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23 Q. Let me direct your attention to the
24 documents that you were asked to bring to
25 this deposition. Do you have the notice in

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1 front of you?

2 A. I have your notice. Now, we also
3 filed a response.

4 Q. I object to everything after you
5 have notice as nonresponsive.

6 Let me direct your attention to Item
7 Number 1 on Page 2 of the deposition notice
8 that's marked as Exhibit 1, which requests
9 any and all employment contracts or
10 agreements between you and Vickie Lynn
11 Marshall. Did you bring any such documents
12 to this deposition?

13 A. No. It's part of a bankruptcy court
14 order. I don't have the original in -- I
15 don't have an agreement in my possession.

16 Q. Such documents do exist, though; is
17 that correct?

18 A. Yes. I said it's part of a
19 bankruptcy order.

20 Q. Your testimony today is you have no
21 such documents in your possession or control;
22 is that correct?

23 A. I didn't keep the original file.
24 It's part of a bankruptcy court order.

25 Q. Your testimony is that you don't

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1 have the original. Do you have any copies?

2 A. No. It's part -- I said to you I
3 don't have the file. It's part of a
4 bankruptcy court order.

5 Q. Would you explain that, please?
6 What do you mean it's part of a bankruptcy
7 court order?

8 A. Sure. The bankruptcy court, I don't
9 know if you've done bankruptcy in the past,
10 but they have to approve all employment
11 contracts, and when the firm of Stern, Rale
12 and Kavarian got employed by Vickie Marshall
13 you have to go before the court and it

14 becomes a bankruptcy court order.

15 Q. And your testimony is that that
16 means you don't have a copy of it?

17 A. I don't have a copy of it.

18 Q. Well, if you wished to get a copy
19 what steps would you take?

20 A. I would have to go to attorneys who
21 maintain the original file and get a copy of
22 it or I could go to the bankruptcy court and
23 as a publicly filed document I could obtain
24 it.

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12 Q. If you wanted to obtain access to
13 such documents what would you do?

14 A. Well, first off, there would be no
15 documents drafted by me. And in terms of
16 documents executed by me, Anna Nicole had
17 Texas counsel. One would be the law firm of
18 Diana Marshall, and Diana Marshall
19 represented Anna before I did, so there would
20 be no documents related to that.

21 The other firm would be Cunningham
22 Darlow, Zook & Chapman at the time, and I
23 can't remember if I would have -- if I or
24 somebody from my firm would have signed a
25 document in conjunction with the documents

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1 that were filed in the bankruptcy court.

2 But if I did, it would be -- or if
3 somebody from my firm did, it would be
4 publicly available as part of the bankruptcy
5 court order.

6 Again, that's a document that I
7 never had in my possession, though. It would
8 be -- I didn't keep the original file, my
9 firm did.

10 Q. And you do not have such documents
11 in your possession or control; is that your
12 testimony?

13 A. That's what I've already said.

14 Q. I understand. I just wanted to make
15 it clear for the record. But if you wanted
16 to obtain such documents what would you do?

17 A. It would be the same as my answer in
18 request to -- in response to Request Number
19 1. You could either get it through the
20 bankruptcy court in the Marshall litigation
21 or I would have to go to the law firm that
22 maintains the file, see if I could obtain it
23 that way.

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24 Q. Let me direct your attention to
25 Number 3 on Page 2 of the notice which refers

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1 to any and all documents drafted by you or
2 filed by you in the Harris County probate
3 courts.

4 Are there such documents? Do they
5 exist?

6 A. There is one document that was a
7 letter that I had to send to the bankruptcy
8 court in the Vickie Marshall litigation, the
9 Anna Nicole litigation, that was -- I don't
10 know if it was cc'd or filed in the Texas
11 probate court.

12 Q. So your testimony is there's one
13 document.

14 A. Right. But, again, I don't know if
15 it was filed there. It might have just been
16 cc'd to Judge Wood.

17 Q. Do you have such document in your
18 possession or control?

19 A. No, I don't have it.

20 Q. And if you wanted to get such a
21 document what would you do?

22 A. Again, I would have to go to the --
23 it could probably be obtained through the
24 bankruptcy court the same way, or, you know,
25 search through the firm that maintains the

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1 files for the Marshall litigation.

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23 Q. So a decision was made to leave the
24 Texas litigation, is that correct, and
25 concentrate, let's say, on California?

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1 MR. WOOD: Again, I have the same
2 objection, that that has no relevance to
3 jurisdictional issues with respect to
4 Mr. Stern, but I'm going to let him
5 answer the question.

6 THE WITNESS: Can I confer with my
7 counsel?

8 MR. WOOD: Let me just stop you.
9 You're talking about -- let me just do
10 this to save us taking a break.

11 A decision on why a matter in Texas
12 or any other place might have been
13 dismissed would be an attorney/client
14 privilege.

15 What he's -- why he's doing what
16 he's doing with respect to his client is
17 privileged, and so I'm going to make
18 that easy. I'm going to instruct him
19 not to answer on the grounds of
20 attorney/client privilege.

21 Q. (By Mr. McCabe) Without testifying
22 about any communication between you and
23 Vickie Lynn Marshall, can you tell me whether
24 it was your decision to leave the Texas
25 litigation?

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1 MR. WOOD: I'm going to instruct the
2 witness not to answer on the grounds of
3 the attorney/client privilege and work
4 product document.

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5 Q. Have you ever, Mr. Stern, testified
6 about communications between you and Vickie
7 Lynn Marshall?

8 MR. WOOD: In the role of
9 communications between her and him with
10 him serving as her counsel?

11 MR. McCABE: Yes.

12 Q. Have you ever testified about such
13 matters?

14 A. I haven't testified about privileged
15 matters. I was forced to testify about
16 certain things in the burial proceeding.

17 Q. I'm sorry, tell me what proceeding
18 that was.

19 A. The burial proceeding in Florida.

20 Q. In Florida.

21 A. But I don't think I divulged any
22 privileged information there.

23 Q. You've just testified that you were
24 forced to testify in the burial proceeding,
25 as you call it, in Florida. Can you tell us

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1 how it was that you were forced?

2 MR. WOOD: No, sir. That's -- this
3 is where I'm going to draw the line.

4 If you're going to ask questions --
5 that has nothing to do with jurisdiction
6 in Texas, and you know it.

7 If you can give me some coherent,
8 reasonable explanation of how that
9 question and answer could in any way
10 deal with jurisdiction in Texas, I will
11 consider it.

12 MR. McCABE: He's waived his
13 privilege argument.

14 MR. WOOD: No. Let me tell you, I'm
15 going to instruct him not to answer the
16 question. Next question, please. And
17 I'll let the judge in Texas decide if
18 it's better to do it this way or whether
19 I should have just adjourned it and
20 moved for protective order.

21 I want you to get jurisdictional
22 information from him today. You've come

23 from Texas, Nancy's come from Texas,
24 Mr. Stern's come from California, we've
25 got a lot of lawyers present, and I want

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1 you to get that jurisdictional
2 testimony.

3 But from this point on if you go
4 into areas beyond the scope, I'm going
5 to instruct him not to answer. If
6 that's not acceptable, say so now and we
7 will adjourn and I will move for a
8 protective order.

9 You make that decision while we take
10 a break.

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12 Q. By saying no, do you mean you do not
13 have access to any such documents?

14 A. I don't --

15 MR. WOOD: You asked him whether he
16 had any documents within his possession
17 or control, and he answered no.

18 MR. McCABE: Yes.

19 MR. WOOD: Are you asking him a
20 different question?

21 Q. Yes, I'm asking a different
22 question, really a question that goes to
23 one's understanding of what those terms mean
24 under the law.

25 You are a lawyer.

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1 MR. WOOD: He's not here as a lawyer
2 today. He's represented by counsel.

3 We have responded to your request.
4 We have given you or responses and our
5 objections, and I think they were very
6 clear.

7 MR. McCABE: Are you instructing him
8 not to answer that question, Mr. Wood?

9 MR. WOOD: No, but you're saying
10 he's a lawyer and you're asking him his
11 understanding of terms under the law,
12 and that's not what he's here to testify
13 about.

14 He's not here as an expert witness,
15 he's not here as a lawyer. He's here as
16 a witness, factual.

17 Q. (By Mr. McCabe) I'm asking your
18 understanding of the terms I've used,
19 possession and control. What is your
20 understanding of those terms, sir?

21 MR. WOOD: That has nothing to do
22 with this deposition.

23 MR. McCABE: Are you instructing him
24 not to answer, Mr. Wood?

25 MR. WOOD: I think it calls for a

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1 legal conclusion that has no relevance
2 to jurisdictional issues.

3 I'm going to let him answer, but
4 I've got to tell you, once again, you've
5 got, I'm sure, some jurisdictional
6 questions somewhere on your outline.
7 You ought to get to those.

8 His -- we understand as his lawyers
9 what the request means under the law,
10 and we have responded to you. His
11 understanding is not relevant.

12 Q. (By Mr. McCabe) What is your
13 understanding of the words possession and
14 control as I've used them in my questions?

15 MR. WOOD: Subject to my objection
16 I'm going to let you answer the
17 question, Mr. Stern.

18 A. Are they documents that I have or
19 that I could obtain.

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6 Q. And I appreciate that, Mr. Stern.
7 Your relationship to Ms. Marshall at
8 the time you were in Texas for the Marshall
9 versus Marshall litigation was what?

10 A. In 2000/2001?

11 Q. Yes.

12 A. I was her attorney. We were also
13 involved in a relationship.

14 Q. You mean you had a sexual
15 relationship at that time?

16 MR. WOOD: Stop. You're not going
17 to go there.

18 MR. McCABE: He's already talked
19 about it on Larry King Live.

20 MR. WOOD: You've asked him, and
21 he's told you that while he was in Texas
22 he had a relationship as attorney/client
23 and he had a personal relationship.

24 Next question, please.

25 MR. McCABE: Are you instructing him

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1 not to answer that?

2 MR. WOOD: Yes, sir. And if you
3 think that's inappropriate, I'll let the
4 judge in Texas talk to me about it, but
5 I just think that's not only irrelevant
6 to this deposition, it's irrelevant to
7 this litigation and it borderlines in my
8 view of being harassment.

9 I'm not going to let you harass my
10 witness. Next question.

11 MR. McCABE: Just so we're clear,
12 you regard it as harassment to ask him
13 about something he's already talked
14 about on national television?

15 MR. WOOD: I regard it as harassment
16 for you to ask him a question in a
17 jurisdictional deposition about whether
18 he had a sexual relationship while he
19 was in Texas with Anna Nicole Smith.
20 Yes, sir, I do.

21 Next question, please.