms of
25 confidentiality.

1 Q. And does your familiarity with Spectrum's confidentiality
2 procedures extend to the time before Assertio acquired
3 Spectrum?

4 A. Yes. When we did the diligence over Spectrum, we looked at
5 all material policies between the two companies and ensured
6 there were no material differences.

7 Q. And what are Spectrum's expectations as to employees and
8 their handling of confidential information, both internal
9 documents and information related to research and development
10 of drugs?

11 A. Generally, it's -- employees need to exercise high level of
12 due diligence to ensure all company documents remain -- are
13 transferred in a confidential manner and are only disclosed to
14 parties that are relevant to that information.

15 Q. Do you have a notebook of exhibits in front of you?

16 A. I do.

17 Q. Take a look at Exhibit 1 and tell me when you have that
18 open before you.

19 A. I have it open.

20 Q. And Exhibit 1 is a California employee obligations --

21 A. Sorry.

22 Q. -- a California employee obligations agreement between
23 Spectrum and Kellie Moore, is that right?

24 A. Yes.

25 Q. Is this the contract that Spectrum's lawsuit is seeking to

1 enforce?

2 A. Yes.

3 Q. I want to direct your attention to Section 1,
4 subparagraph 2. Do you see the definition of "confidential
5 information" there?

6 A. I do.

7 Q. Just take a moment to look at it, and the question for you
8 is: Is the definition of "confidential information" in this
9 agreement consistent with the general standards applicable to a
10 company of the type that Spectrum is?

11 A. It is. It covers all of the major aspects of a
12 pharmaceutical company.

13 Q. And among -- focusing on about eight lines down, among the
14 things that are confidential are inventions, tests, test
15 results, product assessments, improvements, or any other
16 scientific, technical, or trade secrets of the company group.

17 Is that generally consistent with your understanding
18 of the types of things that are confidential?

19 A. Yes.

20 Q. And are confidentiality obligations like this and those
21 described in this agreement consistent with the industry?

22 A. Yes. It's industry practice to have these types of
23 confidentiality.

24 Q. So, this agreement is with Kellie Ann Moore, and I want to
25 talk to you about who she is. What is your understanding about

1 who Kellie Ann Moore is?

2 A. Kellie Ann Moore was the in-house counsel for Spectrum who
3 supported the R&D department for Spectrum, so would have helped
4 all of the employees within the R&D and regulatory functions
5 adhere to compliance guidelines.

6 Q. How did you first come to learn about who Miss Moore was?

7 A. I became aware of her during our diligence. As the legal
8 team reviewed the diligence over Spectrum, there was an ongoing
9 litigation matter that Ms. Kellie Ann Moore had raised against
10 Spectrum, so that's when I became aware of her.

11 Q. Do you know what the nature of that arbitration matter was?

12 A. I believe she was terminated from her employment at
13 Spectrum as part of a broader restructuring, and she had
14 brought about employment-related claims.

15 Q. And do you know what became of that claim?

16 A. That claim was subsequently dismissed late last year.

17 Q. Can you take a look, please, at Exhibit 4. Is Exhibit 4
18 the JAMS arbitration order dismissing Ms. Moore's arbitration?

19 A. It is.

20 Q. I'm going to show you Ms. Moore's resume, which is
21 Exhibit 2. Can you please take a look at Exhibit 2 in your
22 notebook.

23 A. Okay.

24 Q. So, you can see she's listing experience, and she's got a
25 section on Spectrum Pharmaceuticals. Do you see that?

1 A. Yes.

2 Q. And I think as you said before, she was -- it describes her
3 as having been a lawyer for the company, and it describes some
4 of the tasks that she undertook while she was at Spectrum.

5 Is this all consistent with what you learned in the
6 diligence process about Miss Moore?

7 A. Yes, this would be consistent with supporting the R & D
8 department as in-house counsel.

9 Q. And to your understanding based on what you learned, did
10 her work at Spectrum involve or relate to the drug Rolvedon?

11 A. It did.

12 Q. BHG or The Buxton Helmsley Group -- okay if I call them
13 BHG?

14 A. Um-hum.

15 Q. BHG and Mr. Parker claim that Miss Moore is a
16 whistleblower. To your understanding, did Miss Moore raise
17 compliance concerns during her employment?

18 A. She did. While she was at Spectrum, she raised compliance
19 issues with Rolvedon to Spectrum.

20 Q. And to your understanding, based on your review of the
21 diligence materials, did Spectrum look into the issues that
22 Miss Moore raised?

23 A. Absolutely. Spectrum took those allegations seriously.
24 They had internal scientific experts, lawyers look into those,
25 as well as engaged external firms to look into those; and those

1 reports were made -- were disclosed to the board of directors
2 there as well, and we reviewed them during our diligence.

3 Q. And what -- what was the conclusion about the issues that
4 Miss Moore raised?

5 A. They were found to be without merit.

6 Q. You heard from Miss Moore this morning over the phone. You
7 were in the courtroom?

8 A. I was.

9 Q. Did anything she say this morning change your conclusion
10 about whether her allegations had merit or were without merit?

11 A. They had -- they're without merit. The claims, you know,
12 she briefly discussed today and has continued to discuss since
13 are the same claims that she made while she was at Spectrum and
14 were found to be without merit.

15 Furthermore, Assertio had done its own diligence with
16 scientific experts, lawyers, as well, and found her previous
17 claims to be without merit.

18 Q. She has talked about blood blasts, and Mr. Parker has
19 amplified concerns that she has raised about blood blasts.

20 Does anything she says about blood blasts give you any
21 concern that she may have something of merit to raise?

22 A. No. As we've discussed that internally with our medical
23 experts and advisors, that is not a proper literature -- that
24 is not a proper medical term used in any sort of medical term.

25 THE COURT: Is that a blood gas or bloodbath?

1 MR. POWERS: Blast, B-L-A-S-T-S.

2 THE COURT: Thank you.

3 BY MR. POWERS:

4 Q. Aside from the team that you described looking into these
5 issues, what else gives you confidence, if anything, regarding
6 the safety of Rolvedon?

7 A. So, Rolvedon was approved through a proper FDA phase 3
8 trial, with several hundred patients going through that
9 clinical trial. Rolvedon has been approved in South Korea and
10 China as well. And Rolvedon has been on the market for over
11 two years without any safety issues.

12 Q. So, let me zoom out a little bit from Miss Moore and the
13 issues that she raised, and let me ask you this question: What
14 processes does Spectrum have in place, and has it had in place,
15 to encourage employees to raise compliance concerns or other
16 concerns of any kind within the company?

17 A. We take compliance very seriously. We're in a highly
18 regulated industry. It starts, one, with the tone at the top.
19 Secondly, we have an anonymous hotline anyone can call into.
20 And third, our compliance department has the ability to reach
21 out to them directly as well via portals.

22 Q. If somebody calls in to the hotline or sends an email, is
23 the expectation that the company will keep those communications
24 confidential?

25 A. Absolutely.

1 Q. Would that situation work well if somebody who was working
2 within the compliance department could take it on their own
3 accord to publish those emails or communications on the front
4 page of the *New York Times*?

5 A. No. That would create a significant amount of risk for
6 people to raise issues with the compliance department if there
7 was a fear that any communication with them could be taken in
8 fragments and published on the Internet.

9 Q. Since Assertio acquired Spectrum, has Miss Moore continued
10 to communicate, either to Assertio or Spectrum, regarding her
11 concerns about Rolvedon?

12 A. Yes. We have frequent inbound emails to our compliance
13 department about the claims -- the same claim she's been making
14 since her time at Spectrum.

15 Q. Since she was terminated?

16 A. Yes.

17 Q. In the years since Miss Moore started making her
18 allegations, has the government contacted Spectrum or Assertio
19 about any of her allegations?

20 A. No.

21 Q. Have any regulators contacted Spectrum or Assertio about
22 any of Ms. Moore's allegations?

23 A. No.

24 Q. Does either Spectrum or Assertio intend, through this
25 lawsuit, to prevent Miss Moore from going to the authorities

1 with her purported concerns about Rolvedon?

2 A. Absolutely not.

3 Q. Is this lawsuit about stopping whistleblowers?

4 A. Absolutely not.

5 Q. Is this document about keeping documents from the United
6 States Department of Justice?

7 A. No.

8 Q. Miss Moore has been making allegations against Spectrum for
9 years, but as far as you know, did she ever publish Spectrum's
10 internal documents before November 2024?

11 A. She had not published them publicly before.

12 Q. So, let's talk about BHG and Mr. Parker. How did you first
13 become aware of Mr. Parker's contact with Assertio?

14 A. Mr. Parker contacted Assertio in April of 2024 claiming to
15 be an activist investor, and had written us his first letter to
16 us, which requested a response to some of the allegations and
17 questions he was raising.

18 I was part of the team that drafted the first response
19 letter, and I held a video conference call with Mr. Parker to
20 address any follow-up questions he may have.

21 MR. POWERS: Your Honor, I realize that I've been
22 deficient in what I promised to you, which is that I would move
23 for the admission of documents.

24 THE COURT: That's okay.

25 MR. POWERS: So, I move for the admission of

1 Plaintiff's Exhibit -- or excuse me, Exhibit 1, 2, and 4.

2 THE COURT: They are admitted.

3 (Plaintiff's Exhibit Nos. 1, 2, and 4 were received in
4 evidence.)

5 BY MR. POWERS:

6 Q. I was reminded of that because I'm going to show you
7 another document. Can you please turn to Exhibit 5 in your
8 notebook.

9 A. Yes.

10 Q. Exhibit 5 is a letter from Buxton Helmsley dated
11 April 22nd, 2024. Do I have that right?

12 A. Yes.

13 Q. And is this Mr. Parker's and Buxton's first letter to you
14 all at Assertio?

15 A. It is.

16 Q. As the CFO, what is, in general, your responsibility with
17 respect to communications from investors like this?

18 A. I would typically be the primary lead on this, as I oversee
19 the investor relations department.

20 Q. And this is a fairly lengthy letter, single-spaced, six
21 pages. We're not going to go through it in detail, but can you
22 characterize for the Court the nature of the issues that BHG is
23 raising in this first letter?

24 A. In this first letter, the primary issues being raised are
25 his dissatisfaction with the Spectrum acquisition and our

1 disclosures around our impairments and accounting practices.

2 Q. Anything in this first letter about safety issues
3 concerning Rolvedon?

4 A. No.

5 MR. POWERS: Your Honor, I'd move for the admission of
6 Exhibit 5.

7 THE COURT: It is admitted.

8 (Plaintiff's Exhibit No. 5 was received in evidence.)

9 BY MR. POWERS:

10 Q. Take a look at Exhibit 6 in your book, if you would.

11 A. Okay.

12 Q. This is a letter from Buxton Helmsley dated May 8th of
13 2024, is that right?

14 A. Yes.

15 Q. And if you look at the first two lines, it appears that
16 Mr. Parker is expressing appreciation for a meeting that he had
17 on May 7th with Messrs. Patel and Emany. Is that Mr. Patel
18 you?

19 A. That is me.

20 Q. Was this an in-person meeting, phone call, video
21 conference?

22 A. It was a video conference call.

23 Q. And in that video conference call, did you have any
24 discussion with Mr. Parker about safety issues concerning
25 Rolvedon?

1 A. No.

2 Q. What issues did Mr. Parker raise in that call?

3 A. The call -- the issues he raised primarily pertained to the
4 same issues he raised in the first call.

5 Q. Was he right about these issues and concerns he was raising
6 in these letters?

7 A. Absolutely not. The accounting practices, we follow -- we
8 adhere to U.S. GAAP. We're audited by a reputable public
9 accounting firm, and we've never been contacted by the SEC or
10 anything of that sort.

11 MR. POWERS: Your Honor, I'd move for the admission of
12 Exhibit 6.

13 THE COURT: It is admitted -- oh, I was supposed to
14 ask if there was any objection?

15 MR. GOTLOB: No objection, your Honor.

16 THE COURT: All right.

17 (Plaintiff's Exhibit No. 6 was received in evidence.)

18 BY MR. POWERS:

19 Q. Let's move forward in time, and I'll direct your attention
20 to Exhibit 9. Do you have Exhibit 9 in front of you?

21 A. We do.

22 Q. Exhibit 9 is a letter from BHG dated June 10th, 2024, is
23 that right?

24 A. Yes.

25 Q. And is this the first time that BHG raises concerns about

1 Rolvedon?

2 A. Yes, this is the first time safety issues around Rolvedon
3 are being raised.

4 Q. And take a look at page 2 of the exhibit, numbered
5 paragraph 1, under, "Points of Concern."

6 Is that -- is this what you're referring to when you
7 say that Rolvedon issues were raised?

8 A. Yes.

9 Q. And in general terms, Mr. Parker's talking about alleged
10 false submissions and clinical data. He had not raised this
11 before?

12 A. He had not raised it. In simple terms, it's about the
13 clinical data that was submitted to the FDA.

14 Q. And did Mr. Parker or BHG reference Miss Moore in this
15 letter?

16 A. They did not.

17 Q. When Mr. Parker submitted this letter and made these
18 allegations, did the company look into them?

19 A. Absolutely. Just like we would do with any sort of
20 communication to our compliance hotline, we took this very
21 seriously and looked into it.

22 We quickly ascertained that these claims sounded very
23 similar to the claims Miss Moore had previously made.

24 Q. And what was the conclusion as a consequence of that
25 determination?

1 A. As a consequence of that, we reopened up all of the
2 diligence materials from the review of Ms. Moore's claim from
3 our acquisition to ensure we -- the conclusions were re-vetted
4 again, and found them to be without merit.

5 Q. So, did Mr. Parker eventually confirm that Miss Moore was
6 his source for these allegations?

7 A. He did.

8 Q. Let's again move forward in time, this time to September.
9 I direct your attention to plaintiff's -- or excuse me, hearing
10 Exhibit 19.

11 MR. GOTLOB: What did you say, 19?

12 MR. POWERS: 19, 1-9.

13 Yeah, let me offer Exhibit 9. We move for admission
14 of Exhibit 9 into the record.

15 THE COURT: Any objection?

16 MR. GOTLOB: No, your Honor.

17 THE COURT: It's admitted.

18 (Plaintiff's Exhibit No. 9 was received in evidence.)

19 BY MR. POWERS:

20 Q. Okay. So, looking at Exhibit 19, this appears to be a
21 letter dated September 27th, 2024, from BHG to the Assertio
22 board of directors, is that correct?

23 A. Yes.

24 Q. Now, I want to direct your attention to the top of the
25 page, page 13, where Mr. Parker says, "The company states that

1 BHG's claims are unsubstantiated." Do you see that?

2 A. Yes.

3 Q. And the next sentence, Mr. Parker says that the board
4 should accept that BHG's concerns about fraud are valid. Do
5 you see that?

6 A. Yes.

7 Q. What does he say in the third paragraph are the
8 consequences of failing to accept his version of events?

9 A. In general terms, he's threatening us -- he's demanding we
10 accept his view and threatening us that if we don't, he will
11 broadcast further evidence.

12 Q. Now, there are a number of these letters from Mr. Parker.
13 We've not reviewed all of them, but in general terms, did he
14 make any other demands or threats against the company in
15 connection with these allegations?

16 A. Yeah. Generally, his demands can be kind of broken down as
17 we need to accept his position on this claim. We should file
18 an FCA claim, Assertio should, against its wholly owned
19 subsidiary, Spectrum, put it into bankruptcy, and then share in
20 those economics with him and Miss Moore.

21 And then he wants a board position on our board, and
22 additionally, he would want two other board positions on the
23 board.

24 And then finally, with regards to fighting him, he did
25 not want us to publicly contradict his points or try to fight

1 him in court on that, and his threat was that he had a trove of
2 confidential information that he was ready to release if we
3 didn't comply.

4 Q. So, let me make sure I'm clear about one of those. You
5 said that he wanted Assertio to file a False Claims Act case
6 against Spectrum?

7 A. Correct.

8 Q. He wasn't telling you that there was a False Claims Act
9 case already on file?

10 A. No.

11 Q. And then you said something that struck me. He wanted the
12 economics of the FCA case to be shared between himself and
13 Miss Moore, is that right?

14 A. Yeah. I think I inferred that he viewed that the FCA claim
15 would result in some sort of punitive damage that would go from
16 Spectrum to Assertio Holdings, and they should share in that
17 because they're -- they would have been the architect of it.

18 Q. So, this particular letter we're looking at is dated
19 September 27th, 2024, correct?

20 A. Correct.

21 Q. Just flip back for a second. What's the date on the
22 dismissal order that's Exhibit 4?

23 A. September 12, 2024.

24 MR. POWERS: Your Honor, I'd move for the admission of
25 Exhibit 19.

1 THE COURT: Any objection?

2 MR. GOTLOB: No objection, your Honor.

3 THE COURT: It's admitted.

4 (Plaintiff's Exhibit No. 19 was received in evidence.)

5 BY MR. POWERS:

6 Q. Did there come a point in time in November where Mr. Parker
7 threatened to release Spectrum's non-public information if the
8 company denied his claims or had the temerity to file a lawsuit
9 to protect itself?

10 A. Yes. It came in early November, just ahead of our Q3
11 earnings call and announcement.

12 Q. So let me pause there. What is a Q3 earnings call and
13 announcement?

14 A. So, as a public company, we do quarterly earnings calls to
15 report our financial results for the quarter, and, sorry,
16 releasing our quarterly press releases as well. So, we would
17 have announced to the public market on October 30th that we
18 will be hosting our Q3 earnings call on November 11th.

19 Q. And what's the significance of that to the company and to
20 the investing public?

21 A. Generally, the investors put a lot more focus on the
22 company just around the earnings time period. So, as they're
23 aware of when earnings are going to come out, there's a lot
24 more eyes on the company as to projecting what's about to
25 happen or what's going to be released in terms of information.

1 Q. And what -- was the date of the earnings call publicly
2 known in advance of the earnings call?

3 A. Yes. We had announced it on October 30th.

4 Q. With respect to the demands that were made of Assertio that
5 you covered just a moment ago, did the company ever -- Assertio
6 or Spectrum ever agree to any of Mr. Parker's or BHG's demands?

7 A. No.

8 Q. Would it have made sense for Assertio to sue Spectrum under
9 an FCA theory and throw the company into bankruptcy?

10 A. Well, the concept itself doesn't make sense; but
11 furthermore, all the evidence we've seen thus far says Rolvedon
12 is safe and there's no merit to the claims Ms. Moore's making.

13 Q. So, early November, you're about to have an earnings call.
14 The world knows you're about to have an earnings call. And
15 Mr. Parker and BHG do what?

16 A. They released a public press release challenging the safety
17 of Rolvedon.

18 Q. So, please take a look at Exhibit 20 in your notebook in
19 front of you.

20 My first question is: Is that press release -- is
21 this that press release?

22 A. Yes, this is that press release.

23 Q. Now, he says in this press release that BHG has inverted
24 its long equity position into that of a short interest in
25 Assertio Holdings. What does that mean, changing from a long

1 equity position into a short interest?

2 A. Yeah. So, when Buxton first -- when BHG first contacted us
3 in April, they had perpetrated to be a long activist investor.
4 A long position is a bet the company's stock price will go up,
5 and so then they would profit when the stock price goes up.

6 By switching to a short position, a short is a bet
7 that the company's stock price will go down. So, as the price
8 goes down, you make a profit. As the price goes up while
9 you're in a short position, you lose money.

10 Q. So, this press release is November 8th, 2024, is that
11 right?

12 A. Correct.

13 Q. So, November 8th, 2024, do you happen to know that's a
14 Friday?

15 A. I can't recall, but it sounds about right.

16 Q. So, Friday, November 8th, 2024, BHG tells the world it has
17 a short interest in Assertio Holdings' stock?

18 A. Yes.

19 Q. Relative to this, when is the earnings call? Do you
20 recall?

21 A. It would have been -- then if this was a Friday, it was
22 November 11th, so the Monday.

23 Q. So, let's take a look at -- well first, let me ask you
24 about the first paragraph of the press release. He says today
25 they have released an open letter to Assertio stockholders. Do

1 you see that?

2 A. Yes.

3 Q. Is Exhibit 21, the next tab in the notebook in front of
4 you, the open letter to stockholders?

5 A. It is.

6 Q. And it's dated November 8th, 2024, the same day?

7 A. Yes.

8 Q. Turning to page 2, do you see the bullet points that begin
9 about halfway down the page?

10 A. Yes.

11 Q. And the first one says, "While Assertio's board and
12 management claim the company is well-funded, we believe
13 Assertio is, in fact, firmly net asset insolvent; i.e., the
14 liabilities in reality far exceed the company's assets."

15 What's the implication of that statement?

16 A. The implications are that your liabilities are more than
17 your assets, which effectively makes you bankrupt. So, he's
18 saying the value of our stock price is not what it should be.

19 Q. And so what can you reasonably infer, from your experience
20 in the industry, about what BHG is trying to achieve by making
21 statements like this on November 8th, 2024?

22 A. Between this and challenging the safety of our Rolvedon,
23 they were trying to drive the stock price down.

24 Q. And what would be -- if we take him at his word that he's a
25 short seller, what would be the consequence for him as a short

1 seller of Assertio stock?

2 A. Profit.

3 Q. Was Assertio net asset insolvent at this point,
4 November 8th?

5 A. Absolutely not.

6 Q. Let's turn to page 21, the very last paragraph. That
7 begins, "Before closing." Do you see that?

8 A. I do.

9 Q. What is Mr. Parker saying would happen if Assertio tried to
10 deny his allegations of fraud?

11 A. He's repeating the claims that if the board tries to
12 publicly respond to him or initiate any sort of litigation, he
13 would release the trove of confidential materials.

14 MR. POWERS: Your Honor, I would move for the
15 admission of Exhibits 20 and 21.

16 MR. GOTLOB: No objection, your Honor.

17 THE COURT: They are admitted.

18 (Plaintiff's Exhibit Nos. 20 and 21 were received in
19 evidence.)

20 BY MR. POWERS:

21 Q. What was Assertio's response to these communications from
22 BHG and Mr. Parker on November 8th?

23 A. On November 11th, we issued a public press release
24 challenging his assertions on the safety of Rolvedon. We
25 wanted to ensure the public market knew and our physicians knew

1 that the safety of Rolvedon is not to be -- is not of question.

2 Q. And is Exhibit 22 in your notebook the press release you've
3 just described?

4 A. It is.

5 MR. POWERS: Your Honor, I'd move for the admission of
6 Exhibit 22.

7 MR. GOTLOB: No objection, your Honor.

8 THE COURT: It's admitted.

9 (Plaintiff's Exhibit No. 22 was received in evidence.)

10 BY MR. POWERS:

11 Q. So, after you issued this press release -- well first, let
12 me just make sure I know when it was issued.

13 Look at the top of Exhibit 22. What's the date and
14 timestamp of this press release?

15 A. November 11, 2024, 7:30 Eastern.

16 Q. Is that 7:30 a.m., before the market opened?

17 A. Yes.

18 Q. What did BHG and Mr. Parker do after that?

19 A. He subsequently issued another public press release with a
20 hyperlink to his website, where he said existed evidence of
21 Rolvedon's safety issues.

22 Q. And Exhibit 23 in your notebook, is that the press release
23 you've just described?

24 A. It is.

25 Q. Could you read the headline of the press release just under

1 the "business wire" logo at the top of the page?

2 A. "Evidence corroborates allegations of multiple former
3 executives."

4 Q. Sorry, keep going up a little bit above the time and date
5 stamp.

6 A. Oh, "Buxton Helmsley releases evidence of product-related
7 fraud at Assertio."

8 Q. And what is the time and date stamp on this one?

9 A. Monday, November 11th, 8:41 p.m.

10 Q. GMT, can we infer that's Greenwich Mean Time?

11 A. Um-hum.

12 Q. Is that a yes?

13 A. Yes.

14 Q. For the record.

15 So, he issues this press release; and if we look at
16 the second full paragraph of the document, you see a hyperlink
17 to an initial set of evidence?

18 A. Yes.

19 Q. Have you actually seen this press release yourself in
20 electronic form?

21 A. Yes, I have.

22 Q. And have you clicked on that hyperlink?

23 A. I have.

24 MR. POWERS: Your Honor, I'd move for the admission of
25 Exhibit 23.

1 MR. GOTLOB: No objection, your Honor.

2 THE COURT: It's admitted.

3 (Plaintiff's Exhibit No. 23 was received in evidence.)

4 BY MR. POWERS:

5 Q. Take a look, if you would, at Exhibit 29. Do you have
6 Exhibit 29 in front of you?

7 A. I do.

8 Q. Is this where that hyperlink takes you?

9 A. Yes. This is his website.

10 Q. And which are the pieces of so-called evidence that
11 Mr. Parker and BHG released on November 11th, 2024?

12 A. It's at the top under -- in the box under, "New Evidence."

13 Q. And the ones that are dated November 11, 2024?

14 A. November 11th, correct.

15 MR. POWERS: Your Honor, I'd move for the admission of
16 Exhibit 29.

17 MR. GOTLOB: No objection, your Honor.

18 THE COURT: It's admitted.

19 (Plaintiff's Exhibit No. 29 was received in evidence.)

20 BY MR. POWERS:

21 Q. You see the first one dated November 11th says, "Email from
22 Spectrum employee"?

23 A. Yes.

24 Q. Take a look at Exhibit 30. Is Exhibit 30 the email that is
25 linked from Exhibit 29?

1 A. It is.

2 Q. And what's the date on Exhibit 30?

3 A. July 9th, 2018.

4 Q. For the record, can you describe visually this exhibit?

5 In other words, does it look like there's some swirlies and
6 shapes on the page?

7 A. Yes. It looks like a picture of an email on a computer.

8 Q. And who is the email from?

9 A. The email is from Nadia Noorzai.

10 Q. Does -- who does she work for?

11 A. She would have worked in Spectrum's R & D department.

12 Q. And it's to Kellie Moore?

13 A. It is to Kellie Moore.

14 Q. And have you been able to determine whether this email
15 lives on the computers at Spectrum?

16 A. It does. Through our investigations of Kellie Ann Moore's
17 claims, we know this email sits on Spectrum's servers.

18 Q. And does this -- is this an internal email to the company?

19 A. It is.

20 MR. POWERS: Your Honor, I'd move for the admission of
21 Exhibit 30.

22 MR. GOTLOB: No objection, your Honor.

23 THE COURT: It's admitted.

24 (Plaintiff's Exhibit No. 30 was received in evidence.)

25 BY MR. POWERS:

1 Q. So flipping back to Plaintiff's 29 -- or excuse me, hearing
2 Exhibit 29, the third bullet point in the box refers to, "New
3 Evidence, November 11th, 2024," and then a Spectrum site audit
4 report. Do you see that?

5 A. I do.

6 Q. Is the document at Exhibit 31 what is -- what that link
7 leads you to if you click it?

8 A. It is. This is what's on the website.

9 Q. With respect to Exhibit 31, if you look at the bottom
10 right-hand corner, it says, "Advarra Confidential." Do you see
11 that?

12 A. I do.

13 Q. What is Advarra?

14 A. Advarra was a compliance company Spectrum had engaged to
15 perform site audits at its clinical trials, and confidential
16 is just kind of what it refers to.

17 Q. Is this an internal Spectrum document?

18 A. It is.

19 MR. POWERS: Your Honor, I move for the admission of
20 Exhibit 31.

21 MR. GOTLOB: No objection, your Honor.

22 THE COURT: It's admitted.

23 (Plaintiff's Exhibit No. 31 was received in evidence.)

24 BY MR. POWERS:

25 Q. Talking about Exhibit 30, the email, is -- are internal

1 emails to the company's in-house lawyers something that
2 Spectrum wants public?

3 A. Absolutely not. It creates the issues for employees to be
4 able to have frank and open dialogue with internal counsel on
5 their questions, especially in a highly regulated industry that
6 we operate in. And it would create a risk that if our policies
7 are not followed, those emails could be published on the
8 Internet in fragments.

9 Q. What about confidential site audit reports? Is that
10 something Spectrum wants to be made public?

11 A. Absolutely not. That would be part of our trade and
12 intellectual property that we would want to maintain
13 internally.

14 Q. And do you -- what's your understanding about what BHG and
15 Parker was telling Assertio and Spectrum about whether there
16 was more like this that they were intending to release?

17 A. I believe the exact phrase that he's used in the letters is
18 "trove of information."

19 Q. Without an order from this Court preventing BHG or
20 Mr. Parker or Miss Moore from disclosing their confidential
21 information on the front page of the *New York Times* or to
22 anyone else they please, do you have a way of stopping them
23 from doing that?

24 A. We do not have any way of stopping the threats that he's
25 made of releasing those, nor the actions he already took by

1 releasing fragments of information and putting his own spin
2 on it.

3 Q. He's offered you the alternative of releasing all of your
4 other confidential information to prove him wrong. Is that a
5 palatable alternative, from your perspective as the CFO of the
6 company?

7 A. It is not.

8 Q. Let's take a look back at Exhibit 29. Do you see the
9 letter referenced at the top of that box we were just looking
10 at --

11 A. Yes.

12 Q. -- dated November 15th, 2024?

13 A. Yes. It's a letter that he had written to the U.S. Senate.

14 Q. And did you yourself click on the link that is next to,
15 "Open Letter to U.S. Senate"?

16 A. I did.

17 Q. Is Exhibit 25 the document that that link takes you to?

18 A. It is.

19 Q. Exhibit 25 is a letter from Buxton Helmsley dated
20 November 15th to the Committee on Health, Education, Labor &
21 Pensions of the United States Senate, is that right?

22 A. Yes.

23 Q. And if you would turn with me -- well, before we turn all
24 the way to the back, this is a document you can access
25 electronically on the Internet?

1 A. Yes. It's on his website.

2 Q. And are you familiar with whether there is metadata
3 associated with this document when you go to the BHG website?

4 A. Yes. It's linked as a .pdf file, so it would have metadata
5 embedded in the .pdf.

6 Q. If you turn all the way to the back of the exhibit, what
7 are we seeing?

8 A. When you go to the document properties of this document on
9 his website, you see that the author here was Kellie Moore.

10 Q. And that's one page past the email? The author of this
11 document, that is, the .pdf file is Kellie Moore?

12 A. Yes. The author of the letter that's to the U.S. Senate
13 from BHG on their website, the metadata states the author is
14 Kellie Moore.

15 Q. And if you go back to page 4 of the letter itself, do you
16 see Miss Moore referenced either as a signatory to this letter
17 or as a cc on this letter?

18 A. She was not.

19 MR. POWERS: Your Honor, I'd move for the admission of
20 Exhibit 25.

21 MR. GOTLOB: No objection, your Honor.

22 THE COURT: It's admitted.

23 (Plaintiff's Exhibit No. 25 was received in evidence.)

24 BY MR. POWERS:

25 Q. Mr. Patel, how have Miss Moore and Mr. Parker's and BHG's

1 actions harmed Spectrum?

2 A. In simple terms, Miss Moore took confidential information,
3 which is our property, and shared it with Mr. Parker.

4 Furthermore, that confidential information was then released
5 into the public. This confidential information can no longer
6 be made confidential again now.

7 Q. And how has the harm manifested itself in terms of
8 Spectrum's day-to-day operations?

9 A. This has been an enormous burden on the company. We've had
10 to spend a significant amount of time and resources dealing
11 with this theft, the misuse of that property. And then
12 furthermore, those are time resources that are being taken away
13 from running the company day to day.

14 Q. So, I want you to -- I want to talk to you about the
15 quantification of some of those costs.

16 I want you to leave aside for the moment the
17 attorney's fees associated with filing and prosecuting this
18 lawsuit. Do you understand what I'm asking you to do?

19 A. Yes.

20 Q. What other costs aside from prosecuting this lawsuit in
21 terms of quantification, can you quantify for us what those
22 costs would be? More than \$100,000?

23 A. Yes, easily well over six figures. When the -- when his
24 first press release came out challenging the safety of
25 Rolvedon, it created not only an investor issue; it created a

1 safety profile issue for us that we needed to address in the
2 marketplace.

3 To do that, we required not only internal manpower,
4 but utilizing our medical experts, our lawyers, our advisors
5 in the banking world, as well as investor relations to address
6 all the issues that were created from that press release.

7 Q. And are there harms to Spectrum that result from the fact
8 that Miss Moore, who is -- who was an in-house lawyer for
9 Spectrum, released information disclosed to her in her capacity
10 as a lawyer?

11 A. Yes, absolutely. It goes back to that point on ability of
12 our employees to be able to have frank and confidential
13 dialogue with our in-house counsel, in line with our policies,
14 and not fear the risk that those communications could be put
15 into the public space.

16 Q. And what are your concerns about future harm to Spectrum
17 from this activity that Mr. Parker and BHG and Miss Moore have
18 engaged in?

19 A. My concern is, look, it's not about stopping whistleblowers
20 or anything of that sort. It's Miss Parker is using our
21 confidential information to improperly pass it along to
22 Mr. Parker, who are then releasing that information in the
23 public space in a fragmented manner, with a spin on it, with
24 the intention of driving our stock price down and making a
25 profit.

1 THE COURT: I think you said Miss Parker was releasing
2 information. I assume you meant Miss Moore.

3 THE WITNESS: Sorry, yeah.

4 THE COURT: That's okay.

5 MR. POWERS: Thank you, Mr. Patel.

6 Your Honor, I pass the witness.

7 THE COURT: All right. Thank you.

8 MR. GOTLOB: Your Honor, since we've been about an
9 hour, can I just take a quick bathroom break? Is that okay?

10 THE COURT: Sure. Resume at 2:00 o'clock?

11 MR. GOTLOB: Thank you.

12 THE WITNESS: Do I stay here?

13 THE COURT: You can stay here. If you'd like some
14 water, there's some in there.

15 THE WITNESS: Thank you.

16 THE COURT: Sure.

17 (Recess had.)

18 MR. GOTLOB: Your Honor, may I?

19 THE COURT: Yes, you may proceed.

20 CROSS-EXAMINATION

21 BY MR. GOTLOB:

22 Q. Good afternoon, Mr. Patel.

23 A. Hi.

24 Q. Earlier on your direct testimony, you spoke about Kellie
25 Ann Moore's employment agreement. Do you remember that?

1 A. Yes, I do remember.

2 Q. Was Mr. Parker or BHG a member of that agreement? Are they
3 involved in that agreement at all?

4 A. He is not part of that agreement.

5 Q. And you have no knowledge if Mr. Parker has ever seen that
6 agreement, do you?

7 A. I wouldn't be able to speculate on that.

8 Q. So you don't know, right?

9 A. I don't know.

10 Q. You said part of your duties as -- now as CFO were during
11 the acquisition, you were like in charge of the due diligence,
12 right? Is that correct?

13 A. Correct. I helped lead the financial due diligence.

14 Q. And part of that is to look into if there's anything wrong,
15 if you guys should do the acquisition or not, if it makes
16 financial sense; is that true?

17 A. That's correct. As part of the diligence, we would
18 determine are there any roadblocks.

19 Q. And during that diligence, you knew about Miss Moore's
20 complaints and her termination and her lawsuit against the
21 organization, correct?

22 A. Correct. During the diligence, we became aware of Kellie
23 Ann Moore's claims against Spectrum.

24 Q. Were you aware that she had a laptop of Spectrum still at
25 that point after working for Spectrum?

1 A. I can't recall the details of that during the diligence
2 part.

3 Q. But you're aware that the company never tried to get that
4 laptop back from her, is that correct?

5 A. That's an area that our HR and legal teams handle, so there
6 would be other team members at the company handling that.

7 Q. So, you had no -- you had no involvement in that?

8 A. I had no involvement in that.

9 Q. It wasn't part of the diligence?

10 A. It wasn't part of the information I received during the
11 diligence.

12 Q. Okay. We went through a number of Mr. Parker's press
13 releases and claims and communications directly with you,
14 is that correct?

15 A. Correct. We went through those letters.

16 Q. And you actually met with Mr. Parker in person; when I say
17 in person, I mean via Zoom, is that correct?

18 A. Correct. We met after the first letter via Zoom call.

19 Q. Because you were in charge of responding to that letter
20 initially, is that correct?

21 A. Correct, I responded to that letter.

22 Q. Okay. And in your opinion, was Mr. Parker satisfied with
23 the call between the two of you, putting aside that he wrote
24 letters later on, just in the present time?

25 Obviously, I know that he wasn't pleased based on the

1 letters going forward, but at the present time, what were you
2 thinking?

3 A. At the time of the conclusion of that call, he did not seem
4 satisfied with our responses.

5 Q. Okay. And is it true, did you direct him to your SEC
6 public filings to look at documentation to satisfy him; was
7 that correct?

8 A. That is correct. As part of his initial letter, he had a
9 specific number of accounting questions with regards to some of
10 our practices, and we had reached out to him to say further
11 information can only be provided if we're able to get under an
12 NDA because of material non-public information that he would be
13 requesting.

14 Q. And an NDA with Mr. Parker, is that right?

15 A. Correct.

16 Q. And in the May -- the May 8th letter, I think it's
17 Exhibit 7, he -- that's the first time he mentioned Rolvedon,
18 is that right? Take your time. Take a look.

19 Sorry. Exhibit 6. Excuse me.

20 A. Sorry. Can you repeat your question?

21 Q. Sorry. Yes, absolutely.

22 On this May -- May release, is this the first time
23 Mr. Parker/BHG, being one and the same here, mentioned Rolvedon
24 to your organization?

25 A. I believe -- I don't believe this is the letter he mentions

1 it. I think it's the June letter. This one's the May 8th.

2 Q. So, the June 10th letter you're referring to?

3 A. The June 10th letter, correct, yes.

4 Q. So Exhibit 9, can you just pull it up for a second, please?

5 A. Yes. Yes, this is the first time he mentions Rolvedon
6 safety.

7 Q. And you mentioned on your direct testimony that the company
8 did some review to make sure that that -- those statements
9 weren't true, is that correct?

10 A. Correct.

11 Q. That was never released publicly, right?

12 A. No.

13 Q. Okay. And there was no attempt by the company to contact
14 their lawyers -- without saying what you said to your lawyers
15 because that's privileged, to get a TRO or any form of
16 injunction at that point, was there, in June?

17 A. I don't believe there was.

18 Q. And that didn't take place until December, is that right?

19 A. Correct. We -- our first injunction was in December.

20 Q. Back to the diligence for one second that you described,
21 with all this stuff going on with Miss Moore and her -- as we
22 clarified earlier today through your Honor, that she still
23 possesses this laptop that belongs to your organization, is it
24 fair to say that the diligence wasn't perfect?

25 A. In what frame are you --

1 Q. Well, your job as the leader -- I understand that you're
2 not looking at everything. You have a team. You're high up on
3 the executive ladder. I understand that.

4 But you're doing diligence to acquire a company.
5 There's this former employee who's in arbitration with the
6 organization you're looking to acquire. She still possesses
7 confidential information, but that's not resolved before the
8 acquisition takes place.

9 So, based on that, is it fair to say the diligence
10 wasn't perfectly done in this case?

11 A. I would say the focus of the diligence wasn't about the
12 computer. It was about her claims and what they were for the
13 company and what risks that posed to Assertio.

14 So, our focus was, one, her claim against the company,
15 and we found that to be without merit. And then the claims she
16 had brought on the safety of Rolvedon, those were found to be
17 without merit.

18 With regards to the confidential information, I think
19 our presumption would have been we reviewed their policies, and
20 there was a confidentiality clause in there, so from a legal
21 perspective, we would expect especially the in-house counsel to
22 abide by the rules of the law.

23 Q. Okay. But that didn't happen here, right?

24 A. It does not seem to have happened.

25 Q. Right. But these reviews that -- whether it's you or

1 members of your team at the organization conducted to look at
2 Rolvedon, and you were satisfied that it was safe, that was
3 never released, is that right, to the public?

4 A. To the public? No, that's confidential information that
5 hasn't been released to the public.

6 Q. So, not even after Mr. Parker's release of the two -- two
7 documents we spoke -- you spoke about on direct, the email and
8 then the report that we saw earlier on, Exhibits 30 and 31, I
9 believe, you didn't release those findings to the public at
10 that time to prove that the drug was safe, did you?

11 A. We did not, but I think we would say --

12 Q. It's just a yes-or-no question. It's a yes-or-no question.

13 A. Okay. We did not. We did not release any safety, but our
14 press release addresses our viewpoint on the safety of
15 Rolvedon.

16 Q. I understand. So, you released -- the company on
17 November 11th, early in the morning before the market opened
18 up, probably worked all weekend on it, made a press release
19 saying that Rolvedon was safe, but without any proof behind
20 that, is that correct?

21 A. That's correct, because we didn't think the bar had been
22 set where we needed to demonstrate the safety.

23 Q. Okay. Looking at Exhibit 19, you specified that on
24 page 13, paragraph 3 --

25 A. Exhibit 13?

1 Q. Page 13, yes, sir, paragraph 3 that starts with, "The
2 broadcast" --

3 A. I'm sorry, Exhibit --

4 THE COURT: Exhibit 19.

5 THE WITNESS: Oh, Exhibit 19?

6 BY MR. GOTLOB:

7 Q. Exhibit 19, page 13, paragraph 3. Sorry.

8 A. Okay.

9 Q. I don't want you to read it out loud, but I want you to
10 read that last paragraph because you mentioned during your
11 direct that Mr. Parker was threatening the organization when
12 he wrote that paragraph. Does it say "threaten" anywhere in
13 that paragraph?

14 A. The word "threaten" is not used in that paragraph.

15 Q. Okay. Has -- has -- to your knowledge, has your
16 organization ever lied on FDA reports?

17 A. No.

18 Q. You explained to your Honor and to the courtroom what long
19 and shorting of a stock are, right?

20 A. I did.

21 Q. Is that legal?

22 A. Taking a long/short position?

23 Q. Yeah.

24 A. I thought you were saying my explanation.

25 Q. No, no, no, not your explanation.

1 A. Yes, they're valid investment positions.

2 Q. So it's legal to do that?

3 A. Yes.

4 Q. And correct me if I'm wrong, but your testimony seemed
5 to conclude that Mr. Parker's actions, by releasing these
6 documents when they did, were just to make money on a short,
7 is that correct?

8 A. His release of the information had the effect of driving
9 the stock price down, and -- if you read the manner in the way
10 he did it, which would have resulted in a profit for him.

11 Q. Okay. Let's go to Exhibit 31 -- no, 30, excuse me.

12 A. Okay.

13 Q. This is the email that we talked about earlier on, correct?

14 A. Correct, this is the email.

15 Q. From Kellie Moore?

16 A. To Kellie Moore.

17 Q. Sorry, to Kellie Moore, but you're claiming that this is
18 what Mr. Parker released from Kellie Moore?

19 A. Correct.

20 Q. And you stated you think this is a picture of an email?

21 A. My viewpoint is this would be a picture of an email or a
22 picture of an email on a computer screen. The glare, kind of
23 the squiggly lines on the picture, when you take a picture from
24 a computer screen, that's what it kind of comes up as.

25 Q. But you don't know that for sure?

1 A. No. That's my assumption.

2 Q. You don't know whether it's a hard copy, a picture of an
3 email, or the actual email, right?

4 A. I do not know.

5 Q. Towards the end of your direct testimony, you spoke about
6 the harm to the organization, to your organization, right?

7 A. Correct.

8 Q. What's the harm? What's the number?

9 A. It's unquantifiable at this point. Challenging the safety
10 of our biggest product has harm that makes it, one, lost sales
11 in the past, but also the ability to continue to sell; and then
12 we had the financial harm to our stock price. I believe on the
13 day he released that press release in November, our stock price
14 went down 17 percent.

15 Q. Has it gone back up?

16 A. It's gone up and down. I can't recall where it was on that
17 date exactly to now.

18 Q. Like most stocks do, it's gone up and down, is that
19 correct?

20 A. Correct.

21 Q. Are you reporting -- I know you haven't had the meeting
22 yet, but are you reporting in your fourth quarter meeting that
23 you lost millions of dollars because Mr. Parker made the
24 release?

25 MR. POWERS: Your Honor, I'm going to have to object

1 to a request for him saying in open court what they're about
2 to report in their financials that are not yet public.

3 THE COURT: I'll sustain the objection, but you can
4 rephrase the question if you're not asking about undisclosed,
5 non-public information.

6 BY MR. GOTLOB:

7 Q. So, what losses did your company have in the final quarter
8 of last year?

9 A. With regards to?

10 Q. What Mr. Parker did, what we're here for.

11 A. Our financial losses directly qualifiable to Mr. Parker are
12 the expenses we've incurred addressing his multiple press
13 releases and then kind of what I talked to our lawyers about,
14 the costs we've incurred to address the press release that went
15 out publicly, and then this litigation itself.

16 Q. But your organization -- you testified that your
17 organization did an internal analysis that Rolvedon is safe,
18 and all of these claims by Miss Moore and Mr. Parker are not
19 true; is that right?

20 A. Correct.

21 Q. Why not just release it then? It will save you all the
22 problem. The drug is safe.

23 A. I think that's not how a pharmaceutical company works in
24 the U.S. The regulatory body is the FDA. It's an approved
25 product by the FDA.

1 If any person off the street can hold up one piece
2 of random document and say, "Your product is not safe," doesn't
3 require me to divulge all of my clinical data to say it was
4 safe.

5 When the product is -- when the product was first
6 formally approved, there's a product-specific website that all
7 physicians can go to that has all of the clinical data that it
8 was the basis it was approved from. There's no reason to
9 repeat that.

10 Q. So, you mentioned random documents, like one random
11 document any person could release.

12 Isn't it true that Plaintiff's Exhibit 31 or Joint
13 Exhibit 31, whatever we're calling it, isn't it true that that
14 internal report has nothing to do with Rolvedon?

15 A. That is correct. That is not -- this report is not related
16 to Rolvedon.

17 Q. So how -- how -- just explain to me and the Court, how does
18 this report, Exhibit 31, have anything to do with what your
19 company lost in relation to Rolvedon? How does that report
20 have anything to do with it if it has nothing to do with
21 Rolvedon?

22 A. Because he perpetrated it has to do with Rolvedon on his
23 website.

24 Q. But it doesn't, is that right? Doesn't it have nothing to
25 do with Rolvedon, this report?

1 A. I know it because I know what the report is associated to.
2 I think an average reader, the way he released it, would not
3 know that information.

4 Q. So now we're on the average reader standard for everything
5 that gets released; is that what you're saying?

6 A. Our -- he released it under the pretext this is related to
7 Rolvedon safety, and he put out a site audit report. I mean,
8 you can take a sophisticated individual, and they might not
9 know it unless they know the specifics of who that investigator
10 is and what this is referring to.

11 Q. I mean, I don't consider myself that sophisticated; but I
12 looked at this report right away, and I knew that it had
13 nothing to do with Rolvedon.

14 So, my question to you is: None of the costs that
15 you've alleged to your counsel on direct have -- losses or
16 anything have anything to do with this report, is that right,
17 for Rolvedon, for this report?

18 A. For this report that's in Exhibit 31, or for the letters
19 he's posted?

20 Q. I didn't say the letters. I'm talking about this report.
21 This report has nothing to do with the costs incurred by the
22 company in relation to Rolvedon.

23 A. I'm not a lawyer. I'm a financial guy. That's hard
24 parsing there, right? The letter is -- or the attachment is
25 part of the letter. I don't know how you separate the two.

1 Q. Okay. And just once again, Mr. Parker has no contractual
2 agreement with your company ever?

3 A. Correct. He does not have a relationship with Assertio in
4 any way.

5 Q. Employment-wise or --

6 A. Yeah.

7 Q. -- duty to not release documents, is that right?

8 A. Correct.

9 MR. GOTLOB: Nothing further, your Honor.

10 THE COURT: Okay.

11 MR. POWERS: Your Honor, briefly?

12 THE COURT: Sure.

13 REDIRECT EXAMINATION

14 BY MR. POWERS:

15 Q. Mr. Patel, I just want to clarify the testimony around
16 Exhibit 31.

17 A. Sure.

18 Q. Can you just explain what you mean when you say that
19 Mr. Parker purported to say that Exhibit 31 had something to do
20 with Rolvedon?

21 A. When you go to his website, this is the link associated
22 when you click on the link supporting clinical issues. It
23 takes you to this report.

24 Q. And the clinical issues that Mr. Parker was raising, did he
25 ever raise any alleged clinical issues with anything having to

1 do with a drug that was not Rolvedon?

2 A. No. It has always been Rolvedon.

3 Q. Mr. Gotlob said he looked at Exhibit 31, and he could
4 figure it out all on his own that it had nothing to do with
5 Rolvedon. Did you understand him to say that?

6 A. He did say that.

7 Q. If that's the case, do you think Mr. Parker could have
8 figured out all on his own that this had nothing to do with
9 Rolvedon, Exhibit 31?

10 A. Hard to tell, but I'll tell you I did not figure it out
11 on my own. I had to have a medical staff tell me.

12 Q. Let me ask you this question. You were asked a question
13 about whether it's legal to have a short position in a stock,
14 and you said it is legal, yes?

15 A. Correct.

16 Q. Is it legal to release false information to drive down the
17 price of a stock while you have a short position? Is that
18 legal?

19 A. No, that is not legal.

20 MR. POWERS: Okay. Your Honor, I pass the witness.

21 MR. GOTLOB: No recross, your Honor.

22 THE COURT: All right. Thank you, Mr. Patel. You may
23 step down.

24 THE WITNESS: Do I leave this here or take it?

25 THE COURT: Yes, you can leave that there.

1 (Witness excused.)

2 MR. SADLER: Your Honor, we'd call Mr. Parker.

3 THE COURT: Okay.

4 Mr. Parker, raise your right hand, please.

5 (Witness sworn.)

6 THE WITNESS: I do.

7 THE COURT: All right. You can have a seat. Please
8 speak into the microphone and state and spell your name.

9 THE WITNESS: Alexander Parker, A-L-E-X-A-N-D-E-R,
10 Parker, P-A-R-K-E-R.

11 THE COURT: Okay. You can proceed.

12 ALEXANDER PARKER, PLAINTIFF'S WITNESS, DULY SWORN

13 DIRECT EXAMINATION

14 BY MR. SADLER:

15 Q. Mr. Parker, do you have a set of exhibits in front of you?

16 A. Yes, I do.

17 Q. Thank you. And you are Alexander Erwin Parker?

18 A. Correct.

19 Q. And you live in New York City?

20 A. Yes.

21 Q. You are a licensed investment professional through FINRA?

22 A. Yes.

23 Q. You are not a lawyer, are you, sir?

24 A. No.

25 Q. You need to speak up.

1 THE COURT: Oh, yeah, please.

2 BY THE WITNESS:

3 A. No. Sorry.

4 BY MR. SADLER:

5 Q. You're not a medical doctor, are you?

6 A. No.

7 Q. You've never had any medical training, have you?

8 A. No.

9 Q. And you're not a research scientist, are you, sir?

10 A. Nope.

11 THE COURT: Mr. Sadler, you may have to slow down just
12 a little bit.

13 MR. SADLER: Thank you. I had a light lunch, so my
14 stomach is already growling.

15 BY MR. SADLER:

16 Q. And you are not an expert in FDA submissions for approval
17 of drugs, are you?

18 A. No. I rely on experts.

19 Q. You are, however, senior managing director of your company,
20 BHG?

21 A. Correct.

22 Q. You are its sole director?

23 A. Correct.

24 Q. You are its sole employee?

25 A. No.

1 Q. How many employees do you have?

2 A. We have two now.

3 Q. Two now. When did you pick them up?

4 A. That was in like the last month.

5 Q. Last month. So, prior to last month, you were the sole
6 employee?

7 A. Yes.

8 Q. And you advertise yourself on your website basically as a
9 sophisticated investment manager, right?

10 A. I -- that's up to perception of the reader. I mean, I of
11 course don't try to say that I know nothing about investments.

12 Q. And the name of your firm is Buxton Helmsley, right?

13 A. Yes.

14 Q. But there's nobody at your firm named Buxton, is there?

15 A. No. It's just the name.

16 Q. Right. There's nobody named Helmsley, either, is there?

17 A. No.

18 Q. It's just a made-up name?

19 A. It's two towns in England that were stuck together, and
20 that's how the name was created, much like -- yeah.

21 Q. Two towns in England, is that what you said?

22 A. Yeah, that was literally how it --

23 Q. Doesn't have anything to do with your investment firm,
24 does it?

25 A. Well, it's the name of it, but --

1 Q. Now, you have your office in Manhattan, yes?

2 A. Correct.

3 Q. And Manhattan is a place where there are lots of
4 sophisticated investment advisors like yourself have their
5 offices?

6 A. There's quite a few, yeah.

7 Q. And to help get the word out about your business, you
8 maintain a website?

9 A. Yep.

10 Q. And it's BuxtonHelmsley.com?

11 A. Yep.

12 Q. If you would turn to page 26 -- I'm sorry, Exhibit 26 in
13 your notebook. Just tell me when you have it.

14 A. Okay.

15 Q. And when you go to your website, Buxton Helmsley, the two
16 towns in England --

17 A. Yeah.

18 Q. -- that's the picture you see on your website, right?

19 A. Correct.

20 Q. And it looks like you have a very nice office there.
21 That's a picture of it, right?

22 A. No. That's a stock picture.

23 Q. It's a stock picture. This is not a picture of your
24 office, is it?

25 A. No.

1 Q. Would you like people who go to your website to think that
2 that's what your office looks like?

3 A. It is entirely standard on websites to use stock photos,
4 and I'm sure that Assertio probably uses them as well.

5 Q. Now, there are a number of your letters that you wrote to
6 the board of directors of Assertio and Spectrum that are
7 already in evidence. I just need to ask you, did you write all
8 of those letters?

9 A. With the help of many lawyers, other experts with regard
10 to the medical terminology because I am not equipped to make
11 those opinions on my own, also relying on the independent
12 experts being Certified Fraud Examiners and CPAs.

13 Q. I'll come back to independent in a minute.

14 And one of the people that helped you write one of
15 those letters was Kellie Moore, right?

16 A. One, yes.

17 Q. One. Okay. And that was the one in November of 2024 that
18 we just looked at a few minutes ago, yes, a letter to the
19 Senate?

20 A. Yes. But I should correct that she was not the only person
21 who had input on that letter.

22 Q. But you were working with her in that timeframe to send
23 that letter, yes?

24 A. She was one of the people, yes.

25 Q. Now, all of those letters that you've talked about, you

1 stand by them today, every word?

2 A. Absolutely.

3 Q. Okay. Now, let me talk about lawyers for a second.

4 Now, Blank Rome, they are your lawyers, right?

5 A. We have had them engaged for a number of matters for years,
6 yes.

7 Q. They're not independent of you; they are your lawyers, and
8 you are their client, right?

9 A. I wouldn't say that. I would say matters are different
10 engagements, so I wouldn't say that -- an independent
11 investigation outside of my scope that I was not a part of,
12 that is the independence.

13 Q. The question is: Are these your lawyers you hire, you pay
14 them, you tell them what to do, Blank Rome, yes?

15 A. That, I was not telling them what to do for that matter. I
16 was not part of it.

17 Q. Well, who was telling them what to do?

18 A. They did it on their own.

19 Q. And you paid them?

20 A. Yes.

21 Q. You're the client?

22 A. I'm the client.

23 Q. Okay. And similar for Schulte, they are your lawyers,
24 right?

25 A. Yes.

1 Q. You pay them; you're the client?

2 A. Correct.

3 Q. You've testified in federal court before, have you not?

4 A. Yes.

5 Q. You testified in connection with the Mallinckrodt
6 bankruptcy proceeding?

7 A. I did.

8 Q. And the way that ended up with you is you ended up agreeing
9 to the temporary restraining order and then a permanent
10 injunction, right?

11 A. It would be due to the lack of lawyers and legal support at
12 the time, yes.

13 Q. The first time you contacted Assertio was in April 2024,
14 yes?

15 A. Yes.

16 Q. And you sent them a letter. You were complaining about
17 disclosure issues; fair?

18 A. Yes.

19 Q. And --

20 A. I won't say -- no, I would say I wasn't complaining about
21 them. I was asking about the disclosures themselves, asking
22 for further color, and then also looking to affirm underlying
23 compliance based on the more, you know, surface-level claimed
24 compliance, because I've seen that many times companies do not
25 actually comply what they claim.

1 Q. You didn't raise any concerns in the April timeframe about
2 Rolvedon, did you?

3 A. No. But the impairment charge, the largest impairment
4 charge at that time was related to Rolvedon, which tied later
5 to the matters that were later discovered.

6 Q. When you contacted Assertio in April 2024 --

7 A. Um-hum.

8 Q. -- you didn't raise any concerns with them about the safety
9 of Rolvedon, did you?

10 A. No. It was not -- no.

11 Q. And when you had the video call with Mr. Patel that
12 Mr. Patel talked about, you didn't on that video call raise any
13 safety concerns about Rolvedon, did you?

14 A. No, because I found over the course of my investigations,
15 many times the surface issues, you've got to get to the
16 details. It's not necessarily apparent at the surface until
17 you further investigation.

18 Q. Now, fair to say that following your video call with
19 Mr. Parker, you were not happy with how they'd responded to
20 your requests?

21 A. No, I was not. They told me more than once that they
22 weren't following me, and I had informed them that --
23 particularly with relation to the accounting questions; and I
24 informed them that my Certified Fraud Examiners and CPAs have
25 no issue understanding me. I did not think they were being

1 truthful in their responses.

2 Q. And, in fact, you -- you were upset with them because they
3 just pointed you to their public filings, right?

4 A. Well, I saw that there should have been no issue answering
5 the questions, but I asked if it weren't -- if the claimed
6 compliance was true. Also, many of the questions merely
7 affirming compliance with underlying accounting standards and
8 so forth and accounting rules was not any material non-public
9 information. It should have been a simple yes, affirming
10 compliance.

11 Q. It would not have been appropriate for Mr. Patel to have
12 shared non-public information with you about the company on
13 that video call, would it?

14 A. No. But the questions that I asked related to underlying
15 GAAP accounting rules was no different. Those are public
16 rules. He claimed compliance with GAAP, so he was already
17 getting into that.

18 Technically, I was asking just about more details, you
19 are complying with -- he claimed -- or the company claims
20 compliance with all of GAAP, so, I was asking particular
21 sections. "If you say you're complying with the whole thing,
22 you're complying with this, right," is all I was saying, which
23 is not non-public.

24 Q. Are you finished with your answer?

25 A. Yeah.

1 Q. Okay. Now, something changed between that video call and
2 your June 10, 2024, letter where you first raised safety
3 concerns about Rolvedon, right? Something important happened
4 in that time period?

5 A. Between when?

6 Q. Between May, when you had the video call with Mr. Patel --

7 A. Yeah, yeah.

8 Q. -- and your June 10 letter, something important changed,
9 right?

10 A. Yeah, really important, yeah.

11 Q. Yeah. What changed is you got a telephone call from
12 someone claiming to be Kellie Ann Moore, right?

13 A. Yes.

14 Q. And Kellie Ann Moore, in that very first phone call she had
15 with you, she identified herself as a former lawyer for
16 Spectrum?

17 A. Yes.

18 Q. And that really piqued your interest, didn't it?

19 A. Over the course of investigations, it is normal to
20 sometimes speak with former employees, provided that you adhere
21 to the securities laws, do not -- you know, that you're merely
22 going off public information.

23 And that was always a -- that was from the first phone
24 call, I told her I wanted no non-public information. I wanted
25 nothing that I could not find publicly available. I told her

1 to point me to documents, which there were enough that I could
2 see already there, and then other public sources as well, even
3 beyond the litigation that she had in Nevada with the company.

4 Q. Are you finished?

5 A. I can be. If you'd like me to elaborate, I can, but --

6 Q. So, Miss Moore identified herself to you as a former lawyer
7 for Spectrum. At this point in time, you were already pretty
8 familiar with relationships between client and lawyers because
9 you've dealt with a lot of lawyers, haven't you?

10 A. Yes, I have. And I -- yeah, I mean, yes.

11 Q. And you know that lawyers are bound by a duty of
12 confidentiality when it comes to communications with their
13 clients, right?

14 A. Not where there's a crime.

15 Q. Is it -- was it your understanding when Miss Moore called
16 you, at that point in time, you understood that lawyers
17 generally have a duty of confidentiality about their
18 communications with clients; you understood that, didn't you?

19 MR. GOTLOB: Your Honor, I'm going to object because
20 Mr. Parker clearly stated he's not a lawyer.

21 THE WITNESS: Yeah.

22 THE COURT: I will overrule the objection, and the
23 witness can answer, if you know.

24 THE WITNESS: Okay.

25 BY THE WITNESS:

1 A. So, can you reiterate your question? I'm sorry.

2 BY MR. SADLER:

3 Q. Yes. If we're talking about the first time you heard from
4 Kellie Moore, that day --

5 A. Yeah.

6 Q. -- whatever day that was, and she announced to you that she
7 was a lawyer -- former lawyer for Spectrum, I'm simply asking
8 you, at that moment in time, you already understood from your
9 sophisticated business dealings that lawyers have certain
10 duties of confidentiality to clients; you understood that,
11 didn't you?

12 A. Yes, with exceptions.

13 Q. For example, if I were to ask Mr. Gotlob to fill me in on
14 all the conversations that he's had with you about this case,
15 it would be wrong for him to tell me about that, wouldn't it?

16 A. Well, it depends specifically -- I mean, yeah, in that
17 case, yes.

18 Q. Yeah, yeah. And if I just asked Mr. Gotlob, "Well, I don't
19 need every detail. Just give me the summaries of all the
20 conversations you've had with Mr. Parker," you wouldn't want
21 him doing that now, would you?

22 A. No. But I would understand that if his privilege
23 obligations had an exception, if there was a crime or something
24 like that, that -- you know, that he may have to, you know --
25 he's bound by ethical obligations as counsel as well.

1 Q. In this first conversation with Miss Moore, she told you
2 she was the former senior counsel for global R & D?

3 A. That's what I was told, yes.

4 Q. And by the time you finished talking to her, did you take
5 it upon yourself to do a little Internet research just to
6 confirm that the voice on the end of the phone was actually the
7 person she was claiming to be?

8 A. Yeah.

9 Q. Yeah. And your research confirmed that she was, in fact, a
10 former lawyer for Spectrum, right?

11 A. Yeah.

12 Q. You knew that?

13 A. Yeah.

14 Q. Now, in this first conversation you had with her, did she
15 describe herself as a whistleblower?

16 A. Yes.

17 Q. And I think in your declaration, you went into some detail,
18 the declaration you filed in this case, that she claims she had
19 blown the whistle on a variety of things going on inside
20 Spectrum?

21 A. Yes.

22 Q. And you understand the concept of what a whistleblower is,
23 right?

24 A. Yes.

25 Q. Someone who claims to know about things that aren't public;

1 that's part of what a whistleblower's all about, isn't it?

2 A. Well, whistleblowing is particularly over fraud, and fraud
3 is not public until it's made public, yes.

4 Q. Yeah. Hard to blow the whistle on stuff everybody knows,
5 right? Hard to blow the whistle on that, isn't it?

6 A. Yeah. But then fraud would always be kept under wraps if
7 you didn't blow the whistle.

8 Q. Right. So, you knew from the very first conversation you
9 had with Miss Moore, all of these complaints she was raising to
10 you about Spectrum were based on things she knew from her time
11 at Spectrum that were not public; you understood that?

12 A. I wouldn't say that, either, because, I mean, the court
13 filings had extensive, you know, information on there as far as
14 where -- her defamation litigation and so forth; and then she
15 pointed me to other public, you know, filings on the Internet
16 and so forth that began to show aspects and corroborating
17 somewhat of what she was saying.

18 So, no, I never saw the non-public documents. She was
19 merely pointing me to public sources.

20 Q. So, let me get this straight. You're telling us that she
21 was blowing the whistle to you on things that were already
22 public?

23 A. Because she had repeatedly reached out to the company,
24 including Assertio, and Assertio has never responded to one of
25 her emails except an auto-reply.

1 Q. I want to get back to my actual question, which is, I think
2 what you're telling us and you want us to believe is that
3 Miss Moore was blowing the whistle to you about a bunch of
4 stuff she pointed to that's already out on the Internet?

5 A. She had blown the whistle extensively. She was already in
6 court. You guys had dismissed the case against her for
7 defamation when she started producing evidence, I've heard.
8 And then -- so, those were public filings. I'm losing -- what
9 was your question again?

10 Q. Let's move on.

11 A. Okay.

12 Q. So, up to the time that you talked to Miss Moore, your
13 conversations with the company hadn't gone anywhere. They
14 weren't agreeing with you; you weren't getting from them what
15 you wanted, fair?

16 A. No. You guys wouldn't even meet to discuss the matters,
17 like you wouldn't meet with Miss Moore.

18 Q. Right. So, my question is: As of the time that you talked
19 to Miss Moore, whatever you wanted from the company, you
20 weren't getting, in your view, right?

21 A. An explanation, I could not get it, no.

22 Q. But it's fair to say that once you heard from Miss Moore
23 and about her whistleblowing claims, that kind of opened up a
24 new angle of attack for you to pursue against the company,
25 right?

1 A. It explained what I was already looking at and what the
2 Certified Fraud Examiners and CPAs had already said was highly
3 suspicious, along with multiple other lawyers that have
4 expertise in the restructuring area.

5 Q. And the Certified Fraud Examiner I think you referred to,
6 at one point, you published a report by this so-called fraud
7 examiner, right?

8 A. Yeah. She's certified.

9 Q. Yeah. And I think -- I think that might be Defendants'
10 Exhibit 104. Do you have that?

11 A. 104.

12 Q. The Defendants'.

13 MR. SADLER: Do you have a set -- do you have a set of
14 your exhibits, Mr. Gotlob, or no?

15 MR. GOTLOB: Your exhibits?

16 MR. SADLER: No, your exhibits. I'll tell you what,
17 let's use mine.

18 THE COURT: I have a set if you -- if the witness
19 needs some.

20 MR. SADLER: I've got one right here. May I approach,
21 your Honor?

22 THE COURT: Sure.

23 BY MR. SADLER:

24 Q. Okay. Let me just put this in front of you.

25 A. Okay.

1 MR. SADLER: I won't get in the witness's space, but
2 it will be easier if I can remain here. Is that all right,
3 your Honor?

4 THE COURT: Yeah, as long as the witness is fine.

5 MR. SADLER: Sure, and make sure the court reporter
6 can hear me.

7 BY MR. SADLER:

8 Q. I've put in front of you Defendants' Exhibit 104. Just
9 tell us what that is.

10 A. This is a press release where we had released the report
11 from the Certified Fraud Examiner.

12 Q. And this report, if I might turn a couple of pages, from
13 this fraud examiner you hired is actually part of the press
14 release, right?

15 A. The report is part of the press release, yeah. It was
16 embedded within.

17 Q. Okay. And just so we're sure what we're talking about --
18 these pages are not numbered, so it's a little difficult. I've
19 turned to the second page in Exhibit 104. Does this start the
20 report?

21 A. Yeah, this is the full report from there down.

22 Q. Dated May of 2024?

23 A. Correct.

24 Q. And in May of 2024, you already had a short position in
25 Assertio stock, didn't you?

1 A. No.

2 Q. Well, let me direct your attention to the fourth page of
3 the so-called fraud examiner's report.

4 A. Yeah.

5 Q. This is her report -- it's her, right?

6 A. Yes, Rumbi, yeah.

7 Q. Setting forth whatever her findings are. Could you read
8 for us the particular finding that I've highlighted for you
9 here that she made?

10 A. Correct. "I believe it would be a horrific shock to short
11 sellers of company's traded securities for the company to later
12 admit GAAP financial reporting was misleading in the way of not
13 reflecting a higher true fair value of assets, and with that
14 knowledge of materially different financial position not being
15 disclosed, alongside the company's financial statements."

16 Q. Very good.

17 THE COURT: Which page? I'm sorry.

18 MR. SADLER: Your Honor, I apologize, but the pages
19 aren't numbered. But if you start with the very first page of
20 104 that has the exhibit sticker on it and then go one, two,
21 three, four -- the fifth page in to the exhibit.

22 THE COURT: Okay. And so this is different from
23 Plaintiff's Exhibit 8?

24 MR. SADLER: I think so. I apologize for the
25 confusion.

1 THE WITNESS: It says -- it's right under the address
2 block. What paragraph is it?

3 THE COURT: Okay. One, two, three, four, five. All
4 right.

5 MR. SADLER: And so just to help your Honor find it,
6 there's a bulleted paragraph that says, "BHG questioned
7 whether" --

8 THE COURT: Yeah, um-hum. Okay. No, I see it now.
9 Thank you.

10 BY MR. SADLER:

11 Q. Okay. And so I just wanted to ask you, Mr. Parker, the
12 passage I've highlighted, your fraud examiner is talking about
13 whatever is going on at Assertio would be a shock to short
14 sellers; that's what she wrote?

15 A. Yeah, yeah.

16 Q. Sir, your fraud examiner was interested in whatever
17 Assertio was doing and how it would impact short sellers,
18 right?

19 A. The Certified Fraud Examiner, it means to defraud no
20 parties. And the questions that I had asked about the higher
21 true fair value of assets, may I explain a little bit? Okay.

22 Q. I think you've gone way beyond my question. Let's move on.

23 A. I think it's -- can I --

24 Q. You'll get an opportunity from Mr. Gotlob to follow up.

25 THE COURT: If you -- so, make sure that you've

1 finished your answer; but if you've gone beyond counsel's
2 question, then usually, he'll move to strike your answer. I
3 don't even remember what the question was at this point, so --

4 THE WITNESS: It was just context, so I guess maybe
5 not.

6 THE COURT: Okay. All right. So, you answered, and
7 then you say, "May I explain a little bit?" And so I think
8 it's probably fair that your lawyer will ask you to follow up
9 on your explanation.

10 THE WITNESS: Okay.

11 THE COURT: Okay?

12 THE WITNESS: Yeah.

13 THE COURT: All right. And I do think that
14 Defendant's Exhibit 104 is identical to Plaintiff's Exhibit 8.

15 MR. SADLER: It is. And I apologize we weren't able
16 to get you to it more quickly.

17 THE COURT: That's okay.

18 MR. SADLER: Okay.

19 BY MR. SADLER:

20 Q. You remember signing a declaration as part of the pleadings
21 your lawyer filed in this case, sir?

22 A. Correct.

23 Q. And in that declaration, you said that what Miss Moore
24 shared with you did not go beyond providing summaries of her
25 reports and complaints, summaries, right?

1 A. Well, only the bits and pieces that I was allowed to hear.

2 Q. Well, let me show you your declaration.

3 MR. SADLER: May I approach, your Honor?

4 THE COURT: Sure. Is it an exhibit already?

5 MR. SADLER: It is an impeachment exhibit, your Honor.

6 It's not one -- it's the declaration he filed as part of his

7 response to the injunction motion.

8 THE COURT: All right. In response to the -- in

9 opposition to the motion for preliminary injunction?

10 MR. SADLER: Yes, your Honor.

11 THE COURT: Okay.

12 MR. SADLER: May I approach?

13 THE COURT: Yep.

14 BY MR. SADLER:

15 Q. So, Mr. Parker, let's look at this together.

16 The first page, do you recognize this document dated

17 December 30th, 2024?

18 THE COURT: Counsel, you can also use the ELM0 if

19 you'd like to and just put it up on the screen.

20 MR. SADLER: It might take a lot of time for me to

21 figure it out, your Honor. Forgive me.

22 THE COURT: No problem.

23 BY MR. SADLER:

24 Q. Is this your declaration, Mr. Parker?

25 A. That appears to be it, yes.

1 Q. It says, "I, Alexander Erwin Parker," and so forth. This
2 is your declaration?

3 A. It looks like it.

4 Q. And if I can show you the signature page, voila, your
5 signature, yes?

6 A. Assuming nothing else is changed, that looks like the
7 document.

8 Q. Looks like your signature. Okay. Let's go to paragraph --
9 if I can find it. I just had it.

10 MR. SADLER: Pardon me, your Honor. I lost it in all
11 the shuffle.

12 BY MR. SADLER:

13 Q. Paragraph 15, page 4, part of your declaration. Could you
14 read, please, sir, the very first line I've highlighted,
15 paragraph 15, page 4 of your declaration? What does it say?

16 A. "Moore's information sharing with BHG did not go beyond
17 providing summaries of her whistleblower reports/complaints."

18 Q. So, she provided you summaries. Were these summaries in
19 writing?

20 A. No. I mean, she was pointing me to public documents. Some
21 of those already had summaries. And then beyond that, you
22 know, I mean, again, there was bits and pieces that she could
23 not share with me. I'm not -- unless I wish to be restricted
24 from trading, I am not allowed to hear any non-public
25 information.

1 Q. The summaries she provided to you was summaries of what she
2 said had taken place back during her time as a lawyer working
3 for Spectrum; that's what she was summarizing for you, right?

4 A. Say that again? I'm sorry.

5 Q. What she was summarizing for you, Mr. Parker --

6 A. Yeah.

7 Q. -- was her version of events that she said took place back
8 during the time she was the lawyer for Spectrum? That's what
9 she was summarizing for you?

10 A. Parts of it, yeah.

11 Q. And she gave you information about what she said were
12 improprieties in connection with clinical trials and clinical
13 data, right?

14 A. That was one component, yes.

15 Q. Yeah. And to your knowledge, that -- that kind of stuff
16 wasn't public, was it?

17 A. Yes, it was.

18 Q. Oh, it was already public?

19 A. Yes.

20 Q. So there again, she's blowing the whistle on stuff that's
21 already public?

22 A. Well, I mean, the court that you guys had sued her in in
23 Nevada does not have a publicly accessible docket, so you
24 couldn't get the documents as easily as you could off of, like,
25 PACER; but it was publicly-accessible. And then there were

1 other sources as well that sort of, you know, corroborated her
2 story enough where I could get a feeling that there was some
3 legitimacy to what she was saying.

4 Of course, I had to do further investigation,
5 further -- you know, rely on other -- I would never at that
6 point just assume that a whistleblower is completely spot-on.
7 I feel I have to go in with a somewhat, you know, impartial
8 approach.

9 Q. So, let me get this straight. Now, you're telling us that
10 what Miss Moore told you or pointed you to was already all
11 public. It was all public; is that what you're saying?

12 A. She was pointing me to documents that were public, yes.

13 Q. Okay. We'll come back to that in just a minute.

14 Now, I think we know this, but I just need to hear it
15 under oath. You're not any kind of government official or
16 government regulator authorized to take in whistleblower
17 complaints, are you?

18 A. No. I have assisted the SEC on investigations, and I do
19 work with them in that capacity at times, at the time that I do
20 file a whistleblower complaint with the SEC.

21 Q. But you're not any kind of government official or
22 government regulator, are you, sir?

23 A. Not myself, no.

24 Q. You manage money on Wall Street for a profit; that's what
25 you do for a living, right?

1 A. Well, of course, any business has to make a profit, yes.

2 Q. Now, after Miss Moore contacted you -- I think this is
3 undisputed, but let's just hear it -- you steered her,
4 Miss Moore, to one of the sets of your lawyers; you steered her
5 to Blank Rome?

6 A. More than her. Other whistleblowers as well.

7 Q. I'm sorry?

8 A. Other whistleblowers as well.

9 Q. Oh. So, other people who claimed to have information that
10 was not public who worked for Spectrum, you steered them to
11 your lawyers, Blank Rome?

12 A. At the point that I had seen what was publicly available
13 from Kellie Moore, I did not feel it was appropriate for me to
14 go any further. I relied on the, you know, advice of counsel
15 as to how to proceed on the independent investigation was what
16 they decided is what was the next best step.

17 Q. The independent investigation you're talking about is what
18 your lawyers that you hired and you pay did, right? That's
19 what you're calling independent?

20 A. The investigation that I was not a part of.

21 Q. The investigation you're talking about, to be clear, is the
22 one conducted by your lawyers that you pay for, right?

23 A. Similar to if a company had a whistleblower complaint, they
24 would hire lawyers to do an independent investigation, yes.

25 Q. And you directed Miss Moore to share with your lawyers what

1 you described as an extensive trove of Spectrum confidential
2 information; you did that, didn't you?

3 A. It's still in their possession. I don't have any of it.

4 Q. You're just not answering my question.

5 A. Okay. Go ahead and repeat it. Sorry.

6 Q. The question is not what your lawyers did. The question to
7 you now is: Isn't it true you directed Miss Moore to share her
8 extensive trove of Spectrum confidential information with your
9 lawyers?

10 A. No, that's not true. I connected them with the lawyers,
11 and they decided how to best proceed. I was not involved in
12 the investigation. I didn't know if it would -- what documents
13 it would require review of. I had no idea. Once I connected
14 them, I gave them the name and phone number of the individuals,
15 and then they took it from there.

16 Q. Do you have Plaintiff's Exhibit 14 in front of you?

17 A. I should say to the extent that the lawyers requested it, I
18 said that they could share it with them, yes.

19 Q. I'm sorry. What?

20 A. To the extent that the lawyers requested documents, I said
21 that it was okay to share it with the lawyers.

22 Q. Okay for Miss Moore to share with the lawyers; is that what
23 you're saying?

24 A. Yes.

25 Q. Okay. Now, we're going to come back to documents in a

1 minute, but I need to ask you about the information that's on
2 page 3 and page 4 of Exhibit -- Plaintiff's Exhibit 14, which
3 has not yet been admitted, but will be momentarily.

4 Tell me when you have that exhibit in front of you.

5 A. Okay. Exhibit 14, and you said 3 and 4.

6 Q. Plaintiff's Exhibit 14, yes. It is an August 23 letter
7 from you to the company, yes?

8 A. Yes.

9 Q. I'd like you to look at pages 3 and 4, if you can have
10 those both open.

11 A. Okay.

12 Q. Now, this is just one of the many of the letters that you
13 wrote to the company in this timeframe, right?

14 A. Yes.

15 Q. Okay. But this letter, I think, is the only one in which
16 you proposed and demanded that Assertio sue Spectrum and put it
17 in bankruptcy. That's what page 3 and page 4 are about, right?

18 A. I would say that's mischaracterizing it materially, but --

19 Q. Okay. Well, let's take a look.

20 If you would look at the first full paragraph on
21 page 3.

22 A. Okay.

23 Q. You wrote about, "Focusing back on BHG's plan." Do you see
24 that? Do you see where I'm reading?

25 A. Yeah.

1 Q. And right under that, you quote False Claims Act, FCA,
2 right? You're raising that, yes?

3 A. Yes. But this -- this goes -- this is right here -- I
4 mean, you can go ahead, but -- sure.

5 Q. And the plan that you're laying out here as one of your
6 demands to Assertio is that they file a lawsuit against their
7 own subsidiary and put it in bankruptcy; that's -- that was one
8 of your demands, wasn't it?

9 A. No. The demand was that a special committee must be formed
10 to independently investigate the issues that you guys had
11 refused to explain. Your chairman refused to speak to me. You
12 didn't respond to Kellie Moore's, you know, inquiries. As you
13 say, they're still coming in. And the -- upon the committee --
14 I said I don't know where it is in here, but I said that the
15 committee needed to make the decision as to what to do.

16 I said this was a possible framework. This is a
17 possible plan, a rough framework; but it needed to be looked at
18 by a special committee appointed by the board where they were
19 truly independent from the situation, which no current board
20 members could be at that point, in my opinion.

21 Q. Your plan, as you describe it here in your letter, was for
22 Assertio, the parent company, to file a False Claims Act case
23 against Spectrum; that's spelled out right here, isn't it, sir?

24 A. This is a possible framework that we ran by lawyers to see
25 if it was possible under the circumstances if a special

1 committee determined that -- if the special committee verified
2 Miss Moore's allegations and the other whistleblowers' to be
3 true, this could be a possible framework for turning this
4 situation into a favorable outcome for Assertio stockholders,
5 preventing a catastrophe, yes.

6 Q. And it also, in your view, would be a favorable outcome for
7 Ms. Kellie Moore because you say she would be able to share in
8 something you called a bounty; isn't that what you say on
9 page 4?

10 A. So, we had proposed that Kellie Moore could serve on the
11 board, use all of her documents that you guys want now that you
12 never collected; and she could help the company to, you know,
13 fix the issues.

14 And your -- initially, Assertio had said that I was
15 trying to get money for Miss Moore, which is false because the
16 framework and what I had proposed was that Kellie would go on
17 the board, and she would use her information to help the
18 company; and she would be paid nothing unless something came
19 from that framework.

20 Q. The framework -- I'll ask it one more time just to see if
21 we can get to it.

22 A. Right.

23 Q. The framework you proposed here to Assertio was that
24 Assertio bring a False Claims Act case against Spectrum, put
25 Spectrum in bankruptcy, and share some kind of bounty from all

1 of that with Kellie Ann Moore; you made that request of
2 Assertio, didn't you?

3 A. No. That was -- well, I mean, the -- we did not want
4 Kellie paid anything unless it benefited Assertio stockholders.
5 That was the proposed framework.

6 And she has a lot of institutional knowledge that,
7 from my standpoint that I was seeing, didn't apparently -- I
8 couldn't tell what you guys knew.

9 Q. And I was going to ask you this, but I think you
10 volunteered it to me. I was going to ask you, this idea of
11 your insisting that Assertio sue Spectrum, put Spectrum into
12 bankruptcy, share the money with Kellie Ann Moore, you came up
13 with that on your own, that idea?

14 A. I have -- yeah, I've seen False Claims Act lawsuits. This
15 is a nontraditional thing because typically your own company
16 doesn't whistleblow on itself. In my experience when I've seen
17 other companies where there had been False Claims Act matters,
18 typically it's an outside whistleblower because the company
19 itself does not want to take action on the issues to try to
20 cover it up. So, this is a nontraditional approach, but it was
21 ran by lawyers, yes.

22 MR. SADLER: And, your Honor, if I could offer
23 Plaintiff's 14, I don't think it's been offered yet.

24 THE COURT: Okay. Any objection?

25 MR. GOTLOB: No, your Honor.

1 THE COURT: It's admitted.

2 (Plaintiff's Exhibit No. 14 was received in evidence.)

3 BY MR. SADLER:

4 Q. Fair to stay that the company never took you up on your
5 plan for them to sue Spectrum?

6 A. The company would not even speak to me, nope.

7 Q. Do you -- and I think I asked you this earlier. You're not
8 a lawyer, are you, sir?

9 A. No. But I would say that I have, through my experience,
10 gained a lot of legal knowledge. I depend on the support of
11 legal counsel to, you know, validate opinions and ensure they
12 are sound; but throughout a lot of the course of the, you know,
13 companies that I will look at, you know, particularly now on
14 the long side, that's generally what I want to be doing, I
15 don't like to short, but I depend on the, you know, advice of
16 counsel to make sure that I have sound opinions.

17 Q. And you mentioned a moment ago that part of this plan was
18 to put Kellie Moore on the board. That was in addition to
19 other demands you had made on the company to put you on the
20 board, right?

21 A. As a shareholder, you have a right to nominate directors.

22 Q. You made demands of the company that they put you on the
23 board, right?

24 A. Yeah. And the first time, I said that I would take zero
25 cash compensation. And then after you guys tried to say that I

1 was trying to get money, then I said I'll serve for nothing.

2 Q. And so in addition to demanding you be put on the board, I
3 think I understand you now to say you also wanted Kellie Ann
4 Moore to be put on the board, right?

5 A. I believed that she had -- as a shareholder with a vested
6 interest, I believed she had a lot of information that would
7 assist the board on an independent investigation of a special
8 committee formed by the board, yes.

9 Q. But there on page 4 of your August 20 letter, you warned
10 the company that Miss Moore was losing patience, right? Isn't
11 that -- didn't you say that?

12 A. Yes. She is extremely concerned about cancer patients.

13 Q. I didn't ask you about cancer patients.

14 A. That was why --

15 Q. You warned the board --

16 A. That was the reason why she was losing patience.

17 Q. Oh, I see. She was losing patience because she was
18 concerned about cancer patients?

19 A. Yes.

20 Q. I see. Now, that's not exactly what you wrote to the
21 company here on page 4 of your letter, is it?

22 A. She was losing patience that if you guys didn't do
23 anything, she was -- also, she's been raising the issues to
24 regulators for years; and at that point, then it was a matter
25 of, you know, there are avenues that she could take legally to

1 try to remedy the issue if the company wasn't going to do it
2 themselves. That was my hope was that the company would
3 address the issues, but then you guys wouldn't even speak about
4 them.

5 Q. And part of what you also wanted for Kellie Moore in
6 addition to a board seat is you offered to go try to persuade
7 her to dismiss her arbitration case against the company, right?

8 A. Yes. I was trying to help the company.

9 Q. Yeah. But that didn't really pan out because her
10 arbitration case, as you now know, got dismissed, right?

11 A. I have heard that it was dismissed because she was not able
12 to find counsel, yes.

13 Q. Oh. So, she had trouble finding a lawyer for her
14 arbitration case?

15 A. Yes.

16 Q. Do you know how long she looked for a lawyer to take her
17 arbitration case?

18 A. She has emailed hundreds of people. They do not want to
19 deal with the situation, partially because she believes she
20 has, you know -- there were certain issues earlier in the
21 litigation that she believes have, you know, turned away other
22 lawyers. And frankly, this is a really toxic situation, in my
23 opinion, so I can understand why they wouldn't want to get
24 involved.

25 Q. All right. So, I need to ask you a little bit more about

1 your letters because there is a particular phrase that you used
2 several times in your letters. I'm just going to focus on two
3 of them for a moment.

4 The phrase I want to ask you about, these six words,
5 "extensive troves of non-public evidence." Are you with me?
6 Just focus on those words, "extensive troves of non-public
7 evidence."

8 A. Yep.

9 Q. Isn't it true, sir, that in this timeframe we're talking
10 about, June to November 2024, you repeatedly told the company
11 that you and Miss Moore were sitting on extensive troves of
12 non-public evidence that you were ready to publish if Assertio
13 didn't agree with what you wanted?

14 A. I was not sitting on it. That would have been
15 inappropriate for me to be sitting on it.

16 Q. The people who were sitting on it were your lawyers, right?
17 They had the extensive troves?

18 A. I didn't know what they had. I have no idea. That was an
19 independent investigation. I was not involved at all.

20 Q. Independent investigation conducted by your law firm that
21 you pay; that's what you're staying?

22 A. The same as a special committee to -- when they engage a
23 law firm to investigate whistleblower claims. That is what
24 they do, and they call it independent as well.

25 Q. But you knew enough from all of your extensive

1 conversations with Miss Moore to believe that she had an
2 extensive trove of non-public evidence about Spectrum, right?

3 A. I had heard that she does, and other whistleblowers as
4 well, yes.

5 Q. Well, you not only heard that, but you told the company in
6 letters that that is exactly what the whistleblowers supposedly
7 had, extensive troves of non-public evidence.

8 A. Correct.

9 Q. Okay. And your proposed trade was if the company agreed
10 with your demands, this kind of stuff wouldn't be published;
11 that's what you were offering?

12 A. No. The plan was that you guys could take action on it
13 yourselves with a special committee of the board, but you were
14 in no position at that point to pick any new directors because
15 you had failed to investigate it thoroughly before
16 whistleblower complaints.

17 You cannot investigate a whistleblower complaint
18 unless you talk to the whistleblower, and Assertio has never
19 talked to Kellie Moore in response to her writings.

20 Q. So, I just want to ask you about what you just said.

21 A. Yeah.

22 Q. You don't have any personal knowledge yourself of how many
23 times Kellie Moore was interviewed at Spectrum by lawyers, by
24 consultants? You weren't there. You don't know what they did,
25 right?

1 A. I'm not talking about Spectrum. I'm talking about
2 Assertio.

3 Q. Same thing.

4 A. No. So, I'm talking before -- pre-acquisition is different
5 than post-acquisition. I'm differentiating between the two.

6 Q. So, while Miss Moore was at Spectrum, you weren't there,
7 right?

8 A. No.

9 Q. You weren't around when she was raising whatever concerns
10 she was raising, right?

11 A. No.

12 Q. You don't know what they did about investigating, talking
13 to her; you have no idea, right?

14 A. I've heard certain pieces, but --

15 Q. You weren't there?

16 A. No.

17 Q. Same thing, when Assertio did due diligence, you weren't
18 there; you don't know what they looked at; you don't know what
19 they reviewed; you don't know who they talked to, right?

20 A. But I know as part of their due diligence, they apparently
21 knew of a lawsuit from a whistleblower, and it would have been
22 basic due diligence 101 to speak to that whistleblower because
23 the company that you're acquiring, if what that whistleblower
24 was saying was true, they probably would have covered it up
25 already or it's possible that they could have. There's no

1 independence. That's not a thorough investigation.

2 Q. All that stuff you just talked about, you have no personal
3 knowledge of; you weren't there, were you, sir?

4 A. No. I'm speaking from what I heard today.

5 Q. First talked to Miss Moore in June, right, June 2024?

6 A. No. It was like the last day of May.

7 Q. Last day of May. Still working with her as recently as
8 November of 2024 when she was helping with the letter, right?

9 A. She had provided input on it, along with others, to ensure
10 that it was -- to best ensure that there was nothing, you know,
11 materially misstated. We wanted to make sure that we had
12 everything, you know, informative for stockholders in a way
13 that they could understand the situation and make an educated
14 decision when they're transacting in the company's securities.

15 Q. I want to go back to the non-public evidence thing. In
16 addition to telling Assertio that there was all this non-public
17 evidence out there, you actually put that same claim in your
18 November 8th press release, didn't you?

19 A. Where are you --

20 Q. Exhibit 20.

21 A. Exhibit 20? Okay. Where are you looking?

22 Q. Last full paragraph before the bottom. I'll just rephrase
23 the question.

24 Isn't it true, sir, in this press release, you told
25 the world, or whoever was reading your press releases, that

1 your lawyers --

2 A. Um-hum.

3 Q. -- were sitting on a substantial body of non-public
4 evidence, right?

5 A. They -- to come to a conclusion in the investigation, they
6 needed to review evidence that would have been impossible to
7 otherwise.

8 Q. What you told the world was your lawyers had substantial
9 non-public evidence related to Spectrum, right?

10 A. More than enough to make a determination as to the validity
11 of the allegations, yes.

12 Q. You mentioned a few minutes ago that Miss Moore told you
13 she'd been raising issues to regulators for years? I think
14 that's what you said, right?

15 A. Yeah.

16 Q. That's what Miss Moore told you?

17 A. Yes.

18 Q. And nothing's come of that, right?

19 A. I will tell you that regulators most times do not respond,
20 so that is not at all -- as a whistleblower myself in multiple
21 cases, that is not a sign as to the validity of the allegations
22 of the whistleblower.

23 Q. Oh, so you've been a whistleblower yourself?

24 A. Yes.

25 Q. I see. But what Miss Moore told you is that she'd been

1 complaining about this stuff for years, and no regulator had
2 done anything; that's basically what she told you?

3 A. That is why she was losing patience.

4 Q. Losing patience with the regulators?

5 A. Because she knows that people's health is at risk, she and
6 other whistleblowers.

7 Q. Do you know how long Rolvedon has been on the market?

8 A. Approximately two years.

9 Q. Do you know how many patients doctors have prescribed
10 Rolvedon for?

11 A. I have -- am not privy to that information.

12 Q. Would it surprise you that it's over 10,000 patients?

13 A. I mean --

14 Q. You don't know, do you?

15 A. No, I wouldn't know the number.

16 Q. You don't know, but you were parroting Miss Moore's claims
17 that Rolvedon is an unsafe drug, right?

18 A. After an investigation was conducted --

19 Q. By your lawyers, yes?

20 A. Yes.

21 Q. And one of your law firms, was it Blank Rome provided you a
22 report?

23 A. A report for a litigation-funding memo, which included only
24 the information that I could see.

25 Q. A litigation-funding memo. So, it sounds like what you

1 were doing is you were shopping this case around to see if you
2 could get funding for it?

3 A. For a derivative action, which we spoke of because Assertio
4 was taking no action. They appointed no special committee.
5 They refused to speak with me. They refused to speak with
6 Miss Moore. So, we were left with no other choice but to take
7 action for the benefit -- for the possible benefit of
8 shareholders.

9 Q. And you have not filed any such derivative action, have
10 you?

11 A. No. After speaking with legal counsel, multiple of them,
12 it was determined that there would likely be no insurance
13 coverage for D&O after what was in the letters; and they also
14 saw that there was a possible conflicted interest with me
15 serving as the lead plaintiff in the derivative action, so they
16 had reached out to other shareholders to possibly have them
17 sign on as a lead plaintiff.

18 Q. I see. And there's no whistleblower lawsuit that you've
19 brought, right, about Spectrum, about all of this stuff? You
20 haven't brought some whistleblower lawsuit, have you?

21 MR. GOTLOB: Objection. If Mr. Parker did, it could
22 be under seal, so he doesn't have to answer that question.

23 THE COURT: Correct. Sustained.

24 BY MR. SADLER:

25 Q. I'll just ask, have you brought any litigation against

1 Spectrum as a result of all of these claims you've been making?

2 MR. GOTLOB: Same objection, your Honor.

3 THE COURT: The objection is sustained. You can ask
4 the witness if he has brought any public litigation.

5 MR. SADLER: I apologize, your Honor. I wasn't trying
6 to get into any FCA stuff.

7 BY MR. SADLER:

8 Q. Have you filed any public litigation against Spectrum about
9 any of this stuff?

10 A. No.

11 Q. Since you first talked to Miss Moore, has she filed a
12 public lawsuit, to your knowledge, about any of this stuff?

13 A. Not publicly, no.

14 Q. Now, I want to talk again about this trove of evidence that
15 your lawyers have.

16 You know that twice, my company has written to your
17 lawyers demanding the return of those Spectrum troves of
18 internal information; you know that we've made that request,
19 right?

20 A. And I kept telling you guys to go ask her, and then you
21 never would ask her. You kept asking me over and over, and I
22 kept telling you to go ask her. I don't have them.

23 Q. Right. Your lawyers have them. And don't you know, sir,
24 that we wrote to both Blank Rome and to Schulte and said, "We
25 understand you have Spectrum non-public information. Will you

1 please return it to us"? You know we made those requests,
2 don't you?

3 A. I relied on the advice of counsel whether or not they could
4 retain those documents, whether they had a privilege exception
5 applied, whether one was being asserted, whether
6 confidentiality provisions applied in their opinion. I relied
7 on their advice.

8 Q. I didn't ask you about what advice they gave you, so just
9 focus on my question.

10 A. Okay.

11 Q. You know, do you not, that my company, Spectrum, has
12 written to both of your law firms telling them, "We know you
13 have Spectrum confidential information. Please return it to
14 us"? You know that has happened, that request has been made?

15 A. I know you asked, yes.

16 Q. And you also know that we never even got a response from
17 either of the law firms? You know that, too?

18 A. How the -- my law firms respond is, you know, largely up to
19 them. I mean, I speak with them about the matters, but I rely
20 on their advice instead of respond. But I know that they --
21 what you're saying is true, yes.

22 Q. Now, I think you have given the Court a pretty clear
23 impression that there's some kind of wall between you and your
24 lawyers as it concerns this Spectrum confidential information
25 they have, and I just need to probe that for just a minute.

1 I believe in your declaration, I think it's in
2 paragraph 25, you said you had instructed your law firms not to
3 give you any confidential information; is that true?

4 A. Correct, yeah.

5 Q. That is an instruction you, as the client, gave to your
6 lawyers, right?

7 A. I would think that they would already know; but I am very
8 cautious, so yes, I told them that.

9 Q. But that instruction, because you're the client, you could
10 change that at any time, couldn't you?

11 A. They would never put me at risk.

12 Q. I didn't ask you about they. I asked you about you. You
13 could give them different instructions at any time, couldn't
14 you?

15 A. They would not do that unless I was willing to restrict
16 myself from trading. That would be improper.

17 Q. I'm not asking about they. I'm asking about you.

18 Your instruction that you have told the Court you gave
19 them, "Don't tell me about confidential information," you could
20 change -- you could change that instruction to them at any
21 time, couldn't you?

22 A. Theoretically, but they probably -- I mean, they wouldn't
23 follow it.

24 Q. So, you could change it. And, in fact, you might ask them,
25 just as an example, "I'd like to see a screen shot of an email

1 and a sheen shot of an audit report." You could instruct them
2 to send that to you, right?

3 A. Yes.

4 Q. Yeah. And, in fact, that happened, and they sent it to
5 you, right?

6 A. So, at the time that we were getting ready to -- that we
7 had restricted ourselves from trading, in between the time that
8 I had, and passed me two documents to prove that it was
9 correct, as far as what you guys publicly denied during the
10 time from I received the documents to the time that it was
11 disclosed publicly and released to the world, we were
12 restricted from trading.

13 At the time that I was in possession of anything, I
14 believe that those documents were not material, non-public
15 information to begin with because a lot of it was already
16 publicly available. That was more like details. But out of
17 kind of an abundance of caution, we had restricted ourselves
18 from trading during the time between the receipt of those
19 couple of documents and public disclosure.

20 Q. The two documents that we're talking about are the ones
21 that were reviewed with Mr. Patel in his testimony. You know
22 what I'm talking about, right?

23 A. Yeah.

24 Q. Those two documents you got from your lawyers, right?

25 A. On the foundation they knew what I was doing, and I also

1 asked them to make sure I asked them for advice as to how --
2 endlessly asked them for advice both on the disclosures and
3 ensuring that everything was done properly.

4 Q. I'm not sure what's left of the attorney-client privilege,
5 but I'm really trying to stay away from this. I simply asked
6 you, did you or did you not get those two documents that were
7 reviewed with Mr. Patel, the screen shot of the e-mail, the
8 screen shot of the audit report, you got those from your
9 lawyers, right?

10 A. After affirming they agreed that what I was doing was not
11 in violation of any laws.

12 Q. And you knew their source of those documents was Kellie
13 Moore, right?

14 A. No, I wouldn't say that.

15 Q. Did you ask them where they got those documents?

16 A. I mean, they spoke with, you know, the employees that they
17 did or the whistleblowers, and I got passed two documents. I
18 don't know where those came from. I mean, you can guess, but
19 that's just a guess.

20 Q. Well, we don't have to guess. It's pretty obvious they got
21 them from Kellie Moore, right?

22 A. No, because there was other whistleblowers as well.

23 Q. And that those were not available to the public anywhere
24 before you published them, were they?

25 A. Most fraud documents, evidence of fraud is not public, no.

1 Q. Mr. Parker, I asked you a very simple question.

2 A. Okay. No, they were not public.

3 Q. Yeah. And one of those documents was a couple of pages
4 from an audit report, right?

5 A. Yes.

6 Q. And as part of your public statement, you said that that
7 document was evidence of fraud, right?

8 A. Yeah.

9 Q. Yeah, yeah. But for some strange reason, your lawyer just
10 a few minutes ago made a big deal about the fact that that
11 audit report doesn't have anything to do with Rolvedon.

12 A. It doesn't.

13 Q. Yeah. But you wanted the public to believe you had some
14 kind of insider document that would show Spectrum was
15 committing some kind of fraud around Rolvedon. That's why you
16 put it on your website.

17 A. No. You've got to look at the press release. You're not
18 reading the press release then.

19 Q. Didn't you put those two documents, the emails and the
20 audit report segment, didn't you put those on your website
21 claiming those were evidence of fraud?

22 A. Within the -- no.

23 Q. You didn't claim they were evidence of fraud?

24 A. Well, evidence of -- I would not characterize it that way,
25 no.

1 Q. Well, then, why did you put them on the Internet to share
2 with the world?

3 A. Can I read the press release?

4 Q. Sure.

5 A. Okay.

6 Q. Just identify what exhibit you're looking at so we all stay
7 together.

8 A. Okay. So, that press release was, let's see here --
9 "Releases Evidence." Okay. So.

10 THE COURT: Which exhibit are you referring to?

11 THE WITNESS: Oh, 23. I'm sorry.

12 THE COURT: 23?

13 BY MR. SADLER:

14 Q. 23?

15 A. Yeah.

16 THE COURT: Okay. Thank you.

17 BY THE WITNESS:

18 A. Okay.

19 BY MR. SADLER:

20 Q. So, you're looking at the second paragraph of Plaintiff's
21 Exhibit 23, your November 11th press release?

22 A. Two seconds here.

23 Q. Um-hum.

24 A. Okay. Here. So, I said -- in the third paragraph, I
25 said --

1 Q. Hold on, sir. That's not what I asked you about. That's
2 not what I asked you about. Let's start over.

3 In the second paragraph of your press release --

4 A. Okay.

5 Q. -- you give a link, an active link to two documents. The
6 link is where it says, "Initial set of evidence," right?
7 That's how people were able to click on and go look at that
8 email and go look at the audit report.

9 A. Evidence of product-related fraud, we assert here, yes.

10 Q. Yeah. And so you wanted people to believe that the two
11 documents that you put the link to showed evidence of fraud
12 related to Rolvedon, right?

13 A. No, across multiple products. The next paragraph down, it
14 says right there that, "Although whistleblowers sent Assertio's
15 leadership those site audit reports in private emails, Assertio
16 is still issuing statements that say Spectrum's clinical trials
17 were not 'majorly' flawed across multiple products."

18 Q. So, as I understand you right, you were expanding this now
19 and saying, "Oh, there's not just fraud related to Rolvedon.
20 There's fraud related to all kinds of stuff"?

21 A. The evidence -- yeah, it's across multiple products.

22 Q. Right. But you agree with your lawyer that the audit
23 report doesn't have anything to do with Rolvedon, right?

24 A. No, it didn't. That's why we didn't identify Rolvedon in
25 the headlines.

1 Q. You talked just a moment ago about multiple products. You
2 know, don't you, sir, that Spectrum only has one product, the
3 FDA-approved Rolvedon; they don't have multiple products, do
4 they?

5 A. Well, one currently being marketed. You also have
6 Poziotinib, which is not approved, is not being marketed; but
7 that is a product that's technically under development,
8 although you gave it zero value in the acquisition, which
9 that's why I wonder why, if it might be because of this.

10 Q. Do you have the rest of that audit report? You only put a
11 couple of pages up on the Internet.

12 A. I did not think it was appropriate to publish the full
13 audit report. I wanted to release minimal information to show
14 that I was not the liar in this situation.

15 Q. You thought it was fair just to release a piece of the
16 document, right?

17 A. I believed that it would jeopardize government
18 investigations if the full document was released, yes.

19 Q. Well, since you brought it up, what government
20 investigations are you talking about?

21 MR. GOTLOB: Objection.

22 THE COURT: Sustained.

23 BY MR. SADLER:

24 Q. Same thing with the email, do you have the rest of the
25 email? You know, the screen shot just gives us a little bit

1 of it.

2 A. The question of an employee saying that they're being asked
3 to delete --

4 Q. I asked you if you had the rest of the email, sir.

5 A. No, I do not, um-um.

6 Q. So, you thought it was fair to just post on the Internet
7 just a snippet of the actual email?

8 A. Where someone was saying that they were asked to delete
9 clinical data, that's a big thing, yeah.

10 Q. So, for all we know, if we had the rest of the email, if
11 you had chosen to post that, we might have another chain that
12 says, "Oh, I was mistaken. I didn't do that." But we don't
13 know that because you didn't post it, did you?

14 MR. GOTLOB: Objection.

15 THE COURT: What's the basis?

16 MR. GOTLOB: Counsel's testifying. And how does he
17 know what else is in the email if he doesn't have the email?

18 THE COURT: I'll overrule it. You can answer it if
19 you understand the question.

20 BY THE WITNESS:

21 A. Say it again.

22 BY MR. SADLER:

23 Q. Yes. You only posted the snippet, so we don't know what
24 those employees exchanged information about, and we don't know
25 what they asked Miss Moore advice about, do we? Just from that

1 document, we can't tell, can we?

2 A. Well, I mean, that's the piece that was -- no, again, I
3 don't think it would be appropriate to release -- I believe it
4 was appropriate to release minimal. I do not think it would
5 have been a good idea to release full pieces, no.

6 Q. But I want to be clear, you claim not to have the full
7 email?

8 A. I don't.

9 Q. So, you don't know what it says?

10 A. I -- that would be improper for me to have that
11 information, yeah.

12 Q. And -- but your lawyers have it?

13 A. I have no idea what they have.

14 Q. All right. So, if you would look at Plaintiff's
15 Exhibit 21, this is your November 8th press release, yes?

16 A. Um-hum.

17 Q. You need to answer --

18 A. Yes. Sorry.

19 Q. And you released this on the Friday before the Monday of
20 the earnings call that the company was having, right?

21 A. Yes.

22 Q. Because you thought the Friday before the Monday would be
23 the perfect day for maximum impact, right?

24 A. No, not at all. That's completely mischaracterizing the
25 motives. I knew that you guys were about to put out another

1 quarterly filing when you had not even investigated issues, and
2 you were about to sign off on something that you had no idea
3 what you were signing off on, as was admitted in the first day
4 of the hearings here.

5 Q. So, posting it on the Friday before the Monday of the
6 earnings call was just kind of an accident?

7 A. No, because I wanted to cite Title 18, Section 1350, which
8 means that, you know, you have to know what you're actually
9 signing off on. As you guys said in the first hearing, you
10 have no idea what documents these whistleblowers have, so you
11 have no idea if these allegations are the truth. There could
12 be evidence.

13 And there was no special committee formed. I
14 repeatedly asked for that, and it never happened.

15 Q. And in this press release, sir, didn't you directly
16 threaten and warn the company that if they were so brazen as
17 to initiate any litigation over these matters against you,
18 you'd begin releasing evidence to back up your side?

19 A. Yeah. So, I mean, I was effectively -- if someone calls me
20 a liar, I'm going to prove that I'm telling the truth, the same
21 as when I had published this press release, then you guys
22 turned around and did call me a liar, right? I mean, I'm not
23 just going to accept that because I'm not.

24 Q. Do you think it's ethical and appropriate to threaten a
25 company that you're going to release their confidential

1 information if they don't get in line with you?

2 A. That was -- this should have never gotten to this point.

3 The chairman of the board should have spoken. If nothing was
4 going on, that shouldn't have been an issue.

5 Q. So, you were mad at the chairman because he wouldn't talk
6 to you; is that what you're saying?

7 A. You guys weren't doing anything about it.

8 Q. So, you were mad at the chairman because he wouldn't talk
9 to you; is that what you're saying?

10 A. There was no other choice at that point. Investors were
11 being evidentially misled materially. Investors -- more than
12 cancer patients were at risk. You had the cancer patients and
13 the investors, two parties.

14 Q. You're not a doctor; you have no idea what you're talking
15 about when you talk about cancer risk, do you, sir?

16 A. I rely on experts.

17 Q. You're not a doctor, though, right?

18 A. Myself, no.

19 Q. And I don't think you answered my question, so I've got to
20 ask it again. You talk about -- look at the top of page 22 of
21 this Plaintiff's Exhibit 21. There's that phrase again,
22 "extensive troves of non-public evidence."

23 And I'm just going to ask you one last time, sir, do
24 you think it's ethical and proper to threaten a public company
25 that if they don't get in line with what you want, you're going

1 to start releasing part of the extensive troves of non-public
2 evidence? Do you think that's proper?

3 A. When there's a whistleblower that brings evidence of fraud
4 to the board or a whistleblower comes to an investor, I will
5 equate it to Enron. If this same situation happened, it would
6 have been ethical to release those documents. Investors are
7 being harmed, and cancer patients here as well.

8 Q. You don't have any evidence, do you, sir, that any cancer
9 patient has been harmed by Rolvedon? You just made that up
10 just now, didn't you?

11 A. I received a report that said there was very strong
12 evidence.

13 Q. You yourself do not have any personal knowledge that
14 Rolvedon has harmed anyone, right?

15 A. I believe the thoroughness of the investigation.

16 Q. You yourself do not have any evidence that Rolvedon has
17 harmed anyone, right?

18 A. I have been told by counsel that I trust that they have
19 investigated, but no, not me personally.

20 Q. Counsel meaning your lawyers?

21 A. Yes.

22 MR. SADLER: May I have just a moment, your Honor?

23 THE COURT: Sure.

24 BY MR. SADLER:

25 Q. And is it fair to say, Mr. Parker, that whatever this trove

1 that your lawyers are sitting on, you and they get to decide
2 when to release it and how much to release it and whether to
3 release snippets or the whole thing? You guys have decided you
4 get to decide, right?

5 A. I mean, we have no intent to release anything further, so
6 not at this point, given certain later developments, no.

7 Q. Further meaning -- I think I heard your lawyer say
8 something this morning about, "We don't care about the
9 injunction," or, "We're okay with the injunction."

10 MR. SADLER: I'm not trying to quote you, but --

11 BY MR. SADLER:

12 Q. So, are you saying you're fine with the Court entering an
13 injunction saying you can't publish any of these extensive
14 troves? Would you be okay with that?

15 A. No, I would definitely not prefer that, and there's no
16 intent to release anything further, no.

17 Q. So, you don't intend to release it, but you get to decide
18 to release it, and you don't want the Court to block you from
19 releasing it. Have I summed it up okay?

20 A. Under circumstances that I'm not able to talk about, I -- I
21 cannot release.

22 MR. SADLER: I will pass the witness, your Honor,
23 unless I forgot to offer an exhibit.

24 (Discussion between counsel, not within hearing.)

25 MR. SADLER: I think we talked about Plaintiff's --

1 well, Plaintiff's 8 is the same as Defendants' 104. So I'll
2 offer Plaintiff's 8.

3 MR. GOTLOB: That's fine, your Honor.

4 THE COURT: Okay. It's admitted.

5 (Plaintiff's Exhibit No. 8 was received in evidence.)

6 MR. SADLER: Thank you.

7 THE COURT: Thank you.

8 MR. GOTLOB: May I, your Honor?

9 THE COURT: Sure.

10 LAW CLERK: Judge, they also used 26.

11 THE COURT: Yes, that was the home page of the
12 website.

13 MR. GOTLOB: No objections to that, your Honor,
14 either.

15 THE COURT: Is that being offered for admission,
16 Exhibit 26?

17 MR. GOTLOB: It's the website.

18 MR. SADLER: Yes, your Honor. If I skipped that, I
19 apologize.

20 THE COURT: No problem. That's admitted.

21 (Plaintiff's Exhibit No. 26 was received in evidence.)

22 MR. GOTLOB: Just let me know when you're ready, your
23 Honor.

24 THE COURT: You can proceed.

25 CROSS-EXAMINATION

1 BY MR. GOTLOB:

2 Q. Mr. Parker, good afternoon. Why don't we start where we
3 just left off.

4 Was there a settlement offer in this case to you?

5 A. Yes.

6 Q. And why didn't you take it?

7 MR. SADLER: Whoa, whoa, whoa. I was afraid this was
8 going to happen, your Honor.

9 MR. GOTLOB: He teed it up, your Honor, just by
10 talking about it just now. He's talking about, "Why don't you
11 accept an injunction? You're not going to release the
12 documents." He teed up what I'm about to talk about right now,
13 your Honor. He teed it up. That's why he asked those
14 questions.

15 MR. SADLER: May I have a turn? I believe that the
16 court reporter's transcript will reflect a comment in this
17 court to the effect that they didn't really care about the
18 injunction. That's what I referred to. I didn't say the word
19 "settlement."

20 It's totally inappropriate to be talking about
21 settlement in front of the Court. I object to it. I didn't
22 bring up anything about settlement.

23 THE COURT: Okay. So, I was aware that the parties
24 were discussing settlement because that was included in the
25 status report that was -- I'm sorry, not in the status report

1 but in the motion that was filed for --

2 MR. SADLER: To extend the deadline.

3 THE COURT: -- to extend the deadline. So, no, it is
4 not a surprise to me, and, in fact, I encourage parties to
5 discuss settlement because, you know, I just think that is a
6 good thing.

7 To the extent that there are specific discussions that
8 are being held, I don't necessarily know that those are
9 appropriate for the Court to be made aware of them under -- I
10 think it's Rule 408.

11 MR. SADLER: That's correct.

12 MR. GOTLOB: I'm not talking about specific
13 discussions. I want to ask Mr. Parker why he didn't take it.

14 THE COURT: Okay. And I think that is -- that is
15 fair. That line of questioning was raised earlier about
16 whether he intended to release anything else, and he said no.

17 And quite frankly, we don't have a jury. It's me.
18 I can sort these things out.

19 BY MR. GOTLOB:

20 Q. Mr. Parker, why can't you agree to an injunction here?

21 A. It would go on my record with the financial regulators, and
22 I believe it would be a stain that I don't believe that I
23 deserve.

24 Q. Do you have any issues stipulating that you won't release
25 any Rolvedon documents going forward, non-public documents

1 going forward?

2 A. Yeah, that's fine.

3 Q. You have no issues agreeing to that?

4 A. Yeah.

5 Q. Was a previous injunction used against you in this case?

6 A. Yes.

7 Q. What was that?

8 A. That is the Mallinckrodt injunction.

9 Q. Did you want to agree to an injunction there?

10 A. No. I had a lack of legal support. And I know that if I
11 continue accepting them, it's just going to keep happening.

12 Q. Okay. So, we heard a lot about this extensive trove of
13 documents that was mentioned in a couple of ways. How many
14 documents do you have in relation to this case?

15 A. That's like it.

16 Q. Do you have an extensive trove of documents?

17 A. No.

18 Q. Who has the documents?

19 A. Lawyers. I mean, they only have as much as they have,
20 whatever they have, and then the whistleblowers have
21 everything.

22 Q. So, similar to a company, you know, large company hiring
23 lawyers to conduct internal investigation, is that what you did
24 with Blank Rome?

25 A. I'm sorry. Can you say that again?

1 Q. So, some large companies sometimes conduct independent
2 investigations and hire outside counsel. Are you aware of
3 that?

4 A. Yes.

5 Q. Is that what you did here with Blank Rome?

6 A. I effectively replicated what the company should have
7 already done itself. The special committee would have hired a
8 law firm, and they would have conducted or should have
9 conducted the same investigation.

10 Q. What involvement did you have in this investigation,
11 besides hiring Blank Rome?

12 A. None.

13 Q. Did you ever instruct them what to do with these documents
14 that they received?

15 A. No.

16 Q. With the exception of the November release of the two
17 documents we've discussed at length here, did you ever receive
18 any documents from Blank Rome or Schulte?

19 A. No.

20 Q. Did you ever receive any documents from Miss Moore?

21 A. No.

22 Q. Let's go back to the beginning a little bit.

23 Why did you get involved with this organization? Was
24 it your intent to be an investor in this organization ever?

25 A. I was brought Assertio by another -- a family office that

1 had seen when I was involved at Mallinckrodt. They had watched
2 the first bankruptcy, and then they also watched when I had
3 exposed that they were repeating the accounting fraud scheme
4 again when they re-entered bankruptcy.

5 Q. And so why did they ask you, why you, to be involved with
6 this company?

7 A. Because they knew that I was, you know, good forensically
8 in getting to the bottom of issues and had a good team
9 assembled to, you know, get to the bottom of issues, that he
10 had also seen my involvement at Fossil and how my strategy
11 evolved and that it worked.

12 Q. During your first couple of releases in this case early in
13 2024, did you know Kellie Ann Moore?

14 A. During -- I'm sorry. During what?

15 Q. During the first releases that you made against Spectrum,
16 did you know Miss Moore?

17 A. No, until May 30th, so the first couple, no.

18 Q. How did that relationship begin?

19 A. I got a Voice Mail. I saw a Voice Mail, and she basically
20 said that I was on to something, that she could point me to
21 public documents if I wanted them.

22 Q. And did she point you to private documents, to your
23 knowledge?

24 A. No.

25 Q. Did you ask her for them?

1 A. No, I told her in the first phone call, told her multiple
2 times verbally thereafter, and it's even in writing in emails,
3 "I want nothing non-public. Please don't send me anything."

4 Q. So, have you ever received any -- and if you have, say the
5 number -- documents from Miss Moore, internal documents from
6 Spectrum?

7 A. Zero.

8 Q. Or Assertio?

9 A. Zero.

10 Q. Or any other whistleblowers?

11 A. Zero.

12 Q. And you've spoken to multiple whistleblowers, correct?

13 A. Yes.

14 Q. So, let's talk about what happened in November.

15 Exhibit 23, that's the release on the Friday of
16 November 8th, is that correct?

17 A. Exhibit what? I'm sorry.

18 Q. I think it's 23, Plaintiff's 23.

19 A. Oh, that was the second one. November 8th, there was
20 November 8th and November 11th.

21 Q. Sorry. Let's do November 8th first. What was the purpose
22 of the November 8th release?

23 THE COURT: Is that Plaintiff's Exhibit -- I'm sorry,
24 was that Exhibit 21?

25 MR. GOTLOB: Yes, Exhibit 21. Sorry.

1 THE COURT: Thank you.

2 BY THE WITNESS:

3 A. So, that was just to release the long form letter that was
4 too long for a press release, yeah.

5 BY MR. GOTLOB:

6 Q. And you said on direct examination Miss Moore helped you
7 write that letter?

8 A. She was one of multiple people that had input to make sure
9 it was accurate, yes.

10 Q. Did she have final say over what was sent out in the
11 letter?

12 A. No.

13 Q. Who did?

14 A. Me.

15 Q. With consulting how many individuals would you say,
16 approximately?

17 A. God, probably -- probably it wasn't far off from, like,
18 10-ish, between lawyers and whistleblowers and -- yeah.

19 Q. So, you had counsel review all of these letters?

20 A. Yes, always.

21 Q. Did counsel ever alert you to anything wrong or
22 inappropriate about these letters?

23 A. No. Typically, all of my letters go through multiple law
24 firms before I release them.

25 Q. Why is that? Why not just one law firm?

1 A. Because I want to make sure that everything in there is
2 properly said, that I'm not misleading public investors. I'm
3 not -- you know, that I'm respecting securities laws and
4 everything else.

5 Q. So, why did you end up releasing the two documents you
6 released post the November 11th release, which is Exhibit
7 No. 23?

8 A. Because they had called me a liar publicly and said that,
9 you know, they had done this thorough investigation, when
10 they've never even talked to the whistleblowers. So, that's
11 not an investigation.

12 Q. Why did you think exhibits --

13 A. And I will also say, too, I repeatedly in my letters spoke
14 of whistleblowers, and they didn't even care to know the names
15 of them.

16 Q. Fair, fair. Why did you think Exhibits 30 and 31 were
17 public information when you received them?

18 A. 30, 31?

19 Q. 30 is the email -- the email shot, and 31 is the internal
20 report that's not -- has nothing to do with Rolvedon.

21 A. It was just material -- I mean, it was immaterial details
22 of what was already public. It wasn't -- I mean, the
23 allegations were already spilling out, you know, in a -- I
24 mean, it was public.

25 I think it was strategic that they had sued her in

1 Clark County, Nevada, so it wasn't a fully public docket, but
2 it was publicly accessible.

3 Q. So, you thought these documents were publicly accessible at
4 that time?

5 A. The information.

6 Q. I'm going to show you what's been marked and move it into
7 evidence Defense Exhibit 111.

8 MR. GOTLOB: Your Honor, may I approach? I don't know
9 if he has it up here.

10 THE COURT: Sure. Is 111 --

11 MR. GOTLOB: It's the timeline.

12 BY MR. GOTLOB:

13 Q. Do you have it?

14 A. No, I don't think so.

15 THE COURT: No. You can give that one to the witness.

16 BY MR. GOTLOB:

17 Q. Take a look at it, Mr. Parker.

18 Mr. Parker, just take --

19 MR. GOTLOB: At this time, your Honor, I'd like to
20 move 111 into evidence, Defense 111 into evidence.

21 THE COURT: Is there any objection?

22 MR. SADLER: No, none, your Honor.

23 THE COURT: All right. It's admitted.

24 (Defendant's Exhibit No. 111 was received in evidence.)

25 MR. SADLER: This is the timeline?

1 THE COURT: Yes, this is the timeline. It's admitted.

2 MR. GOTLOB: Thank you, your Honor.

3 BY MR. GOTLOB:

4 Q. Mr. Parker, did you have a chance to look at Exhibit 111?

5 A. Yes.

6 Q. Just sum up what this is for the Court.

7 A. This is the timeline of events that occurred since the
8 beginning of engagement, and also -- yeah, the beginning --
9 going even to the Mallinckrodt TR0.

10 Q. So, this includes everything from when Miss Moore stopped
11 working for Spectrum to the filing of the actions against you
12 in December, correct?

13 A. Yes.

14 Q. And when did you initially engage Spectrum again, just for
15 the Court?

16 A. Engage what?

17 Q. Engage them in conversations when you were concerned about
18 the stock price?

19 A. My initial due diligence questionnaire was sent over in --
20 on April 22.

21 Q. And when was an injunction -- an attempt for an injunction
22 or temporary restraining order filed against you?

23 A. December 5th.

24 Q. How many months is that?

25 A. I mean, I guess eight-ish, seven, eight.

1 Q. At any point during these communications with the plaintiff
2 in this case, did anybody ask you for these documents back, you
3 personally?

4 A. Well, they asked me, but I repeatedly told them I was not
5 the person to be asking. They needed to go ask the
6 whistleblowers, who actually had the documents and were in a
7 position to give them back.

8 Q. So, you didn't have anything to give?

9 A. Um-um.

10 Q. You have to say yes or no so that the reporter --

11 A. Oh, yes. Sorry.

12 Q. Did you give your counsel, whether it's my law firm,
13 Schulte has been mentioned, Blank Rome, any instructions about
14 what to do with the documents?

15 A. No. I think that would be inappropriate.

16 Q. Why do you think that would be inappropriate?

17 A. I am not versed in, you know, ethical obligations as
18 counsel, and I have to trust the advice.

19 Q. Have you released anything since you agreed to a --
20 basically a pseudo preliminary injunction with this court?

21 A. No.

22 Q. Do you intend to release anything moving forward?

23 A. Nope.

24 Q. Did you instruct Miss Moore, who's been mentioned multiple
25 times, or these other whistleblowers what to do with the

1 documents?

2 A. No.

3 Q. How to handle this -- we've talked about False Claims Act,
4 derivative action multiple times, how to handle these sort of
5 lawsuits?

6 A. No, relied on the advice of counsel.

7 Q. And you haven't brought any public lawsuits, correct?

8 A. No, no public.

9 Q. Do you make any money from this?

10 A. Not -- no. I mean, the short -- to explain, the motive was
11 not to drive the stock price down. Unfortunately, as a short
12 seller, you're exposed to major liability risk related to, you
13 know, when you're exposing fraud that a company is trying to
14 keep under wraps; and unfortunately, legal fees can be
15 incurred, just as it is here. And this was a scenario that I
16 thought that was, in this situation, quite probable given the
17 issues.

18 So, the profits were merely going to cover the legal
19 fees largely; and then even at the end of, you know, the -- you
20 know, the initial release, I think it was November 8th, we even
21 talked about making a donation to a cancer charity if we had
22 profits.

23 Q. So, has this action, we'll say it's a legal action now, has
24 it cost you money?

25 A. Oh, yeah.

1 Q. Do you know if Miss Moore -- if you know. I don't know if
2 you have personal knowledge. Has Miss Moore made any money
3 from this action?

4 A. No, um-um.

5 Q. Have you ever met Miss Moore in person?

6 A. No.

7 Q. You talk to her regularly, is that correct?

8 A. Yes.

9 MR. GOTLOB: Nothing further, Judge.

10 THE COURT: Okay.

11 MR. SADLER: May I have just a moment, your Honor?

12 THE COURT: Sure.

13 MR. SADLER: Nothing further, your Honor.

14 THE COURT: All right. Thank you. You can step down,
15 Mr. Parker.

16 THE WITNESS: Okay. Thank you.

17 (Witness excused.)

18 THE COURT: Are there any further witnesses?

19 MR. SADLER: None from the plaintiff, your Honor.

20 MR. GOTLOB: None from the defense, your Honor.

21 THE COURT: Okay. I have a couple of questions, and
22 then I'll allow both sides to do just a quick summary, any
23 final statements that you want to make to the Court.

24 So, I have heard some testimony about a Nevada
25 lawsuit, and it looks like on this timeline, Defendant's

1 Exhibit 111, there's a reference to a 2022 Spectrum lawsuit
2 against Miss Moore for defamation.

3 Can -- counsel, can you just tell me, what is that?
4 What happened with it? Is it still pending?

5 MR. SADLER: It's not still pending, your Honor.

6 THE COURT: Okay.

7 MR. SADLER: It happened in parallel with the
8 arbitration.

9 THE COURT: All right.

10 MS. MOORE: I can give that information more, though.
11 Absolutely happy to.

12 MR. SADLER: I'm sorry?

13 THE COURT: I'm sorry. Miss Moore, did you say
14 something?

15 MS. MOORE: Yes. Your Honor, I'm happy to tell you
16 more about the Nevada litigation if it would be of interest.

17 THE COURT: Okay. So hold on one second. I'm just
18 asking counsel -- counsel for Spectrum to give me a high-level
19 overview of it. I don't need to know any details. So, hold on
20 one second.

21 MR. SADLER: There was a Nevada lawsuit.

22 MS. MOORE: Thank you.

23 MR. SADLER: Spectrum suing Miss Moore. Those claims
24 are no longer pending. They were combined with the arbitration
25 at a certain point. The date is not important. And as we've

1 offered evidence to your Honor, her claims in the arbitration
2 have been dismissed.

3 So, the Nevada lawsuit is no longer pending.

4 THE COURT: Okay.

5 MS. MOORE: Incorrect. Incorrect.

6 THE COURT: Hold on. Miss -- Miss Moore, please don't
7 interrupt. I will give you a second. Let me finish asking
8 counsel these questions. Okay? You have to be respectful.
9 Okay?

10 MS. MOORE: Okay.

11 THE COURT: Otherwise, I will mute you and, if
12 necessary, remove you from the call. Okay?

13 MS. MOORE: Okay. I'm sorry.

14 THE COURT: All right. So, how about take a step back
15 and tell me, what were the claims that were raised in the
16 arbitration?

17 MR. SADLER: So, in the arbitration, Miss Moore
18 brought claims for what I'll just call wrongful termination
19 under multiple theories.

20 THE COURT: Okay.

21 MR. SADLER: Multiple theories, retaliation, wrongful
22 termination, discrimination, all of that.

23 THE COURT: All right. And then I saw the order --
24 the claims in the arbitration were eventually dismissed, right?

25 MR. SADLER: Correct.

1 THE COURT: May 2023?

2 MR. SADLER: No. It was more recent than that. I
3 believe it's Exhibit 5.

4 September of 2024 is when they were dismissed.

5 THE COURT: Okay. Got it. That was Exhibit --

6 MR. SADLER: 4.

7 THE COURT: -- 4. Okay.

8 MR. SADLER: I apologize.

9 THE COURT: So, that was wrongful termination and
10 retaliation. And then there was the separate lawsuit that was
11 filed in Nevada for defamation. What was the basis just
12 generally for that lawsuit?

13 MR. SADLER: Generally, the company came to believe
14 that Miss Moore was blogging anonymously about her work at the
15 company, and pursued litigation first to just determine through
16 a process of getting information from -- I can't -- whatever
17 the company was that was hosting the blogging, to find out it
18 was her. And we determined it was her.

19 That litigation, again, those claims, you shouldn't be
20 blogging about your work, saying things about your work as
21 former in-house counsel, those were then added to the
22 arbitration. The Nevada case was dismissed.

23 THE COURT: Okay. Was that case filed in state court
24 or federal court?

25 MR. SADLER: State court.

1 THE COURT: Okay. Got it. And do you recall when
2 that was dismissed?

3 MR. SADLER: It was early -- in 2024, early 2024.

4 THE COURT: Okay. Got it. All right. Okay. Thank
5 you.

6 MR. SADLER: Sure.

7 THE COURT: Miss Moore, was there something you wanted
8 to say just on -- factually, not about the merits of these
9 cases, but just anything procedurally, I should say, about
10 either when the arbitration occurred or when this other
11 defamation lawsuit occurred?

12 MS. MOORE: Sure. Just briefly, factually basis here,
13 the Nevada lawsuit involved a blog, and I'm generally -- I ask
14 lots of questions, like I said before to your Honor. I teach
15 for a living, and I ask questions. And I do not give the
16 answer, but I ask the questions and let people find the answers
17 themselves.

18 And so when I saw there were statements that were made
19 in a blog, then I ask questions. Well, it turns out Spectrum
20 decided to sue my cable provider, my telecom provider. There
21 was a whole year spent trying to get my cable records.

22 THE COURT: Okay. Miss Moore, you're getting off
23 topic. You're getting off topic.

24 MS. MOORE: Okay.

25 THE COURT: I think my only question is: Is the

1 lawsuit still pending?

2 MS. MOORE: The lawsuit was pending at the time of the
3 JAMS matter, and the JAMS matter was specifically opened to the
4 scope of the California employment wrongful termination.

5 THE COURT: Okay.

6 MS. MOORE: What happened was the Baker Botts
7 attorneys tried to get it both killed at the same time. That
8 was never before the arbitration at all or involved in the
9 matter in JAMS at all. So, they impermissibly asked the court
10 to dismiss both, and the court only dismissed -- the
11 arbitration only dismissed the JAMS matter; and the Nevada
12 matter was never, ever, ever included in the JAMS matter at
13 all.

14 THE COURT: Okay. Was the state court case separately
15 dismissed? Was there an order entered in the state court case
16 dismissing it?

17 MS. MOORE: We mutually agreed to table it with the
18 ability to go back and reopen it at a later time if we decided
19 to do so.

20 THE COURT: All right. So, it is -- the case is
21 closed at this point, and it sounds like without prejudice so
22 that it could be reinstated, possibly.

23 MS. MOORE: True, true.

24 THE COURT: All right. Thank you. That's all I
25 wanted to really know.

1 Okay. Those were the only clarifying questions that
2 I had here about the facts. Let me see. Okay. Yep, that
3 was it.

4 So, is there anything further that, you know, either
5 side wants me to consider?

6 MR. SADLER: I'm sorry, your Honor. I didn't hear --

7 THE COURT: I'm sorry. Is there anything further that
8 either side wants me to consider?

9 MR. SADLER: There's just one exhibit issue.

10 THE COURT: Okay.

11 MR. SADLER: Your Honor, we had offered as Exhibit 3,
12 Plaintiff's 3, excerpts of Miss Moore's deposition testimony
13 from the arbitration merely to establish who she was, what her
14 responsibilities were, the kind of information she had access
15 to. That's what those deposition excerpts are for, and we
16 would offer those. That's Plaintiff's Exhibit 3.

17 MS. MOORE: Excuse me, your Honor.

18 THE COURT: Yes.

19 MS. MOORE: I'd like to object because exhibit
20 sections and pieces and parts and pieces, I don't -- I don't
21 trust Baker Botts counsel to provide the whole truth.

22 THE COURT: So, Miss Moore, no, you can -- Miss Moore,
23 you cannot object. You are not -- again, you have not chosen
24 to file an appearance and appear in the case, and so you don't
25 get to object at the hearing.

1 Remember I said I might have a couple of factual
2 questions for you just to clarify points, but you should not be
3 objecting. Okay?

4 MS. MOORE: Okay.

5 MR. GOTLOB: Your Honor, we will object based on
6 there's no certification for this -- I think this is what
7 Miss Moore wants to say. We don't represent her.

8 But there's no certification for these records, that
9 they're actually certified minutes from her deposition. It's
10 not signed by a court reporter.

11 MR. BLATNICK: Or her, or Miss Moore. The court
12 reporter did sign it.

13 MR. SADLER: Your Honor, there is a certification page
14 attached --

15 MR. GOTLOB: The court reporter did. Excuse me.
16 Miss Moore didn't sign them. Usually that's what happens on
17 these minutes.

18 THE COURT: Right. And so then why do I need -- why
19 do I need Miss Moore's deposition testimony?

20 MR. SADLER: I'll just review again for your Honor.

21 THE COURT: Okay.

22 MR. SADLER: So, the testimony we have offered from
23 her deposition is really on four points, one of which has
24 actually been confirmed at the hearing today: Who she was; her
25 role as counsel; the information that she was exposed to in her

1 job; that she understood her duties of confidentiality; and
2 that she does, in fact, at that time, have confidential
3 information from the company, including from the laptop.

4 The fourth point was going to be that she still had
5 the laptop, but Mr. Gotlob confirmed earlier today that that's
6 still the case, so that was the fourth point of offering that
7 testimony.

8 THE COURT: All right. So, I know we proceeded with
9 the hearing today, and I did ask Miss Moore a couple of
10 clarifying questions at the beginning. I mean, I don't
11 necessarily know that I need her deposition transcript at this
12 point, especially in light of the fact that I have given her
13 some additional time to try to recruit -- to retain counsel to
14 represent her.

15 I don't think there's been any discussion about this
16 testimony; and I know that it's, you know, carved up into bits
17 and pieces of her deposition transcript, and maybe we don't
18 need everything, but I also don't know if this accurately
19 reflects sort of the flavor of, you know, what was -- what was
20 testified to. I don't know if there were any changes made to
21 this. I don't know any of that.

22 And so I don't necessarily believe that I need this
23 information in order to make an assessment at this point. Is
24 there something in particular, counsel, that you would point me
25 to that I need to know?

1 MR. SADLER: I think as it concerns our specific
2 claims in this case against Miss Moore and the aiding and
3 abetting claims against Miss Parker, she does testify on
4 page 53 to 54 that she understood she had a duty of
5 confidentiality to Spectrum.

6 THE COURT: Right. And I don't think that -- I mean,
7 I -- just based on my questioning with her earlier, I don't
8 think that's an issue. I think -- I don't get the sense that
9 she doesn't understand that she has a duty of confidentiality.

10 I mean, she -- we haven't been able to question her
11 about, you know, the extent of what documents she has and why
12 she's held on to those documents. And so I don't know that
13 this really gives me anything.

14 MR. SADLER: I think, your Honor, I could just solve
15 this, but we've briefed the law to you.

16 THE COURT: Right.

17 MR. SADLER: That under the California rules, which
18 she's a member of the bar, she has ethical obligations.

19 THE COURT: Yep.

20 MR. SADLER: Which include a duty of confidentiality.

21 THE COURT: Yeah.

22 MR. SADLER: So, if your Honor has plenty of that,
23 then I think that testimony is just additional to that. Fair
24 enough?

25 THE COURT: I think that's probably a fair point. Is

1 the defendant still objecting to -- and I should be clear, BHG,
2 counsel for BHG and Parker?

3 MR. GOTLOB: That's fine, your Honor.

4 THE COURT: All right. So, I mean, I won't admit the
5 testimony at this point, but I will take, you know, the
6 representations that have been made in the brief because you're
7 obviously right that as in-house counsel, there are ethical and
8 professional obligations, duties of confidentiality that exist
9 regardless of what a deposition transcript says.

10 All right. Is there anything further, Mr. Sadler,
11 that you wanted to point out?

12 MR. SADLER: Not to point out. If your Honor wants to
13 hear a couple of minutes of closing comments, I'd be happy to
14 proceed.

15 THE COURT: Sure. Anything else --

16 MR. GOTLOB: We have no closing comments. We just
17 have one request for the Court. Your Honor, we're just
18 requesting 21 days to amend our answer with possible
19 counterclaims, since we haven't gotten to that part of the case
20 yet since we have been dealing with the injunction hearing.
21 We're just requesting the Court for 21 days to respond -- to
22 amend our answer.

23 THE COURT: Okay. So, hold on one second. We'll
24 finish this up, and then we'll talk about next steps in the
25 case.

1 So, if there are any closing comments that you wanted
2 to add here, feel free.

3 MR. SADLER: Thank you, your Honor.

4 THE COURT: Sure.

5 MR. SADLER: I want to close where I began, which is I
6 think in light of the testimony now, it's abundantly clear this
7 case doesn't really have anything to do with shutting down,
8 preventing whistleblowing, interfering with whistleblowing.
9 That's just a complete red herring.

10 I have stipulated, Mr. Patel testified we're not
11 trying to prevent anybody from going to any regulator, any
12 government agency, and saying whatever they want to say within
13 the confines of whatever those processes are.

14 But I'll point out the obvious, that's not what
15 happened here. Miss Moore, our former lawyer, didn't go to a
16 regulator, didn't go to the DOJ, didn't go to the FDA. What
17 concerns this lawsuit is she went to him and said, "Hey, I know
18 a bunch of stuff that I think you might be interested in."

19 And maybe it's just me, but the idea -- I can't think
20 of a more egregious breach of a lawyer's duty, other than maybe
21 stealing from your client; and this is kind of like stealing
22 our information, a former lawyer going to somebody who's not a
23 regulator, not an authority, and saying, "Hey, you might be
24 interested in this," and it just happens to turn out he's a
25 fund guy who can make a buck or two short-selling. This is an

1 egregious breach of duty by this lawyer.

2 And he's not some innocent bystander. With the
3 testimony, with his letters, with his own declaration, he's
4 been an active participant with Miss Moore, and, yeah, maybe
5 other so-called whistleblowers, but they're not part of this
6 litigation. They're not here to testify.

7 What we've heard about is he's been working pretty
8 closely, his words, not mine, with Miss Moore, our former
9 lawyer since June at least through November when she was
10 ghost-writing letters for him, claiming to us, claiming to the
11 world that his whistleblowers, including Miss Moore, were
12 sitting on an extensive trove of non-public information from
13 Spectrum.

14 And that's just wrong. I'm just astounded to think
15 about how would this work if a lawyer for any company, public
16 or otherwise, could just wake up one day and say, "You know
17 what, I don't like the way this company has been run. I
18 disagree with it. In fact, they may even be breaking some
19 laws. So you know what I'm going to do, I'm just going to go
20 to some guy on Wall Street and spill my guts to him, and maybe
21 we can figure out a way to make a buck"?

22 And you heard testimony, he had to admit, this all
23 wasn't some altruistic motive here. He wanted to get Kellie
24 Moore a board seat. He was going to go negotiate a dismissal,
25 a voluntary settlement of her case. Yeah, there was something

1 in it for her. There was something in it for him.

2 But this case is not about -- I had to stifle a laugh
3 when Mr. Gotlob said that we want our documents back so we can
4 hide them from the DOJ. That is the most ridiculous thing I've
5 heard at least since the start of this year, but the year is
6 young. Right? That doesn't make any sense.

7 We want our information back because it's in the hands
8 of people who have no right to it. Miss Moore has no right to
9 it. Mr. Parker has no right to it.

10 And guess what -- and this is a legal ruling I think
11 your Honor will have to make. Mr. Parker can't hide this stuff
12 with his own lawyers. Imagine how that would work just in the
13 normal process. Your Honor might grant a motion to compel
14 discovery, and the party says, "Oh, I don't have any documents.
15 They're with my lawyers." Well, your Honor knows the law.
16 They're his agent. He controls them.

17 You know, that's why we had to add that language in
18 the stipulation because, as Mr. Parker tried to get out of
19 conceding, you know, his instructions to his lawyers, "Oh,
20 don't give me anything," well, it's Swiss cheese, right? They
21 gave him two pieces of information which he posted on the
22 Internet. Nothing stops him, if he wakes up tomorrow and sees
23 an angle, from posting more of our stuff on the Internet.

24 And it's interesting we got into this, where are the
25 disputed facts here? It's not disputed Miss Moore is our

1 former lawyer and has all kinds of duties to us, contract and
2 ethical. That's not disputed.

3 He said he got summaries. He sent her to his lawyers,
4 where she did a data dump. You know, that's where the old
5 excessive troves comes from. He knew she was our lawyer. We
6 twice wrote to his lawyer saying, "Hey, this person you're
7 dealing with has a confidentiality agreement." He was on
8 notice of that. Why is that important? That's the tortious
9 interference claim. That's the tortious interference claim.

10 And, you know, the case isn't about the laptop, but
11 she still has it. The evidence is she has it. We have some
12 evidence that things that used to reside on our systems,
13 including her laptop, have now been posted on the Internet.

14 You know, we're not here for the trial on the merits.
15 The standard is probable right to recovery and irreparable
16 harm, and we think we've absolutely proved both. We have our
17 lawyer breaching her fiduciary duties and her contractual
18 obligations working with this guy. We think we've proved that
19 slam shut, slam shut.

20 Irreparable harm, Mr. Patel talked about it. They're
21 attacking our flagship product that represents more than
22 50 percent of the sales of the company. And they're not just
23 saying, "Oh, it doesn't work very well." I mean, read the
24 documents. The claims they're making are, "It was all approved
25 by fraud. It's hurting people. It never should have been

1 approved. It should be yanked off the market."

2 I mean, these aren't like trivial claims that these
3 people are using our confidential information to make, right?
4 And so irreparable harm? You bet. How do we quantify that?
5 They're attacking our flagship product.

6 And, yes, tens and tens and tens of thousands of
7 dollars of expenses and fees have been spent fighting this guy
8 since he started attacking us in the summer, and according to
9 him -- and that's why I thought probably the most important
10 thing you heard today was how I ended with him. He gets to
11 decide. He and his lawyers get to decide when, where, and how
12 they use our confidential information unless you stop them.

13 I really think this case is quite clear, and going on
14 and on about stifling whistleblowers, I don't know how many
15 times we have to stipulate that away. It's a total red
16 herring. It's a total red herring.

17 They have stuff that doesn't belong to them. And,
18 yeah, we want it back, not because we want to hide it from the
19 DOJ, which is completely ridiculous, but because it doesn't
20 belong to them. It belongs to us. It's our property, and they
21 took it. And we need the Court's help.

22 THE COURT: Okay.

23 MR. GOTLOB: Thank you, your Honor. You know,
24 Mr. Sadler can get up here with his slick Texas accent and
25 insult me about what I said in court and say that this has

1 nothing to do with the whistleblowers, but let's be real here.
2 He's living in a fantasy world.

3 Like, he had -- the law firm sued Mr. Parker after
4 Miss Moore had these documents for five years, five years.
5 And then Mr. Parker talked about it eight months before he
6 released it. But they know a whistleblower action's coming.
7 They know. This is a stall tactic to disguise that.

8 And he can take all the insults he wants. He doesn't
9 have a clue about the False Claims Act. Like he doesn't know
10 how the DOJ does. I do, and my client does through me.

11 And he wants to distract on this, "Mr. Parker's
12 releasing all of these documents." He released two documents.
13 Whether he should have or shouldn't have, the Court can decide;
14 but he hasn't released anything since then. He said in his
15 testimony he doesn't intend to release anything. He said he
16 doesn't have any documents.

17 If it was such an emergency for them to stop him, why
18 didn't we have this hearing right afterwards when we were
19 ready? Mr. Sadler pushed it back three months to stall and
20 stall and stall because he doesn't want to -- he's going to get
21 it. He doesn't want to defend the False Claims Act claim.
22 It's coming.

23 So, he wants to say that it has nothing to do with
24 that? That's not true. He doesn't want the documents back.
25 He wants to prevent a DOJ investigation into this company, into

1 this drug. And you know, one of the things that were released
2 had nothing to do with this drug that they're talking about.

3 And he gets up here and talks about irreparable harm.
4 The CFO got up there, and the only irreparable harm they had
5 was they had to pay to look into it more? That's what drug
6 companies are supposed to do. They're supposed to make sure
7 their drugs are safe.

8 And if everything they were doing was aboveboard, then
9 why didn't they just release those reports to the public when
10 Miss Moore brought all of these complaints?

11 And they have no idea if she's gone to regulators or
12 not. Mr. Parker told you in his testimony that she tried to go
13 to regulators. And you know what, when you're an individual
14 and you go to the DOJ or the FDA, they don't really listen to
15 you that much. They don't. That's just the way it works.

16 Usually you come, in my experience, with an attorney
17 or somebody else to present these actions because sometimes
18 when individuals represent themselves, things are a little
19 unclear. I think we saw that today throughout -- throughout
20 today's testimony.

21 So, in the grand scheme of things, the timeline shows
22 how long they waited to do anything. Now they just want to
23 prevent other stuff from going forward. There's no irreparable
24 harm. The CFO basically said that. He said, "We had to pay
25 some money to bring the lawsuit and to make sure everything was

1 safe about the drug."

2 He didn't say anything -- he said the stock price goes
3 up and down. You know, I know he can't answer what's going to
4 be on his balance sheet, but I'm pretty sure there's not going
5 to be millions of dollars of losses on their first quarter
6 balance sheet when it goes public.

7 And Mr. Parker has no problem not releasing the
8 documents. He just told you honestly, which he probably didn't
9 want to, that it would affect him professionally to get another
10 TRO like he did in his past case.

11 And based on all that, I think the defendant fairly
12 stated our case.

13 THE COURT: Okay. So, let me just ask a point of
14 clarification because there is the TRO that has been agreed to,
15 and so that is why it has continued to remain in place. But
16 is -- is Mr. Parker stating that he no longer will agree to
17 that stipulation so that I need to decide now if a preliminary
18 injunction should be entered in the case?

19 MR. GOTLOB: No. Mr. Parker will still -- until your
20 Honor decides the merits of the case, he will continue to agree
21 what's in place right now. He just -- he can't agree to a
22 preliminary injunction.

23 THE COURT: Right. No, I --

24 MR. GOTLOB: Because of how it would affect him
25 professionally. But he has no problem agreeing to keeping that

1 in place while your Honor makes a decision, if that decision's
2 not going to be today.

3 THE COURT: Okay. I think that was probably my
4 only -- my only other question.

5 No, one more. So, do I have a -- is the plaintiff
6 standing on the initial proposed order that you submitted to
7 the Court, or is there something different that you are seeking
8 now?

9 MR. SADLER: I believe, your Honor, that -- and I
10 could hand this up. We did revise and are prepared to present
11 a proposed preliminary injunction order. It is the same as
12 what we filed, but we have added a paragraph -- do you have a
13 copy for --

14 THE COURT: Did you send that to my proposed order
15 inbox?

16 MR. SADLER: I'll have to ask.

17 We will do that. We added a paragraph stating,
18 "Nothing in this order shall be construed to prevent defendants
19 from disclosing Spectrum confidential materials in confidence
20 to federal, state, local officials for the purpose of reporting
21 wrongdoing." I'm paraphrasing, but we added that --

22 THE COURT: But everything else is the same?

23 MR. SADLER: Everything else is the same as what we
24 proposed in December. And we'll submit this --

25 THE COURT: You can just email it. That's perfectly

1 fine.

2 MR. GOTLOB: You guys emailed it to us last night,
3 right?

4 MR. SADLER: I think so.

5 He's seen it.

6 THE COURT: Then I will take this under advisement,
7 and I will try to get you a decision issued pretty quickly.
8 I start another jury trial the week after next. I literally
9 just finished a jury trial yesterday. So, I will try to get
10 something issued as soon as I possibly can.

11 All right. And in the meantime, everyone is fine with
12 the stipulation that was entered at docket 27 on December 16th,
13 2024, remaining in place for now?

14 MR. GOTLOB: Yes, your Honor.

15 MR. SADLER: Yes, your Honor.

16 THE COURT: Okay.

17 MR. SADLER: I would just call your Honor's attention,
18 of course, to Miss Moore is not bound by that, which is part of
19 our request to you today.

20 THE COURT: Right. No, and I understand -- I
21 understand that. So, I will need to address that. I think it
22 makes more sense, though, to just address it as part of any
23 preliminary injunction order.

24 MR. SADLER: Yes, your Honor.

25 THE COURT: Okay. All right.

1 So then, I think earlier, I indicated that,
2 Miss Moore, I would give you 30 days to essentially --
3 actually, a little bit less than that, until the 28th,
4 March 28th, is that what I said? I think so.

5 MS. MOORE: March 28th. Thank you.

6 THE COURT: March 28th to have counsel enter an
7 appearance.

8 MS. MOORE: Okay. Thank you.

9 THE COURT: And then I will take under advisement the
10 defendants' -- I'm sorry, the plaintiff's motion for default
11 against Miss Moore.

12 And again, Miss Moore, if you don't have counsel enter
13 an appearance by March 28th or enter your own appearance and
14 file some type of motion seeking relief from the Court, then I
15 will rule on the defendant -- on the plaintiff's motion for
16 default against you.

17 MS. MOORE: Okay. All right. Thank you. Thank you,
18 your Honor.

19 THE COURT: Since that is fully briefed, I will rule
20 on that.

21 All right. And then I believe BHG -- counsel for BHG
22 and Mr. Parker want the opportunity to file an amended answer
23 with counterclaims?

24 MR. GOTLOB: That's correct, your Honor.

25 THE COURT: All right. I mean, the case is still in

1 early -- in the early stages. I don't think that it would be
2 prejudicial at this point, but is there an objection from the
3 plaintiff?

4 MR. SADLER: No, your Honor.

5 THE COURT: Okay. How long would you like?

6 MR. GOTLOB: 21 days, your Honor, if possible.

7 THE COURT: Okay. That would be March 20.

8 MR. GOTLOB: That's fine, your Honor.

9 THE COURT: So, an amended answer and counterclaims
10 should be filed by March 20.

11 All right. Is there anything further that I need to
12 address today?

13 MR. SADLER: Nothing for the plaintiff, your Honor.

14 MR. GOTLOB: Nothing for the defense, your Honor.

15 THE COURT: All right.

16 LAW CLERK: Judge, there are two filings at 54 and 55.
17 I don't know if you want to address those.

18 THE COURT: Right. I should clear that off the
19 docket.

20 So, there were two motions that Miss Moore filed: Her
21 motion requesting dismissal of all of the plaintiff's case
22 filings due to substantial non-compliance with court rules, and
23 an emergency motion for immediate action for danger of serious
24 and irreparable harm, both of which I believe can be denied
25 today.

1 And again, Miss Moore, I've given you an opportunity
2 to try to seek counsel in this case. It has to move forward,
3 and so I'm not inclined to extend that deadline further by
4 March -- that March 28th deadline any further. And so if you
5 don't have counsel, I think you need to be prepared to
6 represent yourself in this case. Okay?

7 MS. MOORE: Thank you, your Honor.

8 THE COURT: All right. Okay.

9 All right. Thank you, everyone. I appreciate you all
10 coming here, the testimony today. And I -- like I said, I will
11 get you an order as soon as I possibly can.

12 MR. SADLER: Thank you, your Honor.

13 THE COURT: All right. Thank you. You can have a
14 seat. Court is adjourned.

15 (Proceedings concluded at 4:15 p.m.)

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18 * * * * *

19 I certify that the foregoing is a correct transcript
20 from the record of proceedings in the above-entitled matter.

21 */S/Charles R. Zandi*

March 7, 2025

22 _____
23 Charles R. Zandi
24 Official Court Reporter

Date

25