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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-CV-00210-RBJ

LIST INTERACTIVE, LTD., d/b/a UKnight
Interactive; and LEONARD S. LABRIOLA,

Plaintiffs,

vs.

KNIGHTS OF COLUMBUS,

Defendant.

REPORTER'S TRANSCRIPT
Oral Argument

Proceedings before the HONORABLE R. BROOKE JACKSON,
Judge, United States District Court for the District of
Colorado, commencing on the 2nd day of March, 2017, in
Courtroom A902, United States Courthouse, Denver, Colorado.

APPEARANCES

For the Plaintiffs:

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For the Defendant:

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Proceedings reported by mechanical stenography;
transcription produced via computer.

1 * * * * *

2 (Proceedings commenced at 3:29 p.m.)

3 THE COURT: 17CV210, List Interactive versus Knights
4 of Columbus. Appearances.

5 MR. VAIL: Morning, Your Honor -- or good afternoon,
6 Your Honor. Jeff Vail for List Interactive and Leonard
7 Labriola. Mr. Labriola is here with me at counsel table.

8 THE COURT: Sir, and welcome.

9 MR. LABRIOLA: Thank you.

10 MR. GLEASON: Good afternoon, Your Honor. Ed Gleason
11 from Lewis Roca Rothgerber Christie, and with me are my
12 colleagues Martin Nussbaum and Hermine Kallman.

13 THE COURT: Hello. And good job remembering the full
14 name of the firm. It seems to be changing.

15 MR. GLEASON: I almost stumbled. You probably
16 noticed.

17 THE COURT: So, ladies and gentlemen, those of you
18 who may have appeared in front of me before may recall that
19 sometimes in a motions setting like this I will give you the
20 benefit of my initial impressions, having read your materials,
21 which I have. And I do that so that you can aim your slings
22 and arrows at my initial impressions and try to convince me
23 that I am wrong. It helps me think through something before I
24 finally decide. So here's what I think.

25 Number one, Mr. Vail I think that you overly

1 grammatized this case with your 42-page complaint. I am
2 inclined to the view as expressed by defense counsel that this
3 at bottom is a commercial dispute and that the plaintiff may
4 regret the day that they have tried to make it into *Marbury*
5 *vs. Madison*. In my view, that's going to escalate not only
6 the temperature of the case, but the length and the cost of
7 the case. So that's number one.

8 Number two, I think that the defendant's
9 communication to their people through their e-mail was
10 inappropriate. It was inappropriate because whether
11 intentionally or unintentionally, it, in my view, has a
12 tendency to discourage people improperly from talking with
13 plaintiff counsel if they wish to. Inappropriately in part
14 because it at least implies, if not outright states, that if
15 you talk to these people, you will be a witness or you might
16 be a witness, and the implication is if you clam up and refuse
17 to talk to them you might not. The plaintiffs put a more dire
18 spin on it even than that, suggesting that what this is is a
19 veiled statement, Do not talk to these people. I don't know
20 about that, but I think that the way they phrased it was
21 inappropriate.

22 Third, I'm not inclined to permit any of these
23 so-called whistleblowers to remain anonymous. Either you're a
24 whistleblower or you aren't. You don't have to be a
25 whistleblower, and if you, after hearing whatever my final

1 order is today, decide that you don't want to take the risk, I
2 get that. I understand that. And they can simply not go
3 forward with you as one of their sources. I did notice that
4 two of the individuals are no longer even associated with the
5 Knights, but regardless of that, it's up to them to choose,
6 but I'm not going to keep the defendants from knowing who
7 their accusers are.

8 Finally, I think though, both because of that and
9 because of the inappropriate communication, there has to be a
10 new communication sent out to the people who got the first
11 one, and that new communication has to make it absolutely
12 clear that it's -- it's not inappropriate to talk to the
13 plaintiffs and there can be and will be no retaliation against
14 anybody who does come forward and serve as a whistleblower.

15 I did note the defendant's argument that they cannot
16 be forced under the First Amendment to speak. That strikes me
17 as a rather odd proposition, because the implication is they
18 could say anything they wanted to in their communication to
19 their people, and there's nothing the Court could do to
20 correct it. I don't accept that for a minute.

21 However, I have drafted two new communications that I
22 think are appropriate; one to be sent out by the Knights to
23 their people as a follow-up and corrective to the previous
24 communication; or alternatively, two, to be sent out to those
25 people in the form of a Court order. Defendants can take

1 their choice. I suspect I know what choice they would take.
2 Those are my thoughts. Now, how do you wish to proceed?

3 MR. VAIL: Your Honor, I would, if you would
4 entertain, a few minutes of arguments on the reasoning why an
5 attorney-eyes-only protective order only through summary
6 judgment would be appropriate. I'd like to make that argument
7 to the Court.

8 THE COURT: Make it for the record, but I doubt that
9 I'm going to be persuaded. You didn't cite a single case, and
10 in my court we don't litigate in the dark. But go ahead and
11 make your argument, Mr. Vail.

12 MR. VAIL: Your Honor, if it's something that you're
13 not willing to entertain, I understand, and we will accept the
14 amended communication.

15 THE COURT: No. I want you to make your record if
16 you think there is going to be any kind of appellate review at
17 some point, or if you think I'm wrong.

18 MR. VAIL: Your Honor, I think I would like to make,
19 for the record, just briefly --

20 THE COURT: Perhaps it would help you a little bit if
21 you took a look first at what I have drafted.

22 MR. VAIL: That would be very helpful, yes.

23 THE COURT: And perhaps the same on the other side.

24 MR. GLEASON: Yes.

25 THE COURT: Why don't you folks take a look at these

1 drafts. There's no pride of authorship here. I'm perfectly
2 willing to add to them if you can convince me that it's
3 appropriate.

4 (Pause.)

5 MR. NUSSBAUM: Your Honor, Martin Nussbaum. With
6 regard to the first paragraph that you've drafted there, I
7 have some concern that we not see any constitutional rights
8 that the Knights of Columbus has. The Knights of Columbus, as
9 the Court knows, is both an association and a religious
10 society with rights to speak to its members and also to
11 discipline its members. I'm not talking about retaliation,
12 but I don't want -- if there were members that engaged in some
13 wrongful conduct that was tangentially related to the case
14 that the plaintiff's counsel might deem to be retaliation, we
15 have a right to supervise who our members are.

16 That's established both under *NAACP vs. Alabama*, and
17 also under the church autonomy law having to do with the
18 rights of religious societies to have open and free
19 communication with its members. One case that I would cite in
20 that regard, and I don't have the actual citation, but it's
21 *Collins* -- *Collinsville Church of Christ* case from the
22 Oklahoma Supreme Court that had to do with communications with
23 members under the church autonomy doctrine and the right for a
24 religious society to discipline and communicate with members.

25 That's my primary concern. That might be remedied by

1 simply deleting the very final patch of text, which is, And
2 that any such retaliation would be a violation of federal law.
3 Because we don't intend to waive our rights to communicate
4 openly and freely with our members.

5 THE COURT: Mr. Nussbaum, nobody is asking you to
6 waive any rights of communication, but you cannot tamper with
7 witnesses, you cannot discourage people from participating in
8 litigation, and you cannot retaliate against them if they do
9 regardless of your religious affiliation.

10 MR. NUSSBAUM: Your Honor, we don't intend to tamper
11 with a witness or discourage this witness to testify, but the
12 -- what we were concerned about in that communication is when
13 an attorney, the plaintiff's attorney calls, who is informed
14 and knowledgeable and presents in a certain way, it could be
15 perceived by the person being called up, a person who's a
16 member of the Knights of Columbus, they come from all walks of
17 life, that they must participate and must communicate and must
18 answer the important attorney's questions. And so we were
19 simply in that communication --

20 THE COURT: It doesn't say that, does it?

21 MR. NUSSBAUM: It doesn't, but that's what prompted
22 and --

23 THE COURT: In fact, your communication said it's
24 fine to communicate. If you had stopped there, we wouldn't
25 have a problem, but you didn't stop there.

1 MR. NUSSBAUM: Well, it's a true statement to say
2 that someone who communicates with counsel may become a
3 witness. That's not a threat. It's simply a statement of the
4 reality of that circumstance. But anyway, that would be my
5 request, Your Honor, that the phrase "that any such
6 retaliation would be a violation of federal law" would be
7 dropped. Witness tampering has certain elements to it, and I
8 think this is much broader than that. That would be our
9 request.

10 MR. VAIL: Your Honor, with respect to the final
11 sentence, I do think it's worth highlighting that it's simply
12 not a valid application of protections under the First
13 Amendment to suggest that witness tampering under -- what
14 would otherwise be witness tampering under 18 U.S. Code 1512
15 is somehow permissible under the First Amendment. I think
16 that a simple true statement that retaliation would be a
17 violation of federal law is accurate.

18 Here, though, I do think that there is a broader
19 issue, and you've raised it in your initial impressions. I
20 understand the Court's concern that this may be portrayed by
21 defense as a garden variety business dispute. I would suggest
22 to the Court that there is very real fear here, and I think
23 that that is seen --

24 THE COURT: Well, I didn't say garden variety.

25 MR. VAIL: No, Your Honor --

1 THE COURT: Based on my experience with you, you
2 don't do anything that's garden variety.

3 MR. VAIL: I promise I will play no electronic dance
4 music in your courtroom this time, Your Honor. But that said,
5 there is very real fear here as demonstrated by the
6 affidavits. The issue is not simply one where this is a
7 breach of contract where some people may feel ostracized by an
8 organization to which they belong, and there are actually two
9 documents that I would like to introduce, if the Court would
10 permit that, that I think go to illustrate that point. One of
11 these was a mailing that I received just Monday in the mail
12 and provided a copy on Tuesday morning to defendants.

13 May I approach the bench, Your Honor?

14 THE COURT: Yes. But keep in mind we're here to deal
15 with the motion before the Court, not some new issue that you
16 want to raise today.

17 MR. VAIL: Yes, Your Honor.

18 THE COURT: Okay.

19 MR. VAIL: So, Your Honor, given that this is an
20 evidentiary hearing on this motion, I wanted to introduce
21 these two pieces that we've obtained since the filing of our
22 reply. The first is an anonymous letter that was sent to me,
23 and you can read through it, but I think that it very clearly
24 expresses concern and discusses illegal activities that
25 certainly go beyond, at least as the defendants have

1 characterized, a garden variety business dispute.

2 But I think it also raises the issue why this
3 individual chose to stay anonymous. Why -- if they clearly
4 expressed a desire to help plaintiffs in this case, why
5 they've chosen not to provide their name or return address,
6 and I think that goes to the real fear that they feel. Also,
7 I'd like to point you to Exhibit K, Your Honor. There are
8 approximately 130 general agents for the Knights of Columbus.
9 They each make hundreds of thousands of dollars a year selling
10 Knights of Columbus insurance.

11 Many of the whistleblowers, including the person who
12 sent this but refused to sign the affidavit out of fear, are
13 concerned about losing that business. And if you turn to
14 page four, paragraph 15, the third sentence, it states in
15 regards to this contract, It may also be terminated by either
16 of the parties for any reason at any time. And this is
17 honestly a case where these general agents feel that if they
18 cooperate with plaintiffs in any way that they will lose not
19 only their livelihood, their business simply by annoying
20 defendants in some cases.

21 So we would request in addition to the corrective
22 e-mail that the Court entertain the attorney-eyes-only
23 protective order only through summary judgment. And the
24 reason that I would bring that up, Your Honor, is I've been
25 trying to understand -- clearly there's a balancing test

1 required between the risk of disclosure to the witnesses and
2 the risk to defendants for not having access to that
3 information where only their counsel would have the names.

4 Now, every case cited by defendants is really
5 distinguishable because they seek to maintain secrecy, not
6 only of the individual's names, but also the factual
7 allegations, and they seek to do so through trial testimony.
8 Here, that's not our request at all. We're simply asking that
9 only defense counsel be given the names through summary
10 judgment; and, of course, if we call them as witnesses at
11 trial, we would disclose those names to the defendants.

12 I've been trying to understand defendant's argument
13 about what actual burden that creates for the defendants. We
14 would provide them the contact information for the
15 whistleblowers and their names to defense counsel. They could
16 contact them, interview them, depose them, investigate them.
17 The only thing that I can think of that they would be unable
18 to do at this point without the defendants themselves having
19 these names, would be if they knew some inside information
20 that allowed them to attack the credibility or the motivation
21 of these whistleblowers.

22 But through a motion to dismiss and through summary
23 judgment those are issues of fact that really wouldn't come
24 into play in evaluating either a motion to dismiss or a motion
25 for summary judgment. They would certainly be significant at

1 trial, but at that point defendants would have the names and
2 could provide that information to counsel. So on that basis,
3 Your Honor, we would request that you reconsider your initial
4 impression on the attorney-eyes-only protective order.

5 THE COURT: Thank you.

6 MR. VAIL: If you have any questions, I'd be happy to
7 answer those.

8 MR. GLEASON: Your Honor, if I might, I'd like to
9 step back a little bit and make sure the Court is aware of the
10 broader context in which -- that brings us here, what has
11 taken place over the last month since this case was filed. As
12 the Court knows from the papers that we submitted, on the day
13 that this case was filed, it was prominently -- the
14 allegations of the complaint, all 42 pages, were prominently
15 repeated in the Denver Post. It appeared in the print edition
16 the day after that on January 25th at page two in a prominent
17 article under the headline, Denver Lawsuit Calls Knights of
18 Columbus Life Insurance Pool Racketeering Scheme, and
19 plaintiff's counsel then re-tweeted that article to the people
20 that follow his Twitter account. That's number one. There's
21 four steps in this process.

22 THE COURT: Well, Mr. Gleason, fortunately or
23 unfortunately, the media does pick up some of these cases. I
24 would rather not be in the paper every other day as it seems
25 like I am sometimes, but it's the way life is. The courts are

1 open, and media people can write about that.

2 MR. GLEASON: I understand that, Your Honor. Our
3 concern is this case and the -- we're fundamentally here today
4 about the e-mail and what, if anything, should be done about
5 it. And I think it's important for the Court to understand
6 the position that my clients were in when they sent the e-mail
7 and why they sent the e-mail, and I think that's pertinent.
8 We have all sorts -- we now have an anonymous letter sent by
9 who knows who saying that the Knights acted in a retaliatory
10 fashion and, therefore, the Court should do -- take these
11 extraordinary steps. In the case of the attorney-eyes-only
12 Rule 26 disclosures, it might not be an overstatement to say
13 unprecedented step of having attorneys' eyes only witness
14 disclosures.

15 THE COURT: I wouldn't know. Nobody has cited any
16 example when that's ever happened.

17 MR. GLEASON: We've looked. We've not seen it.
18 Apparently the plaintiffs haven't either, so I think maybe it
19 would be unprecedented, but, of course, we think it's
20 unwarranted. But back to the point I'd like to make, what the
21 Court's being told by the plaintiffs here is the Knights of
22 Columbus are out to retaliate, out to thwart justice, out to
23 frustrate the ability of witnesses to cooperate appropriately
24 in the context of this suit, and that the Court, therefore,
25 should take the extraordinary step of requiring the Knights to

1 send this corrective e-mail.

2 I'd really like to make sure the Court knows all
3 that's been going on behind the scenes and why the Knights
4 sent that February 10th e-mail that they complained about.
5 And also I think going forward, the -- I submit the defendants
6 think protective relief should be going in the other direction
7 in this case given what the plaintiffs have been up to. So we
8 first have the Denver Post, and I --

9 THE COURT: Yes, I read your papers. I read about
10 that. I read about what you called the fake push poll. I
11 read what you wrote. I get it. Both sides are lobbing
12 grenades at each other. They're going to be very expensive
13 grenades if you keep it up, but that's your choice.

14 MR. GLEASON: Well, and I urge that it should stop
15 and the Court should tell the parties that it should stop, and
16 that this case should be tried in the courthouse, and that
17 there should not be e-mails from the plaintiff to our members
18 saying, Here's the complaint, read it, I'll call you in a
19 couple days, and we'll talk about it.

20 THE COURT: I'm not going to put a gag on the
21 plaintiffs. That's not the kind of case this is. That's
22 rarely done in criminal cases, much less civil cases. By the
23 same token, I'm not going to tolerate any miscommunication or
24 inappropriate communication from them any more than I am from
25 you, and that's without taking any side at all as to whether

1 the Knights are good, bad, or indifferent.

2 MR. GLEASON: Well, we would submit -- and I
3 certainly don't want to argue with the Court, Your Honor, but
4 we would submit in terms of inappropriate communication this
5 push poll -- and I have a copy of it. I'd be very happy to
6 provide a copy to the Court. It says -- I don't know what
7 they're doing -- it says they send it to -- they send it
8 initially to 20 people associated with the Knights of
9 Columbus. Then they're going to follow it to 1,600 people,
10 and then they're going to follow that to 170,000 members.

11 THE COURT: I think it's a very bad idea, and if they
12 carry that out, I think they can get in trouble. I hope they
13 will reconsider that.

14 MR. GLEASON: We also received a letter -- again,
15 this is what we're responding to. This is what we're faced
16 with as the Court evaluates our conduct and whether we behaved
17 appropriately or not. We received a letter on February 10th,
18 and the -- and this follows the push poll, the e-mail from
19 Mr. Labriola, the Denver Post, the republication of the Denver
20 Post, and Mr. Vail sent me a letter. It's styled a Rule 408
21 letter, a three-page letter. There is some stuff in there
22 about settlement.

23 THE COURT: Well, if it is, don't tell me about it.
24 I'm not supposed to know about any settlement negotiations
25 you're engaged in.

1 MR. GLEASON: Well, this is not settlement
2 negotiation.

3 THE COURT: I thought you just said there was some
4 settlement overtures in there.

5 MR. GLEASON: Yes, Your Honor. There was -- there
6 was some settlement discussions along with other statements of
7 intention of what the plaintiffs have in mind next. And I
8 said Rule 408 precludes offers of compromise for the purpose
9 of establishing the liability of the opposing party. It
10 doesn't -- it explicitly -- Rule 408 explicitly states that it
11 does not preclude admission of otherwise relevant evidence for
12 other purposes, and that's the -- that's the reason I'd like
13 to call the Court's attention to what is being said to us.

14 THE COURT: I would suggest that you be careful what
15 you ask for. Don't open doors you don't want to open.

16 MR. GLEASON: Well, with that, Your Honor, I think I
17 -- I would note for the record that Exhibit J should not be
18 received in evidence. It's an anonymous letter. I don't know
19 who the declarant is. It's hearsay. It's unauthenticated, so
20 Exhibit J certainly should not be considered by the Court.

21 THE COURT: Well, it's just like the others really.
22 I mean, the exhibits -- they call them by letters. The
23 electronic file system gives them numbers -- but they have
24 seven of them, I think, six or seven of them sort of like
25 this. The only difference is this is a letter, and those are

1 affidavits, but the substance is the same.

2 MR. GLEASON: Well, we contend it's all inadmissible
3 as we've argued in our papers.

4 THE COURT: Well, yeah. It would be inadmissible at
5 trial, I imagine, but I'm trying to deal with a so-called
6 emergency motion here, and they put this stuff in front of me.
7 You know, I can't rule on it without reading it.

8 MR. GLEASON: Well, and I think your ruling should
9 be, if I might, Your Honor, that the -- that this is entitled
10 no weight, or if the Court chooses to give it any weight at
11 all, certainly it's not deserving of much. We don't know
12 anything about this letter.

13 THE COURT: Well, I'm not giving it much weight at
14 this point, nor the Exhibit K. Although let's all understand
15 something, and that is it doesn't make any difference at all
16 whether this is an at-will, or describe it as you will,
17 contract. The Knights can fire people whenever they want for
18 whatever reason they want. That's like an at-will contract in
19 Colorado at least. That never trumps such things as
20 retaliation for tampering with a witness --

21 MR. GLEASON: We understand.

22 THE COURT: -- any more than it would trump
23 terminating somebody for some impermissible discriminatory
24 reason, right?

25 MR. GLEASON: Sure. We absolutely understand that,

1 Your Honor.

2 THE COURT: I'm not suggesting that you are tampering
3 with a witness. I said at the beginning I don't know that the
4 intent here necessarily was to tamper with witnesses. I'm not
5 prepared to say that. But I don't like that communication. I
6 understand your reason. You've explained it to me now. Your
7 people feel like they've been slammed in the press. They've
8 been the victim of this push poll. This lawsuit, in your
9 view, tries to turn a commercial dispute as to whether or not
10 the plaintiff could be an approved vendor of services into a
11 RICO case. I get all that.

12 But we're going to send out something, and I'm
13 willing to make one change at the request of Mr. Nussbaum, and
14 that would be this, if he wants -- and he didn't tell me which
15 one -- which option he was going to choose, to have this
16 option one. I thought so. I expected that.

17 MR. NUSSBAUM: I've been to college.

18 THE COURT: I'm willing to change the language there,
19 so then instead of saying, And such retaliation would be in
20 violation of law -- federal law, instead to say, And any such
21 retaliation would be in violation of the order of this Court,
22 if you like that better. Because my order is that you are not
23 to retaliate against anybody for cooperating with the
24 plaintiffs. Which way would you prefer it?

25 MR. NUSSBAUM: May we discuss that option with our

1 client and choose one of the two, Your Honor?

2 THE COURT: Where's your client?

3 MR. NUSSBAUM: They're in New Haven, Connecticut. Do
4 we have to decide right now between those two choices?

5 THE COURT: You have a telephone? Call them.

6 MR. NUSSBAUM: Okay. We'll need a short break then
7 for that.

8 THE COURT: That's fine.

9 MR. NUSSBAUM: Okay. All right. Maybe I'll go to
10 call them while you continue.

11 MR. GLEASON: Unless the Court has anything else from
12 me, Your Honor, I think we understand each other.

13 THE COURT: Thank you.

14 MR. GLEASON: Thank you.

15 MR. VAIL: Your Honor, at the risk of not taking up
16 the time until Mr. Nussbaum returns, I have nothing further as
17 well.

18 (Pause.)

19 MR. NUSSBAUM: Your Honor, it's late on the East
20 Coast. We're inclined to go with the text you had originally.
21 Thank you for the option, Your Honor.

22 THE COURT: You're welcome. All right then. The
23 Court's order on that issue will be that you, as I state
24 there, send the communication out to the same recipients by
25 the same means so that it mirrors what you've already done.

1 On the whistleblower issue, I haven't changed my
2 mind. None of the people who submitted the affidavits
3 anonymously or the person who submitted the letter, Exhibit J,
4 anonymously have to be disclosed. However, if they choose not
5 to be disclosed, then they can't -- their affidavits and
6 letter will have no effect, and I won't consider them any
7 further. That's a choice that they can make.

8 But it should be absolutely clear that anybody whose
9 identity is revealed as a so-called whistleblower, as this
10 communication states, and trust me when I tell you I mean
11 this, may not be retaliated against. They can't be
12 terminated, fired, or sanctioned in any way because of their
13 cooperation with the plaintiff, and I suggest that if somebody
14 comes up with an alternate reason for terminating some of
15 these people, it better be very darn good, or I will assume
16 and conclude that it is pretextual, and you will not be happy
17 campers. I want these people to be freely able to say what
18 they have to say without being sanctioned by the company for
19 what they have said.

20 Now, all of that having been said, again, I commend
21 it to you all, do you really want to go down this road? We
22 have the commercial dispute. Yes. Both sides have their
23 point of view. Fine. We handle those every day. This has
24 the potential, I think, of expanding way beyond that. I'm not
25 saying that's necessarily a bad thing. I will say that that

1 will be an extraordinarily expensive thing for everybody
2 involved. Therefore, you might want to rethink how you want
3 to proceed, and if there is any mutual interest at all in
4 settlement, my suggestion is that you pursue this sooner
5 rather than later. Is there anything else that we need to
6 talk about today? I realize that there are a couple of
7 pending motions, and I don't think they've been fully briefed
8 yet.

9 MR. VAIL: They have not, Your Honor.

10 MR. GLEASON: Can we have just a moment, Your Honor?

11 THE COURT: Sure.

12 (Pause.)

13 MR. GLEASON: We have nothing more, Your Honor.

14 Thank you very much.

15 MR. VAIL: Your Honor, plaintiffs have nothing more.

16 THE COURT: Ms. Kallman?

17 MS. KALLMAN: Yes, Your Honor.

18 THE COURT: Didn't I just read something nice about
19 you in one of the local rags?

20 MS. KALLMAN: Thank you, Your Honor. You're very
21 kind.

22 THE COURT: A very nice article.

23 MS. KALLMAN: Thank you.

24 THE COURT: And one thing about the firm you're with
25 that is nice is that they bring their associates to things

1 like this so you can get some experience, so good for you and
2 good for them.

3 MS. KALLMAN: Thank you.

4 THE COURT: And nice to see you again also, Mr. Vail.

5 MR. VAIL: Thank you, Your Honor.

6 THE COURT: Thank you all. Good day.

7 (The proceedings were concluded at 4:05 p.m.)

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REPORTER'S CERTIFICATE

I, SARAH K. MITCHELL, Official Court Reporter for the United States District Court for the District of Colorado, a Registered Professional Reporter and Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the proceedings contained herein at the time and place aforementioned and that the foregoing pages constitute a full, true and correct transcript.

Dated this 7th day of March, 2017.

/s/ Sarah K. Mitchell

SARAH K. MITCHELL
Official Court Reporter
Registered Professional Reporter
Certified Realtime Reporter