

Exhibit "49"

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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CITY OF NEW ROCHELLE,

Plaintiff,

-against-

Index No: 54190/2016

FLAVIO LA ROCCA, MARIA LA ROCCA, FLAVIO LA
ROCCA & SONS, INC. a.k.a. F. LAROCCA &
SONS INC and FMLR REALTY MANAGEMENT LLC,
Defendants.

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1133 Westchester Avenue
White Plains, New York

August 4, 2021
2:25 p.m.

VIDEOCONFERENCE DEPOSITION of
ROBERT ANDREW COX, in the above-entitled
action, held at the above time and place,
taken before Helen Wandzilak, a Notary
Public of the State of New York, pursuant
to Order and stipulations between Counsel.

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BY: KATHERINE ZALANTIS, ESQ.

ALSO PRESENT (VIA ZOOM VIDEOCONFERENCE) :

Flavio La Rocca

Maria La Rocca

* * *

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STIPULATIONS

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IT IS HEREBY STIPULATED, by and among
the attorneys for the respective parties
hereto, that:

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All rights provided by the C.P.L.R.,
and Part 221 of the Uniform Rules for the
Conduct of Depositions, including the
right to object to any question, except as
to form, or to move to strike any
testimony at this examination is reserved;
and in addition, the failure to object to
any question or to move to strike any
testimony at this examination shall not be
a bar or waiver to make such motion at,
and is reserved to, the trial of this
action.

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This deposition may be sworn to by the
witness being examined before a Notary
Public other than the Notary Public before
whom this examination was begun, but the
failure to do so or to return the original
of this deposition to counsel, shall not
be deemed a waiver of the rights provided
by Rule 3116, C.P.L.R., and shall be

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controlled thereby.

The filing of the original of this deposition is waived.

IT IS FURTHER STIPULATED, a copy of this examination shall be furnished to the attorney for the witness being examined without charge.

* * *

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2 R O B E R T A N D R E W C O X ,

3 having been first duly sworn/affirmed by a

4 Notary Public of the State of New York,

5 upon being examined, testified as follows:

6 EXAMINATION BY MR. MEISELS:

7 Q What is your name?

8 A Robert Andrew Cox.

9 Q What is your business address?

10 A 165 Huguenot Street, New

11 Rochelle, New York 10801.

12 Q Good afternoon, Mr. Cox. I'm

13 going to ask you a couple of background

14 questions.

15 And, then, as you can see, we're

16 going to show you a video.

17 How are you presently employed?

18 A I'm a journalist. I own Talk of

19 the Sound and I also do freelance, for

20 other people.

21 Q And going back to May of 2015,

22 how were you employed?

23 A Same, working for Talk of the

24 Sound, which I own, as a journalist and

25 doing freelance work.

1 ROBERT ANDREW COX

2 Q And going back to May of 2015,
3 did you have occasion to cover a story
4 involving Flavio LaRocca?

5 A Yes, I did.

6 Q I'm going to show you what's
7 been premarked as a Plaintiff's exhibit.
8 And I'm going to ask you to just take a
9 look at it and then I'm going to ask you
10 to, you know, identify it.

11 First, let's take a look at it.
12 Okay?

13 [Video is playing via Zoom.]

14 A I identify this as the same
15 video we saw.

16 Q Can you identify what I just
17 showed you?

18 A That is a video that I edited
19 together, based on being at the site on
20 East Street, where this work was taking
21 place.

22 It was -- from looking at it, I
23 believe this is a video I uploaded to
24 YouTube.

25 I say that because it's slightly

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1 ROBERT ANDREW COX

2 graded in quality. The original video was
3 a little sharper.

4 Q And does it fairly and
5 accurately depict what you saw that day?

6 A It does.

7 I might add, that it's not
8 everything because this is edited.

9 So, you know, things that were
10 repetitive, I took out.

11 I had took out, but didn't add
12 to the video file that I was making.

13 Q Am I correct, that the street
14 shown in this video is East Street?

15 A Yes.

16 Q And how did it come about that
17 you ended up on East Street on May 16th,
18 2015?

19 A I received a phone call,
20 sometime probably between eight and nine
21 a.m. on Saturday, that day.

22 I then, based on that phone
23 call, made my way over there, to see what
24 was going on.

25 The person calling was somebody

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1 ROBERT ANDREW COX
2 who had some connection to the area. I'll
3 just leave it at that.

4 And was telling me that they
5 were the third -- I was their third call
6 that day, because they had called the New
7 Rochelle Police earlier and they had come
8 by the area.

9 But, then, apparently, reported
10 back to headquarters that it was -- they
11 spoke to people who claimed to be working
12 on their own property.

13 Then, I gather, that they made a
14 second call, the police car came through
15 the area and this caller said they didn't
16 stop and report it as an unfounded
17 complaint.

18 And so they called me and my
19 recollection is I arrived around 9:15 a.m.
20 on May 16th.

21 MS. ZALANTIS: Off the record.

22 [Discussion held off the
23 record.]

24 Q So you receive the phone call,
25 and you went over there, to see what was

1 ROBERT ANDREW COX

2 going on?

3 A I got a call and about
4 9:15 a.m., I had arrived on the scene.

5 Q And what did you see, when you
6 got there?

7 A I saw a bunch of work going on.
8 It was pretty much, as was described.

9 Although, the work of actually
10 cutting down the trees was not -- was not
11 happening any longer.

12 The caller said that they were
13 using chainsaws to cut down trees.

14 I didn't see any chainsaws. I
15 did see a pile of wood chips.

16 Should I continue? 'Cause
17 there's more. I can keep going.

18 Q Yes. Please.

19 A So I observed a bunch of trucks,
20 a bunch of work going on.

21 I took it in for a moment and
22 then got out of my car and started
23 filming.

24 And, you know, pretty much what
25 you see in the video, I'm walking around,

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1 ROBERT ANDREW COX

2 holding up an iPhone, just turning it in
3 different directions.

4 I didn't know, when I arrived,
5 exactly, who anybody was.

6 So, in the video, you can see I
7 mentioned -- I'm naming Mr. La Rocca in
8 the video, being in a white shirt.

9 But I didn't know who that was
10 at the time. I just was filming.

11 It was only later that, you
12 know, I realized exactly what I had
13 captured there.

14 Therefore, I knew he was the
15 person who got in the truck and drove away
16 and so forth.

17 But, you know, there was a
18 number of pieces of equipment there.
19 There was people going back and forth
20 between the, let's call it the "job site",
21 for one of a better term and Mr. La
22 Rocca's property at the other end of East
23 Street.

24 So there was some small
25 equipment being moved, back and forth.

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1 ROBERT ANDREW COX

2 There was other equipment in the
3 back of some trucks.

4 At one point, they were using,
5 I'm not sure what you'd call it, but it's
6 like a little, mini steamroller to pack
7 down the ground.

8 You know, people had, previous
9 to that, had been sort of using rakes to
10 kind of spread out asphalt on the sur --
11 what looked like asphalt anyway on the
12 surface.

13 And, you know, I ended up
14 staying there. Although the video doesn't
15 depict this, I ended up staying there for
16 probably about three or more hours.

17 So from the point that you first
18 see the video start, I watched what ended
19 up being the completion of the
20 construction of what I've described as a
21 parking lot.

22 [Video is playing via Zoom.]

23 Q Taking a look at this -- and
24 this is Stop 13 in the video.

25 Taking a look at what's shown at

1 ROBERT ANDREW COX

2 Stop 13, okay, you see, in the far -- on
3 the far right side what appears to be a
4 file of wood chips.

5 A It's slightly blocked by the
6 monitor and with the frame, within the
7 frame here.

8 But, yes, I can see that.

9 Q Were those wood chips there,
10 when you arrived?

11 A Yes.

12 Q And other than what your caller
13 told you about them, did you ever learn
14 how those wood chips got there?

15 A I mean, what I was told. But, I
16 attempted to interview Mr. La Rocca any
17 number of times, to ask him a bunch of
18 questions.

19 But he declined to be
20 interviewed.

21 And one of my questions would
22 have been about that.

23 I did observe, on his property,
24 what's called a tromal, which is a device
25 for dumping debris and it chucks it out

1 ROBERT ANDREW COX

2 the other end and makes piles, just like
3 that.

4 It wasn't on the scene. It was
5 parked inside, at the gate of his
6 property.

7 Specifically, I think it was
8 called a McCloskey 412 Screen Trammel.

9 And that's used for basically to
10 dump any kind of debris, whether it's dirt
11 or wood chips or gravel or anything and
12 it'll shoot it out of like a funnel at the
13 other end and create piles, just like
14 that.

15 Q Now, in terms of the piece of
16 equipment shown in the foreground of the
17 video, were you able to determine who
18 owned that?

19 A I did not determine who owned
20 it.

21 I mean, you know, people I saw
22 there were people working for La Rocca, La
23 Rocca & Sons.

24 And so I just understood that
25 that was to be their piece of equipment.

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2 Their people were using it.

3 Q Now there is a caption added,
4 "Flavio La Rocca in white shirt." Is he
5 shown in this photograph?

6 A Yeah, that's him, off a little
7 bit to the left.

8 He's standing, so that behind
9 him are two parked cars.

10 He's with another person.

11 As I mentioned, this is a
12 somewhat degraded quality of the video
13 because when you upload it to YouTube it
14 degrades the quality.

15 But with the original video, he
16 is clearly visible.

17 And so -- although, I didn't
18 realize I was capturing him in the video,
19 the moment I shot the video, in looking at
20 it later I determined who that was.

21 Q Okay.

22 A That's why the caption is there.
23 And the video, it's, you know, edited in
24 post to add those titles.

25 [Video is playing via Zoom.]

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2 Q And did you ever determine
3 who -- let me backup.

4 If you look left -- right of
5 center of the photograph, do you see two
6 workers with what appear to be rakes,
7 working on spreading material?

8 A Yeah, I see them. One in a
9 beige shirt, one in a blue shirt, they
10 both have rakes.

11 They're spreading something like
12 asphalt which in the moment, in the video,
13 you'll see that it's being compacted with
14 a sort of a mini steamroller.

15 Q Did you ever learn how that
16 material got to that spot?

17 A No.

18 Q Did you actually see the
19 material, yourself?

20 A Yes, I've seen the video. It's
21 in the video I saw, yes.

22 Q And was it some form of asphalt?

23 A That's what it appeared to be,
24 to me. I'm not an expert on building
25 materials, but that's what it looked like

1 ROBERT ANDREW COX

2 to my layperson eyes, yes.

3 Q And, again, now, looking at the
4 right third of the video, do you see three
5 people working on that area?

6 A To see that, I had to take the
7 liberty of moving the screens on my
8 screen.

9 So, yes, I see the same two
10 individuals, one in blue, one in beige and
11 the other wearing a white shirt.

12 Q Now was that area, where that
13 material is being spread, elevated from
14 East Street?

15 A Yes.

16 Q Now were you familiar with East
17 Street prior to your reporting this story?

18 A Yes, I was familiar. It had
19 been the subject of discussions involving
20 the development commissioner to relocate
21 the New Rochelle city yard, where the DPW
22 is located.

23 And there was a plan to use
24 eminent domain to take all the properties
25 along East Street, basically, on the side

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2 of the road where I'm standing, in this
3 camera shot.

4 And, in fact, that's how I first
5 came to ever hear the name Flavio La Rocca
6 because, I believe, it was both he and his
7 wife, if I'm not mistaken, but one or two
8 of them, you know, came to City Hall for
9 public meetings to strenuously oppose the
10 plan.

11 As I recall, the complaint was
12 that they would put their company out of
13 business and they had a sick child and
14 that this would be detrimental to their
15 child's wellbeing.

16 So that, I would just say, it's
17 the kind of thing that gets your
18 attention.

19 So, yeah, I noticed and I
20 actually looked at the plans that they had
21 sketched out.

22 I had looked at some aerial maps
23 and I had interviewed the development
24 commissioner, who was the one that was,
25 you know, advocating for this idea, to

1 ROBERT ANDREW COX

2 move the city yard to this location.

3 Q Now, at the time that you -- at
4 the time of the controversy relating to
5 construction of the city yard in this
6 area, did you notice what was located in
7 that area, where there are now three
8 workers spreading material?

9 A Yeah, there was trees, similar
10 to the trees that are in view, in that
11 shot, on the right, next to the yellow --
12 the little steamroller.

13 Q Now, earlier today, you
14 mentioned that there was a machine that
15 was flattening out and compacting the
16 material that had been spread. Is that,
17 is the yellow steamroller, that we see in
18 this photograph, the machine to which you
19 were referring?

20 A It is. I'm sure it's got some
21 other official name, that my construction
22 friends will tell me I'm butchering. But
23 I'm calling it a mini steamroller and it's
24 yellow, so yes.

25 Q Okay.

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2 [Video is playing via Zoom.]

3 Q We're now at Frame 28. And are
4 the piles, that appear to be wood chips,
5 that are shown in Frame 28, were they all
6 there when you arrived?

7 A They were. And I can say they
8 were definitely wood chips 'cause I went
9 and stood on them and kicked them around.

10 So I know, for a fact, that
11 they're wood chips and, yeah, they were
12 there when I arrived.

13 Q Did you have occasion to ask
14 anybody there, at the scene, about the
15 wood chips?

16 A So I didn't. I would've liked
17 to have asked Mr. La Rocca. But, as
18 indicated in the video we saw earlier, he
19 ran away.

20 When he came back, he left the
21 scene in a hurry, again, so there was no
22 opportunity to ask him.

23 I was not comfortable asking the
24 employees these kinds of questions.

25 You know, there was no language

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2 barrier issue. It happened that my wife
3 was in the car, waiting for me and she
4 often is, while I'm reporting out stories.

5 And she's Cuban. She speaks
6 Spanish. So, if I needed a translator, I
7 could've gotten one, quite easily.

8 But I just figured these guys
9 were doing their job and they're doing
10 what their told and I wasn't going to try
11 to interview them and get them in trouble.

12 So since Mr. La Rocca left there
13 was nobody to talk to.

14 Q You mentioned that when you were
15 covering the story, relating to the
16 possible relocation of the city yard, that
17 at that time there were trees in the area,
18 where the workers are shown, now,
19 spreading material.

20 When was the last time that you
21 ever saw trees in this area?

22 A I mean, I would have to refresh
23 my memory on when the La Rocca's spoke at
24 city hall to the city counsel.

25 Because at that point is when it

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1 ROBERT ANDREW COX

2 got on my radar.

3 I mean, quite frankly, I was
4 sympathetic to what they were saying. I
5 didn't know anything about it.

6 So that's when I began to make
7 inquires, if I saw the date of the video
8 that they spoke to city counsel, I can
9 give you a rough time frame.

10 But within a couple of months of
11 whenever that date was. Obviously, it was
12 before this.

13 But as part of my curiosity, as
14 a journalist, I'm not going to just look
15 at satellite photos and building plans,
16 I'm going to go kick the tires.

17 So I drove down there, to check
18 it out.

19 I believe that that's how people
20 in that neighborhood came to think of me
21 as somebody to contact with complaints.

22 Because the -- you know, the
23 call I got, that Saturday morning, on
24 May 16th, you know, wasn't like part of an
25 ongoing conversation, just somebody was

1 ROBERT ANDREW COX
2 frustrated and this is the nature of what
3 I do in the community that I cover, which
4 is the whole Sound Shore but it's mostly
5 tilted towards New Rochelle, bigger city,
6 more things happen and I live there.

7 So I'm doing it now for going on
8 thirteen years at the end of this month.
9 Lots of people in New Rochelle know if
10 they have a complaint or a concern they
11 can call me and tell me about it and I'll
12 look into it.

13 And my contact information is on
14 my website. It goes straight to my
15 cellphone, which I have with me, at all
16 times.

17 So, you know, that people down
18 there would either call me or e-mail me or
19 text me with complaints would not be out
20 of the ordinary.

21 But I don't remember the exact
22 time frame, but that DPW issue was, you
23 know before this, not ten years, maybe a
24 year, plus or minus, I'm not really sure
25 exactly when it was.

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2 [Video is playing via Zoom.]

3 Q Did you ever determine the
4 actual identity of the workers, who were
5 working at the site?

6 A I did not. I didn't even
7 attempt to.

8 [Video is playing via Zoom.]

9 Q Now, was that worker speaking to
10 you?

11 A No.

12 What was happening, behind me,
13 although I didn't fully grasp the
14 significance of it, is the person in the
15 white shirt saw me filming.

16 'Cause, remember, I'm holding
17 the camera, but I'm still -- my head's on
18 a swivel. I'm still looking around.

19 So just what you see in frame is
20 not necessarily all that I'm seeing. I'm
21 moving around.

22 And, I believe -- I wish I had
23 my translator handy.

24 But, I believe, he's saying
25 something to Mr. La Rocca because he is

1 ROBERT ANDREW COX
2 getting in a truck, which was in another
3 shot.

4 I don't know what you'd call it
5 exactly. But a bigger truck. The kind of
6 truck landscapers use.

7 And there was somebody else
8 driving it, and he got up, in the car
9 and -- in the cab and they drove off.

10 So, I believe, he was shouting
11 to Mr. La Rocca.

12 And I think I even said a word
13 on there. That's me saying hello.

14 Because I was trying to say
15 something to whoever was speaking.

16 This guy's speaking Spanish.

17 So if someone said hello, that's
18 probably me.

19 Q Now, I'm looking at Frame 46.
20 In the upper right-hand corner, there's a
21 gray car. Is that your car by any chance?

22 A No.

23 Q Do you know whose car it is?

24 A No. I have no idea.

25 [Video is playing via Zoom.]

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2 Q Now, we're in Frame 55. There's
3 a truck moving towards Fifth Avenue that,
4 on the door is Flavio La Rocca.

5 A Uh-huh.

6 Q Is that the vehicle leaving that
7 area, that you just described?

8 A Yeah. So I'm calling it a
9 landscaper truck, for one of the better
10 term.

11 And Mr. La Rocca had been behind
12 it, as was indicated in the previous image
13 and he came walking up and sort of
14 disappeared around the side of the truck.

15 And, you know, there's another
16 person, not Mr. La Rocca, who is driving
17 the vehicle and they drove off.

18 But, yes, that's the vehicle.

19 Q And looking to the left quarter
20 of the video, at Frame 55, do you see a
21 black cyclone fence?

22 A Yes, I do.

23 Q Does that fence enclose the
24 skate park?

25 A Yes, it is. I believe it's the

1 ROBERT ANDREW COX

2 Sidney Frank Skate Park, was donated by
3 him, the Grey Goose vodka heir/founder,
4 whatever you call it.

5 But, yeah, this is his skate
6 park. That's the city's skate park.

7 I can't be sure. But it's
8 possible, that that's my car parked on
9 East Street, facing the truck.

10 I can't really see it too well.
11 Now, I can't see it at all.

12 Q We're looking at Frame 102. Do
13 you notice, in this photo, there's a
14 gentleman depicted, who is digging?

15 A It's blocked. Let me move this.
16 He is digging.

17 The guy, in the back, there, has
18 some kind of --

19 Q -- fellow --

20 A -- shovel, the white shirt.

21 Q I'm looking at the one in the
22 white shirt, who would be closest to the
23 person taking the photograph.

24 A Well, I see, again, in the beige
25 shirt.

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2 And I see a guy in a white
3 shirt. The guy in the beige shirt has
4 some kind of white thing sticking out of
5 his back pocket.

6 But I can't see it anymore.

7 [Video is playing via Zoom.]

8 Q That was it. Did you get a
9 chance -- were you able to see it?

10 A I did see. He's got a shovel,
11 yeah.

12 Q He's got a shovel. Did you see
13 him digging?

14 A To be honest with you, I don't
15 know exactly what he was doing.

16 If you want to call it digging,
17 yeah, he's sticking a shovel into
18 something.

19 I don't know if he's moving
20 asphalt or gravel, around or if he's
21 digging a hole. I can't really tell.

22 Yeah, it seems to me that he's
23 sticking the shovel into some loose
24 material and kind of spraying it around.

25 I wouldn't necessarily call it

1 ROBERT ANDREW COX
2 digging a hole. But it looks like he's
3 got a pile of material there, of some
4 kind, that's dark material.

5 Q And was that material loose?

6 A Yeah, you can see it spray
7 around, as he's shoveling it.

8 I mean, it looks, to me, like
9 there's a pile of stuff that was dumped
10 there, whatever that is, some black dark
11 material and he's spreading it around with
12 the shovel.

13 But, again, I wouldn't
14 characterize it as digging a hole per say.

15 Q Now I'm looking at Frame 112.
16 And there's a caption "La Rocca flees the
17 seen again".

18 What did you see that caused you
19 to note that at the bottom of the video?

20 A Yeah. So, as I mentioned, this
21 is an edited video.

22 I was on scene for several
23 hours. And so, for a while, there wasn't
24 much of anything happening.

25 But, at one point, I realized he

1 ROBERT ANDREW COX

2 was back in the area.

3 Without seeing the original
4 video, which, I mean, I have, you know, it
5 has the clips and all the time stamps on
6 it, I don't know exactly when this was
7 but, at some point, I got out of my car to
8 videotape him and try to talk to him and
9 then he drove off.

10 [Video is playing via Zoom.]

11 Q Looking at Frame 129, referring
12 to the right-hand half of the picture, do
13 you know whose work yard that is?

14 A Yes, I do, that's Flavio La
15 Rocca & Sons, or whatever the official
16 name of the company is.

17 But it's the La Rocca's
18 property. Or at least mostly their
19 property.

20 Q And looking at the lower
21 right-hand corner of the picture, do you
22 see a concrete, what looks like a concrete
23 barrier?

24 A Yeah, this, I know what it's
25 called, it's called a Jersey barrier.

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2 And, yeah, there's a number of
3 those streaming around the area.

4 Q And did anyone ever discuss with
5 you ownership of those Jersey barriers?

6 A Well, first of all, I guess I
7 should ask: Do you mean that day, on
8 site?

9 Q No.

10 A Or ever?

11 Q Ever. You can start --

12 A I had so many conversations
13 about this and did so much research and
14 pulling up records, that I would say that
15 I had many conversations about things that
16 had been done to carve out space that was
17 beyond the footprint of the La Rocca
18 property, at that location.

19 One of them was the Jersey
20 barriers. Because they effectively carve
21 out an extra foot or two of space in front
22 of that property.

23 There's also, if you got a
24 little further down the road, there,
25 you'll see there's other properties carved

1 ROBERT ANDREW COX

2 out along Fifth Avenue.

3 And, then, on the other -- well,
4 where this video is shot from, to my
5 right, there is also other space that's
6 been carved out.

7 I'm sure, I did. And I believe
8 there's Jersey barriers elsewhere on the
9 street and all of these were attributed to
10 La Rocca.

11 By the way, while you have the
12 frame there, I know, you didn't ask me,
13 but I'll mention:

14 That is a McCloskey 412 Trommel.
15 And that is the device where you'd throw
16 stuff at one end and shoot it out the
17 other and make nice neat piles of gravel,
18 wood chips.

19 Q That's the green colored device,
20 inside the work yard?

21 A Yeah, I will say that, you know,
22 in the business that Mr. La Rocca's in, it
23 wouldn't be a surprise they would have
24 that device.

25 And I didn't see that being

1 ROBERT ANDREW COX

2 used. But that device would output wood
3 chips into nice little piles, like was
4 done back in the putative parking lot.

5 As you move this, by the way, I
6 also see more Jersey barriers up, ahead,
7 on his right, as he's driving away.

8 Q Let's go back.

9 [Video is playing via Zoom.]

10 Q There you go. There, on the
11 left, are those the Jersey barriers that
12 you had mentioned?

13 A Yeah, there's some more there,
14 sort of, in the frame anyway, you know,
15 right in front of where the truck is,
16 obviously.

17 Q Do you know --

18 A So the right of the truck, as
19 they're driving past.

20 Q Do you know who put them there?

21 A I mean, I put it as this way:
22 Upon reason and belief, based on speaking
23 to many people from the city government
24 and people who owned property down there
25 and had businesses down there, all of that

1 ROBERT ANDREW COX

2 stuff was done by Mr. La Rocca, including
3 those barriers.

4 I mean, in this frame, you'll
5 also notice that those are his trucks.

6 So he basically claims that
7 whole side of the street and the other
8 side of the street.

9 So, you know, he's kind of
10 greatly expanded his footprint there.

11 Q Now looking at Frame 201, do you
12 see the back of a truck that appears to
13 have two ramps?

14 A I do.

15 Q Were you ever able to identify
16 who possessed that truck?

17 A I never made any effort to do
18 that, unless it's on the side of the truck
19 in the video. It wasn't something that
20 was my focus.

21 At this point, I'm looking at
22 Mr. La Rocca driving away, I'm not really
23 concerned with that landscaper truck.

24 Q Now, looking --

25 A By the way, I'll add: I can't

1 ROBERT ANDREW COX
2 see the license plate, but highly
3 confident that's my car, off to the left.
4 It looks like it's a Honda Civic with
5 New York plates.

6 And I don't know if we have a
7 clearer picture, but I have special
8 plates, I have NYP, New York Press plates.

9 So, you know, my car would jump
10 out. But I'm pretty sure that's where I
11 ended up parking at that time.

12 Q Now looking at Frame 201, do you
13 notice that on the right-hand side of the
14 photograph there seems to be additional
15 Jersey barriers --

16 A Yes.

17 Q -- adjacent to the skate park
18 fence?

19 A Yes.

20 Q Do you know who put those there?

21 A As I said, based on my
22 interviews of businesses, business owners
23 down there, neighbors, people who live in
24 that area and people from the city
25 government, upon reason and belief, Flavio

1 ROBERT ANDREW COX

2 La Rocca put them there.

3 [Video is playing via Zoom.]

4 A Okay, let me get the name of the
5 company there.

6 Q Excuse me?

7 A Let me get the name on the side
8 of the truck. It looks like P. Cassino or
9 Cassero (ph).

10 Q We can go back.

11 A I think the other truck's the
12 same. It might have a better view.

13 I can't quite see.

14 Anyway, I was not focused on
15 those trucks at the time.

16 But I could see, from the video,
17 that the names are on the sides of the
18 truck.

19 [Video is playing via Zoom.]

20 A By the way, on the left, there,
21 you can see his neighbors also had their
22 fences extended out a little bit.

23 But, after this story ran, they
24 moved them back.

25 You can continue.

1 ROBERT ANDREW COX

2 I'm seeing P. Cassino, C-A -- I
3 thought I saw S-S-I-N-O.

4 Can you go, like one tick
5 further? 'Cause the other truck has the
6 same. Maybe I can get a better read.

7 It looks like there's a logo
8 there.

9 Yeah, it looks S-S. I'm going
10 with Cassino.

11 I don't know who that is though.
12 P, dot, Cassino, C-A-S-S-I-N-O.

13 [Video is playing via Zoom.]

14 A It's in script. So this could
15 be Rs instead of Ss.

16 If I had Google handy, I would
17 be able to tell you, in a heartbeat. It's
18 Carino or Cassino.

19 Q Do you know whether or not that
20 is a d/b/a --

21 A I'm sorry, I didn't hear you.
22 What was the question?

23 Q Let me just try to get the
24 full --

25 A I mean, if the question is --

1 ROBERT ANDREW COX
2 it says on the side of the truck, it says
3 "tree company" "tree work" "tree
4 maintenance".

5 Q Right. So the question that I
6 have is: Do you know whether or not that
7 isn't a d/b/a, doing business as company
8 owned by Benny's Tree Service?

9 A I have no knowledge of that. I
10 do know Benny's Tree Service.

11 Benny's been the subject of past
12 reporting, related to school district
13 corruption.

14 Ironically, my landlord of the
15 house hired him to take down a tree that
16 crashed into my car.

17 And I know that his business
18 owns one of the properties in there, on
19 the left of what we're looking at on East
20 Street. I guess that would be the -- I
21 guess it's the west side of East Street,
22 if that makes any sense.

23 Q East side of East Street, okay.

24 A Yeah.

25 Q Do you recall that when you were

1 ROBERT ANDREW COX
2 covering this story, in reference to the
3 possible relocation of the city yard, do
4 you recall if this area, that's being
5 shown in Frame 224, the video, was used
6 for parking at that time?

7 A Absolutely not.

8 Q And do you recall what, if
9 anything, it was used for?

10 A It's just trees with
11 undergrowth. It abuts the city park,
12 which is just on the other side.

13 I do recall, there was a
14 question, when I called in this incident,
15 in real time, exactly what that property
16 was, if it was City of New Rochelle
17 property or if it was the New Rochelle
18 Parks Department property.

19 And, I know, from other
20 experience, that that makes a difference
21 because the city could theoretically sell
22 its property, except that if it was
23 parkland and then they would need a
24 state -- you're nodding, 'cause you know
25 more than I do.

1 ROBERT ANDREW COX

2 Q Not more. But --

3 A I did learn that they would need
4 a -- I know, you know it, but I'm trying
5 to remember it here.

6 They're going to need --
7 basically, they're going to need
8 approve -- whatever it's called.

9 They're going to need approval
10 from the state, if they want to alienate
11 parkland and then do something else with
12 it.

13 So if there was any desire to
14 turn this property into anything other
15 than a park, build on it, like the DPW
16 yard or put in a parking lot, they would
17 have to get the state assembly and state
18 senate to --

19 Sorry, I remember the term now,
20 "home ruler bill", they would need a home
21 ruler bill.

22 So not something that you do,
23 sort of flipping on a switch. It's a long
24 drawn out process.

25 It's usually something that gets

1 ROBERT ANDREW COX
2 done at the very end of the calendar in
3 the state legislature, they do a bunch of
4 these things.

5 So not the kind of thing that
6 would happen over a weekend because
7 somebody called somebody and said would
8 you mind if I do this.

9 But I don't recall what the
10 resolution of that was. That was my
11 point.

12 I don't know if it was ever
13 determined, whether this extended out from
14 the city park and was there for a parkland
15 or if this was City of New Rochelle
16 property.

17 For my purposes, you know, I
18 never went further than that. But I
19 remember that being a question.

20 Video is playing via Zoom.]

21 Q Now looking at what is Frame
22 238, and looking at the upper right-hand
23 corner of the photograph, do you see that
24 yellow machine that you described as a
25 roller?

1 ROBERT ANDREW COX

2 A (Indicating). Uh-huh. I see
3 it.

4 Q And, to the best of your
5 recollection, what was that worker doing
6 with that machine?

7 A He was rolling back and forth,
8 compacting down, I called it asphalt,
9 gravel, some kind of material.

10 But whatever that was -- I
11 guess, probably, the better thing I should
12 have said, from the beginning, was some
13 sort of surfacing material.

14 Because that was clearly what
15 the material was for.

16 That he is, you know, that guy
17 is driving that yellow mini steamroller,
18 up and down, flattening it.

19 And, after, he would pull away,
20 he would be flat.

21 [Video is playing via Zoom.]

22 A The end.

23 Q In terms of the visit that you
24 made to East Street, on May 16th, 2015,
25 which memorialized in this video, is there

1 ROBERT ANDREW COX

2 anything that you learned about the
3 construction that you see in the video
4 that you haven't already told us, today?

5 A Let me think that through.

6 I mean, I, as I said, stayed
7 there for hours. I want to say sometime
8 between twelve and one is when I left,
9 probably, because I was getting hungry and
10 I had been there all morning and I hadn't
11 eaten breakfast.

12 So I was probably there for
13 about three hours.

14 And they completed the work. So
15 what you see is them in progress, on
16 surfacing that area.

17 And I believe I have other
18 images of this, that by the time we left
19 it was completely finished, effectively a
20 parking lot and there was probably a dozen
21 cars parked on it.

22 So it was in use, as a parking
23 lot.

24 It's not related to
25 construction. But maybe this outside the

1 ROBERT ANDREW COX
2 bounds of what you want to ask about, but
3 there was a motivation for building this,
4 it was a reaction to a decision by the
5 parks commissioner to change the parking
6 policy, the parking lot for City Park.

7 And prior to this time period,
8 people had been able to park there during
9 the day for free.

10 The park was mostly used on the
11 weekends. So there was plenty of empty
12 spaces.

13 And the Parks Commissioner Bill
14 Zimmerman, I recall, made a presentation
15 to the city counsel, said, hey, we should
16 not be giving away this parking for free.

17 So they made it a, I can't
18 remember, I think it was a metered lot or
19 you could buy stickers.

20 But you had to pay, to park
21 there.

22 And I know that that cost a lot
23 of upset because all the businesses in
24 that area had been used to parking for
25 free, not just Mr. La Rocca, but the deli

1 ROBERT ANDREW COX
2 across the street and there's a
3 laundromat.

4 I mean, everybody around there
5 was using it as free parking.

6 And it was my understanding,
7 after the fact, after this day, that the
8 animating of that, that occurred was the
9 enforcement of some sort of fee based
10 parking and this was a way to basically
11 take back some other city property, make
12 another parking lot that would be
13 exclusively for the use of the people who
14 owned businesses up in that area,
15 including Mr. La Rocca.

16 Q And did you ever learn how that
17 ultimately got resolved?

18 A Well, I was onsite when the --
19 that day, later in the afternoon, like I
20 left but then I came back a few hours
21 later.

22 So sometime maybe between three
23 and six p.m. I don't remember exactly.

24 But the building inspector for
25 the city came on a Saturday, which, if you

1 ROBERT ANDREW COX
2 know anything about city government, would
3 be a highly unusual event, to get a bureau
4 head or a commission on scene on a
5 weekend.

6 And, I recall, he was pretty
7 upset and I overheard the conversation and
8 they made plans on the spot to fence off
9 that entire area, basically to take it
10 back.

11 And then I was actually on scene
12 when a fencing company came and built a
13 fence.

14 And, to my knowledge, that area
15 is still fenced off today.

16 Q And were the employees of the
17 local businesses then permitted to park in
18 the park without charge?

19 A Not to my knowledge. No.

20 Q Is there anything else that we
21 haven't gone over or you haven't already
22 told us about, what you saw in your visit?

23 A Yeah, I would say, one thing,
24 which is the initial caller said that the
25 police had been called twice and then at

1 ROBERT ANDREW COX
2 some point, between 9:15 and -- between
3 twelve and one, that morning, let's call
4 it, I called in a complaint, myself and
5 was told that a police car would be
6 dispatched.

7 So I pointed out, earlier, that
8 my car was parked off to the left.

9 And that's primarily because
10 while the work was going on it was very
11 active and there was vehicles moving back
12 and forth.

13 But once everything settled down
14 and there was really nothing going on
15 anymore, at that point there -- I don't
16 know, maybe an hour later, roughly, there
17 was no traffic to speak of, the workers
18 were all gone, the equipment was all gone.

19 So, at that point, I moved my
20 vehicle into the center of East Street, so
21 that nobody could get by me.

22 And then I called into the
23 police.

24 And then I waited and I made a
25 determination that I would wait until the

1 ROBERT ANDREW COX

2 police came.

3 And, I think, when I finally
4 left, was when I got a call back. I can't
5 remember actually how the call got
6 initiated.

7 But I was on the phone and I was
8 told the police had come, they had driven
9 through the area and that the complaint
10 was unfounded.

11 And I said that's a lie because
12 there's no way any police car could've
13 gotten passed me because the road is
14 blocked.

15 So no police car came here.

16 So didn't really prove anything,
17 except other than the validity and the
18 people calling me earlier, that their
19 complaints, I think, were being ignored.

20 And, you know, I published a
21 theory, for what it's worth, it's not
22 based on fact.

23 But Ms. La Rocca worked for Grey
24 Goose vodka, owned by Sidney Frank, who
25 has since past, who donated the skate

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2 park, right there, next to their business.

3 And Sidney Frank is somebody who
4 I believe did a lot of favors for the New
5 Rochelle Police Commissioner, at the time,
6 Patrick Carol.

7 And I believe Patrick Carol gave
8 him benefits, like extra security.

9 He was a billionaire, so, I
10 guess, maybe he needed it.

11 But there was a friendly
12 relationship there. And my view was that
13 maybe -- and, again, this is just
14 speculation, that this was all part of a
15 friendly understanding that Sidney Frank's
16 friends were going to get treated a little
17 bit better from the police commissioner
18 and what they sometime refer to as
19 "courtesy parking" or courtesy this --

20 It basically means that if
21 you're connected, if you donate money to
22 the police foundation or otherwise are
23 buddy-buddy with the right person that
24 enforcement will not occur, for whatever
25 it is.

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2 And so since there's a history
3 of that in New Rochelle, probably other
4 towns, it occurred to me that the reason
5 that the police weren't really looking
6 into this too much is because the police
7 commissioner didn't want them to and other
8 than just let sleeping dogs lay.

9 Again, I don't know, but there
10 was just a lot of dots there and that's my
11 speculation.

12 MR. MEISELS: Thank you very
13 much.

14 Ms. Zalantis has the option to
15 ask you questions as well.

16 And I can't imagine that she
17 would give up the opportunity.

18 MS. ZALANTIS: Good afternoon.
19 Thank you for being here today.

20 My name is Kathy Zalantis and I
21 represent the defendants in this
22 action.

23 EXAMINATION BY MS. ZALANTIS:

24 Q Have you ever appeared for a
25 deposition before?

1 ROBERT ANDREW COX

2 A I have.

3 Q How many times?

4 A One-time.

5 Q And what was the nature of that
6 case?

7 A I was being sued by two New
8 Rochelle school employees for defamation.

9 Q On May 16th, twenty-fifteen,
10 just to reiterate, you took the video; is
11 that correct?

12 A Correct.

13 Q And on the day that you took the
14 video, May 16th, twenty-fifteen, did you
15 ever see my client, Mr. La Rocca, cut down
16 any trees?

17 A No.

18 Q Did you ever see any of his
19 employees cut down trees?

20 A I did not. No.

21 Q Did you see anyone, on that
22 date, cut down trees?

23 A No.

24 Q Did you ever see my client,
25 Mr. La Rocca, grinding up trees?

1 ROBERT ANDREW COX

2 A No.

3 Q Did you ever see any of his
4 employees grinding up trees?

5 A No.

6 Q Did you see anyone grinding up
7 trees?

8 A No.

9 Q Did you ever see my client,
10 Mr. La Rocca, spreading wood chips?

11 A No.

12 Q Did you see any of his employees
13 spreading wood chips?

14 A I'm thinking about that because,
15 you know, they may have, when they were
16 sort of working up by the wood chips and
17 they were working with that, what I'm now
18 calling the surfacing material of whatever
19 it was.

20 So they may have. They probably
21 did, you know, act with those wood chips
22 'cause they were kind loosely along the
23 edge of where they were working.

24 But I would say, if you ask
25 me -- you can ask me, if you want, I

1 ROBERT ANDREW COX

2 didn't see anybody sort of sticking a
3 shovel into the wood chips and moving them
4 around, as a deliberate act.

5 Q How about at any time, not just
6 May 16th, twenty-fifteen, had you ever
7 seen my client cutting down any trees?

8 A No.

9 Q How about any of his employees?

10 A There was one other issue or
11 incident there. And there was a, what do
12 you call it, like a little island that had
13 a tree in it and it was -- had little --
14 it wasn't very big.

15 Quite frankly, I'm not ever sure
16 why it was there. But it was certainly in
17 the road and it was like asphalt with some
18 stone around it, to make like a little
19 triangle.

20 But I was there when they -- a
21 couple of workers from Mr. La Rocca's
22 company removed that.

23 Q And when was that?

24 A I don't remember the date. But
25 it was in the general ballpark of that

1 ROBERT ANDREW COX

2 period of time.

3 There was, at that point, just a
4 stump left. And it wasn't a particularly
5 big tree, as I could see from the -- you
6 know, the width of the -- I guess it would
7 be the diameter of tree.

8 Q How do you know it was Mr. La
9 Rocca's employees that removed this stump?

10 A Sitting here, now, and not
11 refreshing my memory, but I think I
12 actually have pictures, I believe that
13 they were dressed to indicate that they
14 worked for Mr. La Rocca.

15 Q And where was this stump
16 located?

17 A It would have been -- and,
18 again, it's within this little triangle
19 island.

20 But it would have been basically
21 on the other side of the street, from
22 where the people were working in the video
23 that we just saw.

24 So I'm going to call it the west
25 side of East Street.

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2 Q Was this stump in the area that
3 is now currently has been fenced in by the
4 city adjacent to the skate park?

5 A No.

6 Q So it was not in the area that
7 was depicted in the video, where the
8 workers were working; is that correct?

9 A That's correct.

10 Q Was anybody else from Talk of
11 the Sound with you on May 16th,
12 twenty-fifteen?

13 A My wife was with me. She
14 handles the publishing side.

15 So she deals with the money.

16 So, yes, she was there.

17 She's not a journalist. She
18 just makes sure that all checks go to her
19 and she gives me whatever I'm entitled to.

20 Q In twenty-fifteen, did you have
21 any other employees that worked for Talk
22 of the Sound?

23 A I had employees all during that
24 period. I don't remember exactly what I
25 had.

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2 But they weren't in the US. I
3 had people overseas, that did work, out of
4 India and Pakistan and other places,
5 having to do with entering data and doing
6 things like that.

7 And a photographer, who is
8 freelance, but was not present at the
9 scene.

10 (Whereupon, an article was
11 marked Cox Exhibit 1 for
12 identification.)

13 Q I'm showing you what's been
14 marked as Cox 1. Please, take a look at
15 all the pages.

16 [Witness is reviewing the
17 document.]

18 A Okay, I skimmed it. Is there
19 anything in particular.

20 Q Are you familiar with this
21 document?

22 A I am familiar, I wrote it.

23 Q And what is it?

24 A It is an article from April 1st,
25 2016 from Talk of the Sound.

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2 Q And if you could take a look on
3 page, marked at the bottom as D0099.

4 A Okay.

5 Q And I took the liberty of
6 highlighting a paragraph. Do you see the
7 highlighting?

8 A I do.

9 Q And if you could just take a
10 look at -- read that paragraph to
11 yourself.

12 [Witness is reviewing the
13 document.]

14 A Okay.

15 Q So do you see where it says, on
16 the first two lines, the second line, it
17 says:

18 Early in the morning of
19 Saturday, May 16, of twenty-fifteen, La
20 Rocca and his workers cut down trees.

21 Do you see that?

22 A Yes.

23 Q Without revealing your sources,
24 what was the basis for the claim that La
25 Rocca and his workers cut down trees?

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2 A It was first and foremost the
3 initial call that came in to me that
4 morning and subsequent contact with other
5 people who live and work in the area.

6 Q So let's talk about that initial
7 call. You had previously testified that
8 that was the -- essentially the third call
9 that person made to you, after calling the
10 police two times?

11 A That's what they told me, that I
12 was their third call.

13 Q Did you corroborate the claim
14 that there had been calls made to the
15 police?

16 A No.

17 Q Did you attempt to get any
18 police records of calls made to police, on
19 May 16th, twenty-fifteen?

20 A No. I mean, I make so many FOIL
21 requests. But I don't have any
22 recollection of requesting those.

23 Q What is your understanding of
24 when the trees were cut down?

25 A Prior to nine-fifteen, my

1 ROBERT ANDREW COX
2 understanding is that the initial
3 complaint had to do with the use of power
4 tools, chainsaws sometime around
5 seven a.m.

6 So sometime between seven a.m.
7 and nine-fifteen.

8 Q So the trees were allegedly cut
9 down between seven-fifteen and
10 nine-fifteen, Saturday, May 16th,
11 twenty-fifteen; is that your
12 understanding?

13 A That would be my understanding,
14 yeah.

15 Q And how many trees were cut
16 down?

17 A I have no idea.

18 Q Did you ever ask the person how
19 many trees?

20 A No, I did not.

21 Q Did that person, that advised
22 you that trees were cut down, say that
23 they personally viewed trees being cut
24 down?

25 A Yes.

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2 Q Does that person live or own
3 property on East Street?

4 A Well, I'm not going to talk
5 about that. So let's skip that one.

6 Q When you were there, on
7 Saturday, May 15th, twenty-fifteen, did
8 you observe any stumps in the area that is
9 now fenced in by the black fence?

10 A No.

11 Q Prior to the time that you got
12 there, at nine-fifteen, the trees would
13 have had to have been cut down and the
14 stumps removed; is that what you're
15 saying?

16 A I don't know that they were
17 removed. But.

18 Q Well, you didn't see the stumps
19 there, right?

20 A Yeah, it's true. But also --

21 Q And we didn't see stumps in the
22 video, right?

23 A Well, what we did see was wood
24 chips and, you know, basically the asphalt
25 or gravel, whatever it was, spread over

1 ROBERT ANDREW COX

2 the entire area.

3 So for all I know the trees were
4 cut at the base and covered over.

5 I don't know how many inches of
6 material was there.

7 So the roots of the trees and
8 the base could still be there, now.

9 Q You talked about the McCloskey
10 412; do you whether that makes wood chips?

11 A It doesn't make wood chips.
12 It's basically a thing that you feed stuff
13 into and it shoots it out the back end and
14 makes piles for people who need to do
15 that.

16 Q Have you ever used the McCloskey
17 412?

18 A No.

19 Q Do you have any knowledge of how
20 it's used to sift dirt and gravel?

21 A Just what I read online, at the
22 time. It's used for a lots of things.

23 And, as I said earlier, somebody
24 in Mr. La Rocca's business could have one
25 for a variety of reasons because you can

1 ROBERT ANDREW COX

2 use it for dirt or gravel, wood chips.

3 Q Just to be clear: You couldn't
4 put a stump? Or, just to be clear: You
5 couldn't put a tree trunk into a McCloskey
6 412 and have wood chips come out the other
7 side?

8 A No, you can put the stump in,
9 but I think the stump would come out.
10 Because that's all it really does, it just
11 moves things through and looks like a
12 conveyer belt.

13 Q So you would need some other
14 kind of machine to transform a tree trunk
15 to wood chips; is that correct?

16 A I believe so, yeah. Or you
17 would have to be very patient with a
18 knife.

19 Q So it also says that Mr. La
20 Rocca and his workers cleared the property
21 with heavy equipment.

22 What was your basis for that
23 claim?

24 A Both, what -- the call that I
25 got, which had described what was going

1 ROBERT ANDREW COX

2 on.

3 You know, I should clarify:
4 Saturday morning, I prefer to be sleeping.
5 So if someone has to convince me to get
6 out of bed and go drive down to East
7 Street to watch all of this.

8 So, you know, they were trying
9 to, you know, convince me, like tell me
10 all the stuff that was going on.

11 So they were animated and they
12 were unhappy about what was happening.

13 But, you know, by the time I got
14 there, there was trucks and pick-up truck,
15 there was a landscaping truck, there was
16 the steamroller, there was a couple of
17 other trucks, which we saw in the video,
18 which were the tree company truck --

19 I think, altogether, maybe, on
20 scene, in that area, there may have been
21 half a dozen La Rocca vehicles.

22 [A short recess was taken.]

23 [The requested portion of the
24 record was read.]

25 A I would not -- I don't know that

1 ROBERT ANDREW COX

2 any vehicles were needed to move anything.

3 Because all of the debris from
4 the trees were piled up along the edge of
5 the property.

6 So, as far as I know, they just
7 round them up and shove them to the side.

8 Q Who would just ground them up
9 and shove them to the side?

10 A Well, I assume, the workers,
11 that were working there, did that, yeah.

12 Q But that's an assumption?

13 A I didn't see it, myself.

14 Q And there's also a claim that
15 Mr. La Rocca and his workers dumped
16 potentially contaminated Bourbon chunk of
17 asphalt onto ground.

18 Can you explain what you mean by
19 chunks of asphalt?

20 A Whatever the material was that
21 they were using, that's what I'm
22 attempting to describe.

23 And the reason I brought up the
24 idea of it potentially being contaminated
25 is because the city brought that up.

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2 'Cause I mentioned the building
3 inspector came to the site, he was not too
4 happy with what he saw.

5 He was concerned that the
6 material that they used to spread over the
7 ground was not clean. He didn't know
8 where it came from.

9 And it's my understanding that
10 you can't just show up and start dumping
11 material onto the ground. There is
12 permits involved and things like that.

13 There has to be some assurance,
14 to whoever would approve such a thing,
15 that that was clean fill or clean material
16 and not something that was pulled out of a
17 love canal.

18 So I think that was the building
19 department's concern. They didn't know
20 where this material came from.

21 And what they told me was that
22 they were going to do test borings to
23 determine if any of the material was
24 contaminated. And, if it was
25 contaminated, they were going to make a

1 ROBERT ANDREW COX
2 report to the New York State Department of
3 Environmental Conservation and whatever
4 other authorities, you know, would apply
5 to that.

6 Q Did you ever learn whether the
7 city found out whether the material was
8 contaminated or not?

9 A I don't have any recollection of
10 that right now, no. I may have. I may
11 not. I just don't recall.

12 Q When you were onsite, did you
13 see any kind of excavator?

14 A No.

15 Well, let me backup. I'm not
16 great with all of these equipment terms.

17 There was a front end loader.
18 So that has the big scoop in the front.

19 So, I mean, I don't know what
20 you'd need exactly to excavate or what
21 we're referring to specifically.

22 But there was certainly a large
23 piece of equipment with a big shovel in
24 front of it.

25 Q But when you were there,

1 ROBERT ANDREW COX

2 personally, you didn't actually see the
3 area being cleared? You saw the spreading
4 of asphalt? Is that --

5 A Yes.

6 Q -- is that fair to say?

7 A Yes, that's fair to say.

8 Q Did you ever, at any point,
9 speak to Mr. La Rocca about the events of
10 March 16th, twenty-fifteen?

11 A I mean, I remember trying to. I
12 left messages. I think I sent a bunch of
13 e-mails.

14 Off the top of my head, I don't
15 recall getting a response. Instead, what
16 I got was contacted by an attorney, who
17 sent me a cease and desist letter, made
18 various threats, suing me or guided by the
19 fact that I'm telling you this or
20 something like that.

21 I don't recall. If there was
22 any kind of conversation, it may have been
23 very short and to the effect of stop
24 calling me.

25 But I don't even recall that, at

1 ROBERT ANDREW COX

2 all. I just remember reaching out a bunch
3 of times and then getting a letter from an
4 attorney and at that point I stopped
5 reaching out.

6 Q If you could look at the
7 paragraph that's highlighted and if you
8 look up two paragraphs up, if you could
9 just read that paragraph to yourself.

10 A The one above? Or two above?

11 Q Two above. Starting with "many
12 of the facts contained in the lawsuit."

13 [Witness is reviewing the
14 document.]

15 A Okay, read it.

16 Q Yes. So just to read it, for
17 the record:

18 Many of the facts contained in
19 the lawsuit are the result of reporting by
20 Robert Cox, who published a series of
21 articles on Talk of the Sound.

22 The lawsuit cites photos and
23 video from the local news organization.

24 So the reference, in that
25 sentence, "the local news organization,"

1 ROBERT ANDREW COX

2 is the Talk of the Sound; is that correct?

3 A Yes, and referenced to my
4 reporting.

5 Q And would it be fair to say that
6 your reporting was the impotence for the
7 city's lawsuit against defendants in this
8 action?

9 MR. MEISELS: Objection as to
10 form, you can answer the question.

11 A They don't consult me.

12 So my ego is such that I'd like
13 to take credit for everything that happens
14 in New Rochelle.

15 I published my story. I brought
16 attention to it.

17 I understood, after that initial
18 day, that other people had been
19 complaining.

20 In fact, they had been
21 complaining for years.

22 I spoke to the counselman for
23 that, who district covers that
24 neighborhood. He acknowledged that he has
25 also received complaints about the La

1 ROBERT ANDREW COX

2 Roccas.

3 So there had been something, you
4 know, going on there, with disputes
5 involving elected officials, city
6 officials well in advance of this event on
7 May 16th.

8 So was I the straw that broke
9 the camel's back, I don't know.

10 Did the counselman read the
11 article and say, hey, we gotta do
12 something about this?

13 Or did some of the people who
14 called me have an effect, I don't know.

15 But, you know, I'd like to take
16 credit for it.

17 The fact is I wasn't in the
18 room, so I don't know what they decided or
19 not.

20 MS. ZALANTIS: I'd like to mark
21 this as Cox 2.

22 (Whereupon, and article was
23 marked Cox Exhibit 2 for
24 identification.)

25 A I'm guessing, you want me to

1 ROBERT ANDREW COX

2 skim through it again?

3 Q Yes. Please.

4 A Okay.

5 [Witness is reviewing the
6 document.]

7 Q Do you recognize this document?

8 A I'm sorry, I haven't finished.

9 And, I know, you want me to read the
10 marked up thing. So I'm going to do that.

11 [Witness is reviewing the
12 document.]

13 A Okay, I have gone through the
14 whole thing.

15 Q Do you recognize this document?

16 A Yeah, this is an article I wrote
17 on November -- published on November 9th,
18 2015 on the Talk of the Sound.

19 Q If you could turn to page two, I
20 took the liberty of highlighting a
21 paragraph. Would you be able to read that
22 paragraph, aloud, for the record?

23 A "Based on a tip from a reader,
24 Talk of the Sound is on hand as La Rocca
25 and his crew chop down trees, ground them

1 ROBERT ANDREW COX
2 up, dump broken chunks of toxic asphalt,
3 piled up the asphalt to create a berm --
4 result in parking lot from prying eyes at
5 City Park.

6 And he used the steamroller to
7 pack -- my version -- printed there -- to
8 pack down, looks like more asphalt to
9 create a parking surface."

10 Q What does on hand mean, in this
11 first line of that paragraph?

12 A It means I was present on the
13 scene.

14 Q But were you present on the
15 scene, when trees were being chopped,
16 allegedly chopped down?

17 A Well, I was on scene for what
18 took place that day and I'm describing
19 what took place that day, based on what I
20 believe, based on my sources, so yes.

21 Q But were you present,
22 personally, on the scene when trees were
23 being chopped down?

24 A No.

25 Q And were you present,

1 ROBERT ANDREW COX

2 personally, on the scene when trees were
3 being ground up?

4 A No.

5 Q And were you present on the
6 scene when broken, quote, chunks of toxic
7 asphalt were being dumped?

8 A Yes.

9 Q And what was your basis? How do
10 you know that?

11 What did you view that day, that
12 gave you reason to believe that chunks of
13 toxic asphalt were being dumped?

14 A Well, this isn't written that
15 day. This is written much later. And
16 this would be based on discussions with
17 people from the city.

18 Q Can you describe or explain,
19 rather, what you mean by creating a berm?
20 Where is that berm?

21 A Well, the back edge of this
22 area, that we have, call it a parking lot
23 area, that was created, was raised up.

24 And so there is asphalt and
25 there is wood chips and it creates a

1 ROBERT ANDREW COX

2 screen.

3 So by a berm, I mean, sort of a
4 hilly little rise that would screen off
5 what's on one side of the berm versus
6 another.

7 Q So are you saying that the berm
8 was the pile of wood chips?

9 A Yeah, and there's asphalt in
10 there too. Yeah.

11 It's a term I know, as somebody
12 who plays golf.

13 And when you play at a golf
14 course, sometimes you want to screen the
15 fairway or screen the green, so they'll
16 put in mounds or hills or things, just to
17 block the view.

18 They can be pretty much
19 anything. But it's, most typically, they
20 put in dirt and they plant grass. But
21 it's anything that blocks your view.

22 Q So, in this case, what exactly
23 was the berm that you're referring to in
24 this paragraph?

25 A Well, if you look at the photo,

1 ROBERT ANDREW COX

2 right above, you can see the yellow
3 material and there is also asphalt in
4 there and that would be what I consider
5 the berm.

6 It's blocking the view of the
7 parking lot from City Park.

8 Q Do you know how many trees would be
9 needed to cut down, to create that amount
10 of wood chips that's depicted in this page
11 D0120 and what we saw in the video?

12 A Well, it could be half a redwood
13 or twenty small trees. I have no idea.

14 Q Do you have any knowledge of
15 whether the wood chips came from trees on
16 this property or that is now enclosed by
17 the black fence?

18 A I'm curious, are the wood chips
19 still there, I don't even know. I haven't
20 been there, recently.

21 But, I mean, I didn't chemically
22 sample the trees. But I would say my
23 answer would be if I go to bed at night
24 and I'm looking at my front window and I
25 see grass and I wake up in the morning and

1 ROBERT ANDREW COX

2 I see that it's covered in two inches of
3 snow, I conclude it snowed last night.

4 I don't need to check the
5 Weather Channel.

6 If I am being told that they're
7 using chainsaws and grinding up wood chips
8 and I'm grinding up trees and I come down
9 there and I find piles of wood chips and
10 men doing all this work, I reasonably
11 conclude that those chips were the
12 remnants of the trees that were taken
13 down.

14 Q And what specifically were you
15 told about the alleged grinding up of
16 trees?

17 A I mean, it was the effect of,
18 you know, they're down here and they're
19 using power tools and there's chainsaws
20 and they're chopping down trees and
21 grinding up trees and making a parking
22 lot.

23 Q But we don't know who the "they"
24 in that statement?

25 A My source, the person who called

1 ROBERT ANDREW COX

2 me.

3 Q Right. So the "they", that your
4 source referred to, did your source
5 identify the they?

6 A Yeah. Yeah. He -- he --

7 Q He said it was Mr. La Rocca?

8 A Absolutely. He's not a big fan.
9 He knew exactly who it was.

10 Q And, just to confirm, this all
11 occurred on that Saturday, as you
12 understand?

13 A I mean, what happened that
14 Saturday is what I said, I got a call, I
15 was interested enough to go down, take a
16 look.

17 It was as advertised.

18 I then shot video and pictures
19 and I reached out to city officials. I
20 also reached out to Mr. La Rocca.

21 I began reporting on it and, you
22 know, like I said, the city was unhappy
23 enough to have the head of the building
24 department come down there, that day and
25 then I don't recall exactly when, but I

1 ROBERT ANDREW COX

2 think they took a few actions.

3 I think that they had the police
4 department put up no parking signs, so
5 that nobody could park in that area until
6 they got the fencing up.

7 And then, at some point,
8 relatively soon after, a company came and
9 put up fencing all around that area.

10 Q But, again, just for the record
11 to be clear --

12 A Sure.

13 Q -- it's your understanding,
14 sitting here today, that all of the work
15 occurred on that one day?

16 So the work that you didn't see
17 occurred prior to you getting there, at
18 around nine-fifteen; is that correct?

19 A I don't know what it would mean
20 to say all of the work.

21 I just know what I experienced,
22 which is I got a call, saying this was
23 going on and when I arrived it was as
24 described.

25 Q So it's your understanding, the

1 ROBERT ANDREW COX

2 trees were being cut down, that Saturday?

3 A I mean, yeah, that was my
4 understanding.

5 Q And by that Saturday, I mean,
6 the Saturday that you took the video?

7 A The 16th of May.

8 Q Are you familiar with Benny
9 Rivera?

10 A Is that Benny's Tree Service,
11 Benny Rivera?

12 Q Yes.

13 A I am. Somewhat. Yes. As the
14 subject of a story, mostly.

15 Q Yes. You mentioned that you
16 wrote a story or a Blog about him?

17 A An article.

18 Q An article. And did you ever
19 have to retract that story?

20 A No.

21 Q Did you ever confirm whether he
22 was hired by the schools to do the work
23 performed at the schools?

24 A That was not the issue.

25 I mean, it was not a matter that

1 ROBERT ANDREW COX
2 he was hired to do work for the school
3 district. It was a matter of, in his line
4 of work, he ends up needing to dump wood
5 chips.

6 And to do that, you have to go
7 to a waste transfer station and pay for
8 it.

9 So if you can dump it somewhere
10 else, without having to pay the fee, it's
11 cheaper.

12 So he made arrangements with
13 another guy, I'm happy to mention his name
14 is Jimmy Bonnano, to dump these wood chips
15 on school property, which is unauthorized
16 from within the department and it's true
17 within the buildings and grounds
18 department and it's, to my understanding,
19 illegal to do that.

20 Having dumped the wood chips,
21 Mr. Bonnano's crew gave -- he was a
22 working foreman for the buildings and
23 grounds department, would then spend time
24 on the job, spreading the wood chips
25 around, on the property, to basically

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2 reduce them from piles that were dumped
3 into something that was spread around.

4 And I will add to it, that this
5 was sort of being done with a wink and a
6 nod from John Gallagher, who was the head
7 of the buildings and grounds department.

8 That article, you referenced,
9 was part of a series of articles I wrote
10 about corruption in the school district
11 that resulted in the US Attorney's office
12 bringing an indictment against
13 Mr. Gallagher.

14 He was found guilty and he was
15 sentenced to federal prison.

16 But that was the tip of the
17 iceberg.

18 There was a tremendous amount of
19 corruption going on in the school
20 district.

21 In fact, why I was appointed to
22 the District Life, Health & Safety
23 Committee, we have oversight on the
24 buildings and grounds department and
25 Mr. Rivera was a party to one element of

1 ROBERT ANDREW COX

2 that.

3 Q I'm turning back to the area
4 that's currently fenced in by the black
5 fence, that was adjacent to -- that is
6 adjacent to the skate park.

7 Is it your contention that that
8 area was never used for parking cars prior
9 to May 16th, twenty-fifteen?

10 A So, basically, the area that
11 sort of got fenced in?

12 Q Correct.

13 A Right?

14 I can't speak to that. I have
15 no knowledge of whether there was a little
16 space or someone had put a car in -- I
17 have no idea.

18 Q Is it your contention, that was
19 a wooded area? A primarily wooded area?

20 A I would -- I don't know how I'd
21 define primary wooded area. There is, you
22 know --

23 From what I could see that day
24 and what's apparent in the video is there
25 is growth there, which is both trees and

1 ROBERT ANDREW COX

2 some type of undergrowth, I'm not a
3 botanist, but a lot of green stuff growing
4 there.

5 And it is basically chopped off
6 so that it forms an unnatural rectangle in
7 that space.

8 So if I look at the size of that
9 rectangle, which became the parking lot --

10 So, basically, from where the --
11 that cut in foliage and trees occurs, all
12 the way to the skate park, primarily would
13 mean there's more than 50 percent of it
14 covered in green stuff and 50 percent of
15 it was, you know, dirt and flat park -- I
16 don't have any recollection of judging
17 exactly how much percentage of that space
18 was foliage and trees and bushes and how
19 much of it was dirt and flat or even park,
20 I don't know.

21 Q So prior to Saturday, May
22 15th --

23 A By the way, I mean, I can add
24 one other thing that I can recall.

25 There is some small sliver of

1 ROBERT ANDREW COX

2 land there, that the people who work at
3 the skate park use.

4 So I don't recall a space. But
5 my understanding is that there was a
6 little bit of a parking area for the
7 workers at the skate park.

8 But I don't know if that's
9 considered incorporated into the fenced
10 off area or not, 'cause I don't
11 remember -- I have to go find these
12 articles, there's a picture of it.

13 But my guess is that they didn't
14 fence off that area, just from
15 recollection, because the people who work
16 there still needed to park there.

17 Q So, currently, there is the
18 skate park, that was fenced in.

19 There's an open area, that you
20 could fit about one car into and then
21 there is the other fenced area?

22 A Right.

23 Q So I'm --

24 A That little gap --

25 Q -- yes --

1 ROBERT ANDREW COX

2 A -- talking about.

3 Q -- that's how it currently
4 exists --

5 A Yes.

6 Q I'm not speaking about that one
7 area, there, where a car can currently --

8 A Well, you asked from the skate
9 park fence, all the way down.

10 What I'm saying is, there was a
11 gap, there, where there was some -- it's
12 called authorized parking space, that the
13 city apparently parks there and had set
14 aside so that they could -- that the
15 workers could park there.

16 But I'll still give the same
17 answer I gave, which is the part that's
18 fenced in, which, I think, we were really
19 talking about --

20 Q Right?

21 A -- the cut all the way to the
22 skate park, that I don't have any specific
23 recollection of what percentage was
24 bushes, trees, dirt, I don't know.

25 Q So let me ask you this: Prior

1 ROBERT ANDREW COX

2 to May 16th, twenty-fifteen, if I wasn't
3 driving, you know, putting all terrain
4 vehicles aside, how many approximate
5 normal size sedans could park in that
6 area --

7 A I have no idea.

8 Q -- if you had to estimate, based
9 on your knowledge of that area?

10 A I wouldn't -- I would go to the
11 stat photos that the county has and I
12 would look at other things that could tell
13 me what it looked like five years ago.

14 I mean, you're asking me long
15 after the fact.

16 So if I was, you know, writing a
17 story, to answer your question, the way I
18 would do it is, I would seek all the
19 available records that they had about what
20 was down there.

21 The county has some aerial
22 photos. I think the city has some. They
23 use an online service, that has others.

24 Of course, there is Google Maps
25 and, theoretically, try to get the

1 ROBERT ANDREW COX

2 archives from them.

3 But, no, I wouldn't want to
4 guess. It wasn't something that was, you
5 know, high on my list of priorities, when
6 I was looking at that area, regarding
7 moving the city yard because everything
8 was really been talked about on the other
9 side of the street.

10 Q So, in your view, when you were
11 in that area and, again, you were there,
12 looking at the eminent domain issue --

13 A Uh-huh.

14 Q -- but, when you viewed that
15 area, could a tractor trailer park in that
16 area?

17 A I mean, it's the same question
18 in a different way.

19 I don't know how much space was
20 there, so I can't say whether a Volkswagon
21 Bug or an 18-wheeler could fit in there.
22 I just don't have any recollection of
23 that.

24 Q Have you ever had to retract any
25 stories?

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2 A I have published stories that
3 had to be either corrected. I wouldn't
4 say retracted.

5 They weren't necessarily mine.
6 I used to have a lot of people write
7 guests posts and we had a couple of
8 problems.

9 I would say this: None come to
10 the top of my mind.

11 But, I, as a policy, have no
12 problem running corrections or I don't
13 recall retracting a story, but running
14 corrections because it's my view that it's
15 a good thing for me to do because, you
16 know, I write, you know, a million words a
17 year and if I make a mistake, I want to
18 own that and I want to make a correction.

19 And I believe in feature the
20 fact, if I made a correction.

21 And this is not the only place I
22 write, on Talk of the Sound.

23 So I don't recall retracting a
24 story.

25 You can pull one out, I guess,

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2 and tell me I retracted it.

3 But I run corrections, if
4 warranted. Not that many.

5 Because most of my reporting
6 tends to be based on government records,
7 so I'm just quoting from something off of
8 Pacer, from the US court system or I'm
9 pulling something off a police report
10 under FOIL.

11 Things like that.

12 But, if you tell me I've run
13 corrections or something that you think is
14 a retraction, although, I don't recall
15 retracting per say, you know, that
16 wouldn't shock me.

17 Yeah, I have no problem doing
18 it.

19 But, you know, what I would say
20 is that I get lots of people who threaten
21 me all the time, as the La Rocca's
22 attorney did back at the time.

23 And, you know, one time I
24 actually got sued, the -- was the
25 Bonnanos, who I mentioned the father and

1 ROBERT ANDREW COX

2 also the son, that case went so badly for
3 the defendants that their lawyers begged
4 me to help them get out of the case and at
5 the end the law firm paid me several
6 thousand dollars to drop counterclaim.

7 So I would say that they were
8 crushed in that very foolish effort to
9 bring a defamation suit against me and
10 also a radio station that I had a show on,
11 WVOX.

12 But, in any case, if I make a
13 mistake, I have no problem owning it. But
14 I don't recall any specific examples.

15 Q Have you ever had an issue with
16 public apology?

17 A Issue with public apology? I
18 mean, like I was ordered?

19 Q Based on your writing.

20 A Ordered to --

21 Q No.

22 A If I made a mistake and I said
23 that I may have made mistakes, that I
24 probably would apologize if I did. None
25 particularly come to mind.

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2 Q Do you recall issuing an apology
3 in and around twenty-twelve to the New
4 Rochelle Police Department with respect to
5 a claim that they covered up an auto
6 theft?

7 A Yes.

8 Q Can you describe the basis for
9 these apologies?

10 A Well, as I mentioned earlier, I,
11 in the past -- I guess, I should provide
12 context.

13 So I'm going to talk more than
14 you, probably, want me to.

15 I'm a talker. I can't help it.

16 When I started Talk of the
17 Sound, I was working at Newsweek. And I
18 didn't really have any interest to be
19 running a local website.

20 A bunch of people that attempted
21 to run local sites, and I had tried to
22 help them over the years and it never
23 worked out.

24 So I decided to create a
25 website, where anybody could submit

1 ROBERT ANDREW COX
2 articles and generate a discussion about
3 things that were of interest in the
4 community.

5 And my idea was, I could, you
6 know, cover the costs by running some
7 Google ads to pay for the server and the
8 upkeep.

9 But, mostly, it would be people
10 writing about something in their
11 neighborhood or whatever and then other
12 people responding.

13 And it would sort of be like a
14 public square.

15 And, at the time, this is, oh,
16 2008, you know, that a model that people,
17 like myself, were working on.

18 So I used to do a lot with
19 people who were sort of at the forefront
20 of what was happening with, before they
21 called it social media and blogging,
22 citizen journalism.

23 So I, you know, would regularly
24 go around the country and speak at
25 conferences at the Berkman center at

1 ROBERT ANDREW COX
2 Harvard Law School, Stanford Law School
3 different journalism programs.
4 University of North Carolina.
5 Pennsylvania University.

6 So there's like a philosophy
7 that myself and other people were trying
8 to embrace, which is that we, the whole
9 public, can be our own sources, our own
10 journalists.

11 So, ultimately, I concluded that
12 that was a failed idea. Because the
13 reality is is that most people are too
14 scared to put their name on an article
15 criticizing the DPW for not picking up
16 their trash because they're afraid that
17 they won't pick up there trash, ever.

18 Or they don't want to complain
19 about the school because they're afraid
20 that something will happen to their
21 teacher.

22 So the idea, in practice,
23 wasn't as great as it sounded at the think
24 tank discussion at the Berkman center.

25 So over time, I began to just

1 ROBERT ANDREW COX

2 start writing all of my own articles.

3 Now, I, occasionally, let people
4 do a guest post or things like that.

5 But, in 2012, it was sort of at
6 the cusp of that time period.

7 So that's the context.

8 So what happened was, that a
9 woman approached, who lived in New
10 Rochelle, she had this complaint and I was
11 still -- I wasn't actually promoting
12 having everybody in town contribute stuff,
13 but I said, hey, you can write something
14 and then, you know, have your say.

15 So she did.

16 And, then, I got a call from the
17 police department and they were not happy
18 with the article and they said that the
19 article was basically, I don't remember
20 even what the article is about.

21 He was mentioning about a car
22 being stolen. Was it a car dealership?

23 It was something that they said
24 that they were covering up or something.

25 And, you know, the police

1 ROBERT ANDREW COX
2 department showed me that that wasn't
3 true, okay.

4 So I issued apology on behalf of
5 the article that this woman wrote.

6 I also had a direct conversation
7 with the police commissioner to say in
8 retrospect, I shouldn't have let her run
9 the story, I trusted her too much.

10 And even though I didn't write
11 any of it, I took responsibility for it
12 and I apologized.

13 I would cite that as an example
14 of I make mistakes and if I make one I try
15 to own it.

16 And so that's, you know, that's
17 an example. That's what I was trying to
18 do there.

19 And I will tell you, that after
20 some conversations with the police
21 commissioner, the apology was accepted and
22 we went back to the same terrible
23 relationship we already had. But just
24 less terrible.

25 Q So that was a long answer.

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2 A I told you, I would give you
3 context. I'm sorry, I know that, you
4 know, you don't necessarily want me to
5 tell a story, but I am a writer so I can't
6 help myself.

7 Anyway, that's the context for
8 that.

9 But I wanted to tell the story
10 because I think it goes to the heart of
11 what I'm trying to address, which is I
12 have no problem if I make a mistake,
13 trying to correct it, if I have to
14 apologize, even if I'm not the one who
15 actually wrote the article.

16 And there's been, you know,
17 other things that appeared on talk of the
18 Sound that, for whatever reason, needed to
19 be addressed.

20 And I have no problem addressing
21 them.

22 Like I said, 'cause, at the end
23 of the day, I think that it's about -- and
24 this is my philosophy on journalism, my
25 trust relationship with my reader.

1 ROBERT ANDREW COX

2 So I believe that my readers
3 understand that nobody's perfect and that
4 what's way worse than making a mistake is
5 not acknowledging it.

6 Q So turning back to the issue of
7 May 16th, twenty-fifteen --

8 A Sorry. Yes.

9 Q -- is it your contention that a
10 parking lot was created that day?

11 A I don't know if I'd call it my
12 contention. That's my understanding of
13 what took place.

14 You know, I've already
15 acknowledged that I wasn't there when they
16 chopped down the trees or whatever.

17 But, I mean, the net result of
18 the days work was there was in effect a
19 parking lot in that space where there had
20 not been on.

21 Q Prior to writing about the
22 events of May 16th, twenty-fifteen, did
23 you ever go to Google Images to view what
24 that area had been -- any historical
25 photos from Google Images? Did you ever

1 ROBERT ANDREW COX

2 do that?

3 A Prior to this day?

4 Q No, prior to writing stories
5 about the events of May 16th,
6 twenty-fifteen.

7 A I probably looked at everything
8 I could.

9 Q Do you remember looking
10 specifically at Google Images or
11 historical --

12 A No.

13 Q -- Google Images of this area,
14 that is --

15 A No.

16 Q -- enclosed, wait, that is now
17 enclosed by the black fence?

18 A Oh. Sorry.

19 I'm not saying I didn't. I'm
20 just -- we're talking six years ago.

21 So more than six years ago.

22 I would have. And, just to put
23 the -- also, in context.

24 I mean, I write a lot. Okay.

25 So.

1 ROBERT ANDREW COX

2 I know you're focused on these
3 stories. But, you know, I've written
4 thousands of stories since then.

5 What I would do is I would try
6 to do everything I could to try to figure
7 out what that area was like pre May 16th,
8 2015. '15. Right.

9 Q So do you have any specific
10 recollection, sitting here today --

11 A No.

12 Q -- of what you did, to find out
13 what that area was like?

14 A No, I don't have any specific
15 recollections of sitting and looking at
16 any particular thing.

17 I would have looked at Google
18 Maps. I would have looked at -- there's
19 this county website, I would have tried to
20 find, also, if any people in the area have
21 photographs of the area.

22 I would have gone back to the
23 people who were contacting me, to ask them
24 what they had or what they knew.

25 I would have talked to the city

1 ROBERT ANDREW COX

2 because they were making plans down there.

3 Q Those are things that you're
4 saying, sitting here today, that you think
5 you would have done --

6 A Yeah, but I don't --

7 Q -- but you can't confirm that
8 you actually did those things; is that
9 correct?

10 A I cannot confirm it because I
11 don't have any specific recollection of
12 sitting and looking at anything in
13 particular.

14 The problem, that would probably
15 have come up with Google Maps is the time
16 frame of when they would have images for.

17 That's why I would think like
18 the county records might be better.

19 But, you know, there is --
20 unless I could reach out to the CIA and
21 probably have the satellite flying over
22 the area every day, there's going to be
23 large gaps in what I can know.

24 But, you know, as I said and
25 just to be clear, like why I wasn't trying

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1 ROBERT ANDREW COX
2 to, you know, present all of this
3 imaginary and understanding of what was
4 there because that wasn't really the focus
5 of my reporting.

6 I saw what I saw, which is a
7 parking lot and being created out of a
8 space where there wasn't one.

9 So, you know, I don't know.

10 Q But it's clear, that you didn't
11 see the space at the start of what it
12 appeared before any work, alleged work was
13 done; is that correct?

14 A That's true. That's true.

15 And even when I was down there,
16 that's not what I was paying attention to,
17 in like the time for the DPW move, it
18 would not have attracted my attention.

19 I would have been looking at all
20 of these businesses. They were the ones
21 complaining about being relocated,
22 including Mr. La Rocca.

23 So my attention would have been
24 directed driving down that street, to the
25 left.

1 ROBERT ANDREW COX

2 Q So your focus, when you were
3 previously on East Street, were the
4 businesses on my client's side of the
5 property; is that correct?

6 A Correct. That's correct. That
7 would have been my focus.

8 Q Are you familiar with the
9 condition of the road surface on East
10 Street?

11 A I'm familiar with it not being
12 very good.

13 Q That was what I was going to
14 ask.

15 A Okay.

16 Q You would agree that the asphalt
17 or the wearing surface is not in a very
18 good condition; is that correct?

19 A I haven't been down there in a
20 while. But when I was going down there,
21 from time to time, I would say it was kind
22 of like the Ho Chi Minh trail, pretty bad.

23 Q Are you aware or have any
24 knowledge of who or what entity maintains
25 East Street?

1 ROBERT ANDREW COX

2 A Well, I had these conversations
3 with a whole range of city officials to
4 try to understand that issue.

5 And there was -- I learned a
6 whole bunch of legal stuff, which I
7 probably not well versed enough to speak
8 about.

9 But the general idea that I got
10 was that the property down there had been
11 given to the city, there was a formal
12 process by which they have to -- I'm going
13 to use the wrong term here, but basically
14 adopt that street.

15 So that that had not happened,
16 that this transfer of the property of the
17 city had occurred maybe a hundred years
18 ago and -- some -- way, way in the past,
19 I'm just -- decades earlier. I don't
20 remember exactly when.

21 But that the process of having
22 the city counsel put that area -- and
23 there's actually two streets down there.

24 So there's East Street and then
25 you make a left and you go -- and it's --

1 ROBERT ANDREW COX

2 part of it's adopted and part of it isn't.

3 I can't remember that street
4 now.

5 But they never did that
6 resolution, back, at the time, to formally
7 adopt it or whatever the correct term is.

8 So I'm trying to understanding,
9 you know, what was going on there. There
10 is, I think, a -- it's either a sewer line
11 or it's a drain, you know, like a --

12 I think it -- no, I don't know
13 what -- there's some underground piping,
14 it's either to pull water out of the area
15 or push water in the area, I don't know
16 what it is.

17 But there is some manholes
18 there.

19 And then there's also the issue
20 of the city garbage pickup.

21 So the city is responsible for
22 the drainage into the sound and the other
23 plumbing is the responsibility of the Suez
24 water.

25 So depending on whatever is

1 ROBERT ANDREW COX

2 under the ground, there, I never went and
3 looked, one of the two of them would be
4 responsible for that, as I understand it.

5 And I could be wrong, but that's
6 my understanding.

7 And then there's the garbage
8 pickup and then, in terms of physically
9 maintaining the road, I mean, I don't
10 know.

11 I mean, it might -- my
12 understanding is that that road is in sort
13 of a twilight area because it was the
14 city's but it hadn't been formally
15 adopted.

16 So that's about the best answer
17 I can give you there.

18 Q I don't know if you recall, that
19 we stopped at Frame 201 on the video,
20 which showed the Jersey barriers adjacent
21 to the skate park.

22 A Correct.

23 Q Do you remember that frame?

24 A I do.

25 Q You said that it was your

1 ROBERT ANDREW COX

2 understanding that my client put those
3 Jersey barriers there?

4 A That is my understanding.

5 Q And what is the basis for that
6 understanding?

7 A Sources, who live and work and
8 have businesses in that area.

9 Q What benefit would it be to my
10 client to protect the skate park?

11 MR. MEISELS: Objection as to
12 the form, but you can answer the
13 question.

14 A I don't know that the purpose
15 was to protect the skate park. I have no
16 idea what the -- whether that factored
17 into it at all.

18 The way I understood it is that
19 basically Mr. La Rocca was staking out
20 territory that was, quote, unquote, his
21 for the purpose of parking his vehicles,
22 equipment and so forth.

23 Same thing he was doing on the
24 other side of the street.

25 Q But can anybody just park on the

1 ROBERT ANDREW COX

2 street? Why did you have to put a Jersey
3 barrier to park on the street?

4 A I don't know. 'Cause parts of
5 New York that everybody can park in, but I
6 wouldn't park there, you know.

7 Q But I'm talking about that
8 particular street, how did the Jersey
9 barrier enhance parking?

10 A Let's put it this way: If I had
11 some reason to be down there, it wouldn't
12 stop me from parking. I wouldn't even
13 know why they were there.

14 But, I think, within that
15 community, and it is somewhat of a
16 community, it was understood that Mr. La
17 Rocca was staking out territory that was
18 for his equipment and trucks and vehicles.

19 Q So in the video that you took,
20 though, we saw parked next to the Jersey
21 barrier a truck owned by another entity;
22 isn't that correct?

23 A Yeah. Well, I mean, a question
24 was raised about that.

25 But the name on the vehicle was

1 ROBERT ANDREW COX

2 not La Rocca.

3 Q It was a non --

4 A Whether it was some other
5 company, I don't know.

6 Q Your video depicted a non La
7 Rocca truck parked next to the Jersey
8 barriers, correct?

9 A Again, since it was raised, I'm
10 just going to qualify my answer and say I
11 don't know how many companies that Mr. La
12 Rocca has or what names they do business
13 under.

14 I just know that it was a truck
15 that didn't say La Rocca on it, so I can
16 agree with that.

17 Q You said you spoke to people at
18 the city government, regarding the Jersey
19 barriers. Who did you speak to,
20 specifically, about these Jersey barriers?

21 A I'm thinking about whether to
22 answer that or not to answer --

23 Q I don't think that's a
24 confidential source, the city government.

25 A That would be wrong.

1 ROBERT ANDREW COX

2 It was from my understanding of
3 a conversation that took place, when they
4 came down for the fencing, that it was a
5 couple of people, but it was the head of
6 the building department, Paul Vacca and he
7 noted a wide range of things that were
8 wrong about what was happening down there.

9 So the, quote, unquote, parking
10 lot, the Jersey barriers, that the fencing
11 was sticking out too far, that on Fifth
12 Avenue there is a -- some kind of wall
13 built up there with different plants in it
14 and that none of that stuff should be
15 there.

16 So that's one conversation I'm
17 recollecting. I don't know that it
18 answers your question or not, you tell me.

19 But that's one way in which I
20 came to understand that that stuff wasn't
21 supposed to be there.

22 If you need to take another shot
23 at the question, go ahead.

24 Q So I don't even know if you
25 answer it.

1 ROBERT ANDREW COX

2 A Try again.

3 Q Who, specifically, did you speak
4 to -- was it some --

5 I don't even need to know the
6 exact person. How about the departments
7 that you spoke to?

8 A No, I think I did answer your
9 question.

10 Q Okay.

11 A Okay? Paul Vacca, who is the
12 head of the building department,
13 V-A-C-C-A, he was on scene, later that day
14 and he was walking around, I think he was
15 with two other people, maybe one.

16 He was upset about what he was
17 seeing and he was making a variety of
18 comments. I was walking with them.

19 I didn't -- I didn't plan to be
20 there, exactly, you know, with them.

21 Or it wasn't really necessary
22 party to the conversation, they just
23 didn't kick me out. I just wandered along
24 with them.

25 And he was pointing at different

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1 ROBERT ANDREW COX
2 things and saying this is wrong, this is
3 wrong, the parking lot, the Jersey
4 barriers, the fences in front of the La
5 Rocca property were out too far and this
6 thing, at the corner.

7 And I believe, either the
8 development commissioner or the
9 building -- the development -- the develop
10 commissioner is Luiz Aragon, he retired
11 back in December.

12 But I think I had a conversation
13 with one of those two about the maps that
14 the city has about what could and could
15 not be down there.

16 And it was a conversation about
17 this is too far out and this shouldn't be
18 there.

19 So setting the parking a lot
20 aside, because that's the only issue I
21 initially knew about, I found out that
22 there was a bunch of other issues.

23 Q So, that issue, he's referring
24 to the Jersey barriers adjacent to my
25 client's property; is that correct?

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1 ROBERT ANDREW COX

2 A No, everything that down. He
3 was pointing to this and this and this.

4 So the Jersey barriers on both
5 sides, the fence being out too far, the
6 masonry work and plantings that were done
7 around the corner, at the edge of the
8 property on Fifth Avenue.

9 And, of course, the parking lot.

10 And, like I said, he was not
11 happy and he was kind of, I don't know,
12 venting.

13 But, you know, he was sort of
14 flagging a lot of things that were a
15 problem.

16 And, you know, I didn't know
17 they were a problem at the time. But then
18 I dug into that as well.

19 [A short recess was taken.]

20 Q Were you aware or have any
21 knowledge of the construction of the
22 Flowers Park, when the city was doing that
23 construction?

24 A Not if I was parked by the
25 Skidelsky field, a little bit of

1 ROBERT ANDREW COX

2 knowledge. But that's just a small part
3 of the park.

4 Q How about when the city was
5 doing the skate park?

6 A No.

7 Q Are you aware of any areas near
8 or adjacent to East Street that was used
9 for parking by the construction company?

10 A No.

11 Q Are you aware of Persico
12 Construction?

13 A Yeah, that name is familiar.
14 Because I'm on the health and safety
15 committee for the school district and that
16 includes oversight of 106, point,
17 five-million-dollar bond that we did.

18 They were one of the companies
19 that were onsite.

20 But I don't know all that much
21 about them.

22 They may have been wanting to
23 come, because we had a little bit of a
24 problem with. I can't remember.

25 But, other than that, I wouldn't

1 ROBERT ANDREW COX

2 have any --

3 Q Were you aware of any parking
4 areas near East Street that Persico used?

5 A Absolutely not. No idea.

6 MS. ZALANTIS: I'd like to mark
7 this as Cox 3.

8 (Whereupon, an article was
9 marked Cox Exhibit 3 for
10 identification.)

11 A Is there a yellow section in
12 this?

13 Q There isn't.

14 A Okay, so I'll read the whole
15 thing, closely.

16 [Witness is reviewing the
17 document.]

18 MS. ZALANTIS: Off the record.

19 [Discussion held off the
20 record.]

21 A I'll skim through and go back,
22 if I need to.

23 Okay. So if you're going to ask
24 me, do I recognize this article, I do.

25 This is an article I wrote, published

1 ROBERT ANDREW COX

2 June 20th, 2015.

3 Q So if you look at page three,
4 which is marked at the bottom of D0139.

5 A Uh-huh.

6 Q And, at the top of the page
7 there is a picture. Do you see that
8 picture of a house with a red car?

9 A I do.

10 Q And do you know what residence
11 that is?

12 A Well, I believe, based on my own
13 knowledge and the fact that it says it's
14 the La Rocca at 140 Sussex Road or at
15 least it was as of that date of 2015.

16 Q This article would be about the
17 La Rocca's personal residence; is that
18 correct?

19 A It starts off that way. I
20 assume, it finishes that way.

21 Yeah, it looks like about the
22 building permits and other issues with
23 their property.

24 Q And what was the inspiration for
25 you to do a story about a personal

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1 ROBERT ANDREW COX

2 residence?

3 A I don't remember exactly what
4 the inspiration was for it.

5 But I believe it's because I
6 drove passed there -- let me just check.
7 2015.

8 So I probably had a child that
9 was in school at Albert Leonard Middle
10 School. I think.

11 So probably driving passed this,
12 'cause it's proximate to the school
13 grounds.

14 It caught my attention because
15 it's dramatically different than the other
16 houses in the neighborhood.

17 And, at some point, I learned
18 that it was the La Rocca residence and it
19 seemed hard to believe, to me, that this
20 has actually been approved to be built the
21 way that they did it.

22 And so, I believe, I made a FOIL
23 request to get access to the property
24 records from the building department, so I
25 could look at the permits and any

1 ROBERT ANDREW COX

2 violations they had been cited.

3 Q Do you ever do a story on any
4 other person's personal residence in New
5 Rochelle?

6 A Have I ever done a story about
7 anyone's personal residence?

8 Well, I mean, about their
9 personal residence?

10 Q Along the same vein,
11 questioning --

12 A Well, I mean, because I --

13 Q -- the propriety of the building
14 of the residence?

15 A Let me just say, I may have.
16 But I have no recollection of that.

17 Q And what prompted -- I know
18 that, you know, this was part seven and
19 if -- eight. What prompted a
20 multiple-part story about Flavio La Rocca?

21 A Well, I think, you have to start
22 with the part one.

23 So, you know, the incident with
24 the East Street, with the parking lot,
25 that my --

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1 ROBERT ANDREW COX

2 Q Well, that was part eight. So
3 how did we get --

4 A Well, just because you're
5 reading the numbers doesn't mean -- I
6 layout my stories in advance.

7 So I'm running a series right
8 now, it's a five-part series. But I wrote
9 seventy pages before I published more than
10 one.

11 'Cause it has to kind of tie
12 together at the end.

13 So I don't remember
14 specifically, here. But I usually write a
15 really long story and then I just chop it
16 up into parts and publish it into a
17 series.

18 Q Were these articles published
19 around the same time?

20 A Well, I mean, I don't know. I
21 mean, I got them in front of me, right.

22 So 7 is June 20, 2015. Another
23 one is -- Part A is November 2015.

24 This other one is April 2016.
25 It's not the same thing. It's different.

1 ROBERT ANDREW COX

2 It's about that the city is pursuing the
3 matter.

4 I'd have to look at the other
5 ones.

6 But it looks like they were all
7 within the six or eight months after the
8 original incident on May 16th, 2015.

9 But I think I deviated from your
10 question a bit there.

11 But, in terms of -- I think your
12 idea was why did I decide to write this
13 story.

14 I was already working on stories
15 about the La Roccas and when I found out
16 that that house, which I may offend people
17 who are listening, but, in my view, was
18 monstrously out of character with the rest
19 of the neighborhood, was actually the
20 LaRocca's house, then, it raised a bunch
21 of questions in my mind about how did they
22 get all that stuff approved.

23 Because they put in a gate
24 system, they dug tree pits, they redid all
25 of the sidewalk masonry.

1 ROBERT ANDREW COX

2 There's nothing else, like that,
3 in the whole neighborhood.

4 In fact, I don't think there's
5 really anything like that in New Rochelle.

6 And so, like I said, when I --
7 I'm already working on stories about the
8 La Roccas and then I find out this is
9 their house, the thought that runs through
10 my mind is was this legit, how did they
11 get this approved.

12 Q Did you ever come to see if
13 there was a C of O issued by the city for
14 the house?

15 A Yeah. I mean, I -- I don't know
16 what exactly I mentioned here. I didn't
17 read the whole thing.

18 But, I mean, I did pull all the
19 records and I found out that in terms of
20 the front, the tree pits and all that,
21 that that was approved and then there was
22 a bunch of open permits for things inside
23 the house and around the house that hadn't
24 been closed out or technically in
25 violation and I referenced all of those.

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1 ROBERT ANDREW COX

2 But, actually, that didn't
3 satisfy me, that they had C of Os, because
4 it didn't satisfy me that they built a
5 parking lot on East Street either.

6 Q Did you ever find out whether
7 the city issued any violations to the La
8 Roccas?

9 A For --

10 Q For anything --

11 A For the house?

12 Q Yes, anything in relation to the
13 house.

14 A I had to read the article again.
15 I know that they were -- they had open
16 permits and they had done some things they
17 weren't supposed to do or whatever.

18 Q But I'm saying --

19 A But I don't --

20 Q -- violations issued by the
21 City?

22 A Well, I mean, you said don't
23 read the whole thing.

24 But I didn't. But, I mean, I'd
25 have to go back and refresh my memory by

1 ROBERT ANDREW COX

2 reading the article.

3 But I could see, right off, the
4 point that DPW approved, you know, the
5 plans, right.

6 So they wouldn't have gotten a
7 violation for that.

8 I think the other stuff was
9 building permits that weren't closed out.
10 So they would have been pressed to close
11 them out.

12 They typically don't issue
13 violations for that.

14 But this part, here, that the
15 DPW approved it, you know, was a red flag
16 for me.

17 And, just to be clear, I don't
18 trust anybody. I assume everybody is on
19 the take and everybody's corrupt.

20 Q That my clients got approval
21 from the DPW, does that signal to you that
22 they got the approval?

23 A Right. So that also raises the
24 question in my mind, whether the people in
25 the DPW are corrupt.

1 ROBERT ANDREW COX

2 And, in fact, quite a few people
3 at the DPW, at the time and recently were
4 in fact corrupt.

5 Some of them were indicted and
6 others were terminated for all manor of.

7 Q But --

8 A -- let's call them shenanigans.

9 Q Whether people at the DPW are
10 corrupt doesn't change the fact that my
11 client -- you concluded that my clients
12 got approval from the city to do what they
13 did?

14 A Yes. It's in the article, yes.

15 But, you know, I'm going to push
16 back a little bit, if you don't mind, and
17 just say the fact somebody got approval
18 from somebody in the city, that somehow
19 they're on the up and up is not my
20 experience.

21 It might be on the up and up.

22 It might be that somebody got paid.

23 Q Or, like you said, it might be
24 on the up and up.

25 A Yeah, it might be.

1 ROBERT ANDREW COX

2 I don't think I said anything
3 other than. I said -- I'm just skimming
4 here.

5 But I think that it says they
6 got approval.

7 You know, I made a bunch of
8 points about why I thought it was odd that
9 it got approval.

10 I also subsequently found out
11 that the neighbors were up in arms about
12 what was happening and tried to fight
13 against it.

14 But, you know, in any case, I
15 think it's -- it actually says what you're
16 saying, at the end of the day they got
17 approval.

18 In fact, I think it really
19 starts by saying that they got approval.

20 My question is more like how did
21 they get approval because they shouldn't
22 have, in my opinion.

23 Q How does Talk of the Sound
24 generate revenue?

25 A We sell direct ads and we sell

1 ROBERT ANDREW COX

2 ads though services like Google Ads.

3 And we've been doing it for
4 thirteen years, so it changes over time.

5 But, mostly, it's direct ad
6 sales and through Google Ad sales right
7 now.

8 Q And what's the biggest bulk of
9 your direct ad sales, if I characterized
10 it --

11 A What do you mean?

12 Q Is it business owners in New
13 Rochelle? Or residents? Who's the
14 biggest bulk of --

15 A Well, Google Ad sales runs the
16 most ads. The direct ad sales may be
17 individually hired. Do you know what CPM
18 is?

19 Q No.

20 A So CPM is cost per thousand.
21 And the M is thousand.

22 And it's a rate that ads buy and
23 sell for.

24 So, you know, if I have 100,000
25 page views, on a given time period and I

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1 ROBERT ANDREW COX

2 get paid, you know, equivalent of, let's
3 see, I gotta do the math here.

4 If I got \$400, right, and I'm
5 getting -- I'm a little tired.

6 So I'm getting \$4 CPM. Did I do
7 the math right?

8 So if, you know, I get \$500, I'm
9 getting \$5 CPM.

10 So when I'm evaluating ads, I'm
11 saying what's the best source. Well,
12 obviously, the best source for me is to
13 hire a CPM, if you're willing to pay me
14 five and he's willing to pay me four, I
15 sell to you.

16 And that's actually what Google
17 does. They're really an online broker for
18 ads.

19 So they make the markets and I
20 put codes on my site that they sell.

21 Q Do you ever get paid, directly,
22 by individuals or entities to write
23 stories for your Blog?

24 A No. But if you know anybody,
25 let me know.

1 ROBERT ANDREW COX

2 No, I wouldn't, as a journalist
3 that would be kind of frowned upon.

4 Q Were you ever arrested?

5 A Yes, I was?

6 Q And was that in twenty-fourteen?

7 A Yes.

8 Q What were the events surrounding
9 your arrest?

10 A Events were that I was assaulted
11 on my front lawn by six people.

12 My wife called the police, at my
13 direction.

14 The police, who are -- one, in
15 particular, was a corrupt police officer,
16 ordered my arrest.

17 That's what happened.

18 Q And did you commence a lawsuit,
19 against the city, arising from that
20 arrest?

21 A I did.

22 Q And what was the result of that
23 lawsuit?

24 A Well, at this point, it's been
25 into appeal and it was kicked out and

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2 we're gonna go back again.

3 Q That lawsuit was commenced in
4 federal court; is that correct?

5 A The -- which one?

6 Q The lawsuit -- your suit against
7 the city?

8 A Well, there was two -- I don't
9 know if you call 'em suits.

10 I mean, initially appealed the
11 criminal case but then sued all parties,
12 including the city, yes, in federal court.

13 And, basically, because it's
14 essentially, without over simplifying it,
15 it's essentially first amendment case?

16 [Continued on the next page to
17 allow for signature line and jurat.]

18

19

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1 ROBERT ANDREW COX

2 Q So, in that federal lawsuit, did
3 you have any depositions?

4 A No.

5 MS. ZALANTIS: Give me two
6 minutes.

7 [A short recess was taken.]

8 MS. ZALANTIS: I have nothing
9 further.

10 [TIME NOTED: 5:05 p.m.]

11 -----
ROBERT ANDREW COX

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14 -----
Subscribed and sworn to
before me this _____
15 day of _____, 2021.

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Notary Public

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I N D E X

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R. A. Cox	Mr. Meisels	5
R. A. Cox	Ms. Zalantis	49

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CERTIFICATION

I, Helen Wandzilak, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of August, 2021.

HELEN WANDZILAK

[& - andrew]

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New York Code

Civil Practice Law and Rules

Article 31 Disclosure, Section 3116

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him or her, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath. If the witness fails to sign and return the deposition within sixty days, it may be used as fully as though signed. No changes to the transcript may be made by the witness more than sixty days after submission to the witness for examination.

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