

Exhibit B

18

1 (REPORTER'S NOTE: The text below is
2 further testimony which was requested and is not
3 intended to be a complete transcript of the
4 deposition.)

5

6 Q. Let me show you what we have marked as
7 Van Deelen Exhibit No. 2 and ask you if in the
8 case of Van Deelen versus Kenneth Massey, you made
9 claim for mental anguish.

10 A. Objection. I don't know anything about
11 this. What is this that you are giving me?

12 Q. Did you file a lawsuit against Kenneth
13 Massey?

14 A. I don't recall.

15 Q. Does it have your name on Exhibit 2 and
16 your signature?

17 A. I don't know. Mr. Seck, let me explain
18 something for -- since we are on film. Mr. Seck
19 has had other litigation in which he has been the
20 attorney. He has engaged and this firm has
21 engaged in shenanigans before. Mr. Seck, himself,
22 hired a private detective to come to my property
23 and physically intimidate myself and my wife.

24 As a result of Mr. Seck's shenanigans he
25 was sued and his firm was sued as was the private

1 detective. They both paid me in a settlement.
2 His firm, Mr. Seck, and the -- I'm not assuming --
3 I don't know what share Mr. Seck had to pay his
4 firm back, but Mr. Seck's firm and the private
5 detective had to pay me for the shenanigans of Mr.
6 Seck. Mr. Seck is not above falsifying documents
7 or falsifying signatures. His firm in the past,
8 one Donald Patterson, has falsified court
9 pleadings.

10 The proper way to ask someone if a prior
11 document is his, if it's an official document,
12 there are two ways you can do it. You can certify
13 and go to the court and get a certified document.
14 Then that court basically puts a stamp on it and
15 says this is an official document. Then pretty
16 much that enters the record as an official
17 document.

18 He could also have issued a subpoena
19 duces tecum which asks me to bring prior lawsuits
20 that I may have filed to this hearing. He did not
21 do that, and he also did not bring in certified
22 copies, so I am loathe to admit to any document,
23 given Mr. Seck's past behavior towards me, Mr.
24 Seck's firm's past behavior toward me. I am
25 loathe to admit to anything, so I can't admit to

1 this document.

2 It's not a proper document to be
3 introduced, Mr. Seck, and also object as to the
4 fact that you are asking me about something that
5 happened in 1993, and that's certainly not in any
6 way, shape or form relevant to this action. So if
7 you continue along these lines, Mr. Seck, I am
8 going to ask for a protective order and we can
9 call the Judge again.

10 Q. Did you sue Mr. Massey?

11 A. I don't recall. Would you ask me a
12 specific question, please.

13 Q. Sure. Did you file a lawsuit against Mr.
14 Kenneth Massey?

15 A. I don't recall, Mr. Seck. And, Mr. Seck,
16 I haven't sued Mr. Massey within the last five
17 years and there were some suits prior to that, and
18 I'm not sure what the details of them are. You
19 being an attorney well know as I have explained on
20 camera how to get that information on the record.

21 So I am not going to discuss any prior
22 lawsuits because what you are simply trying to do
23 is to demonize me in the eyes of whoever may see
24 this, the jury, and say, Mr. Van Deelen, gee, it's
25 okay for the cops to threaten Mr. Van Deelen, it's

1 okay for them to put a police officer on his lap
2 during a deposition, it's okay to even have an
3 officer there after he sued us because Mr. Van
4 Deelen is a bad person, he has sued other people.

5 And that is what Mr. Seck is attempting
6 to do and that -- I am going to ask that he not
7 proceed with these lines of questioning, and
8 should he do it, I am going to stop the deposition
9 and ask that we call the Court so I can get a
10 protective order.

11 Q. Did you claim damages for emotional
12 distress, humiliation in a lawsuit against Eudora
13 Amateur Baseball Association and Mark Chrislip,
14 C-H-R-I-S-L-I-P?

15 A. I am going to object as to the relevancy
16 of that and I am going to ask that you not ask any
17 further questions. Should you ask one further
18 question, I am going to adjourn the hearing and
19 call the Court.

20 Q. Are you declining to answer my last
21 question?

22 A. No, I did answer it, Mr. Seck. The
23 answer stands. If you continue to proceed along
24 these lines, I am going to exercise my right to
25 call the Court and ask for a protective order.

1 One more question about a past suit which is real
2 or imagined, Mr. Seck, in your mind, I am going to
3 ask the Court for a protective order unless you
4 can state what the relevance is to this case.

5 Q. I will be glad to do that. You are
6 claiming emotional distress in this lawsuit, and
7 you have claimed emotional distress in 20 other
8 lawsuits.

9 A. Objection, that is -- Mr. Seck, is
10 attempting to testify and he has --

11 Q. You asked the question.

12 A. Mr. Seck, you are falsely putting things
13 on the record, okay. So I think you are going to
14 become a -- you are going to become maybe a
15 defendant, Mr. Seck, because you are now on camera
16 attempting to color me as a bad person in the eyes
17 of whoever sees this by falsely stating that I
18 contained in 20 lawsuits I have had emotional
19 distress. So, Mr. Seck, I think what we are going
20 to have to do is call the Court. Okay, so I would
21 like to go off the record so that we can call the
22 Court and ask for a protective order.

23 MR. SECK: Let's go off the record.

24 VIDEOGRAPHER: Time is now 11:34,
25 we're going off the record.

1 (Whereupon, a phone call was placed
2 to The Honorable K. Gary Sebelius.)

3 THE COURT: Judge, this is Mike
4 Seck and Mr. Van Deelen again, and Mr. Van Deelen
5 has asked for a protective order. We are at the
6 end of the deposition asking him questions about
7 his emotional distress claim, and the long and the
8 short of it is that we have collected a number of
9 petitions that Mr. Van Deelen has previously filed
10 in which he has claimed the same emotional
11 distress damages. And I am attempting to ask him
12 questions about the emotional distress that he was
13 claiming in each of those prior cases, and he has
14 declined to answer and has asked the Court for a
15 protective order precluding me from asking him
16 questions about those damage.

17 THE COURT: And the basis for the
18 objection, Mr. Van Deelen?

19 MR. VAN DEELEN: Well, Mr. Seck has
20 misstated to you once again, Your Honor, what has
21 taken place. Mr. Seck has falsely stated -- this
22 deposition is being videotaped, Your Honor, and he
23 has falsely stated on videotape that there have
24 been 20 previous lawsuits that I filed claiming
25 the exact same damages I am claiming in this case.

1 That's false, so Mr. Seck is attempting
2 to pervert the record of this hearing by
3 testifying and falsely testifying and I object to
4 that. And I have told Mr. Seck that he may very
5 well become a defendant in this case because of
6 that.

7 Mr. Seck now shows up with some suits
8 that are a dozen years old and asking me about the
9 circumstances of those suits and whether or not I
10 sued somebody for the same exact conditions in
11 those suits and claimed emotional distress. They
12 are completely irrelevant to the case at hand.
13 Mr. Seck has tried this before in a case I had
14 against the Shawnee Mission School District a
15 couple of years ago and he tried the exact same
16 thing, and I forget who the Judge was at that
17 time, but he was shot down in flames. And the
18 Court ordered him not to inquire about any past
19 lawsuits that I have had that were not relevant to
20 the lawsuit at hand.

21 So he is attempting to do the same thing,
22 Judge. They are completely irrelevant. I don't
23 remember -- some of them are a dozen years old, so
24 I just don't see what inquiring into these matters
25 and reopening past litigations which were settled

1 favorably in my case has to do with this case, and
2 he is simply attempting, since this is being put
3 on camera, he is simply attempting to demonize me
4 in the eyes of the jury or whoever eventually sees
5 this video. Here's a person that files these
6 blatant lawsuits, and that's not the case, Your
7 Honor.

8 I would object to any line of questioning
9 in which he attempts to bring up past lawsuits
10 that I have filed that are completely unrelated to
11 the case at hand.

12 THE COURT: Let me ask you a
13 question, Mr. Van Deelen. In any of those
14 lawsuits did you seek recovery of damages related
15 to emotional distress, psychological harm?

16 MR. VAN DEELEN: I don't know,
17 Judge, because I didn't review those lawsuits
18 prior to coming here. I may have. I simply don't
19 know what to tell you there.

20 THE COURT: Well, do I understand
21 that Mr. Seck has copies of those lawsuits?

22 MR. VAN DEELEN: He doesn't have
23 bona fide copies that are certified, Judge, and he
24 didn't do it --

25 MR. COURT: I didn't ask whether

1 of this. If you have made claims in prior
2 lawsuits for emotional harm, I do think it's an
3 appropriate inquiry for the purposes of discovery
4 to try and evaluate the harm that may have
5 emanated from prior conduct unrelated to this
6 lawsuit compared to what the harm is now.

7 MR. VAN DEELEN: I would state on
8 the record there is no harm from any of my prior
9 lawsuits that remains upon my person, Your Honor.

10 THE COURT: I understand that's
11 your view, but he is entitled to inquire.

12 MR. VAN DEELEN: Well, Judge,
13 please make your order, and I am going to ask once
14 again that I have -- respectfully ask that I have
15 a chance to appeal it to the trial judge.

16 THE COURT: Do we have a single
17 question on the record, Mr. Seck?

18 MR. SECK: We have only really got
19 to about one or two questions that are on the
20 record, Your Honor, when Mr. Van Deelen moved for
21 a protective order. So there is a question on the
22 record asking him about his emotional distress
23 claim in prior lawsuits.

24 THE COURT: Let me ask you this.
25 How far back do these lawsuits go?

1 MR. VAN DEELEN: Fifteen years,
2 Judge.

3 MR. SECK: The lawsuits that we
4 have, Your Honor, that I intend to mark are -- the
5 earliest ones are '93, '96, '98, 2002, 2003, 2004,
6 and I think that's the gamut.

7 MR. VAN DEELEN: I think he forgot
8 one that I filed against him, Judge, in which he
9 had to pay me for. So I think that was 2005 and
10 he doesn't seem to want to talk about that one. I
11 am more than happy to discuss that one.

12 THE COURT: Excuse me, it was my
13 understanding we only got started talking about
14 the first one.

15 MR. VAN DEELEN: Well, he is
16 misstating that, Judge. He asked me about several
17 of them and each time I asked him to please not
18 ask me any more questions and I asked if you do
19 ask me one more I am going to ask for a protective
20 order. And after he got to about the third or
21 fourth one, Judge, I finally said, well, I have to
22 call the Judge. So, no, he has tried it with
23 about three or four of them so far during this
24 hearing.

25 THE COURT: And your basis for not

1 answering questions regarding that so we can
2 separate out the psychological harm you were
3 opining in those cases from the psychological harm
4 you are claiming in this case is what?

5 MR. VAN DEELEN: It's relevancy,
6 Judge. What in the world has the past lawsuits
7 that I have filed have to -- you know, 15 years
8 ago or 12 years ago have anything to do with the
9 present action? Nothing, and it's going to harm
10 me.

11 THE COURT: No, I think that the
12 question is what, if any, residual psychological
13 harm you claim there may still be attributable to
14 that versus what may be attributable to harm you
15 claim in this case. I think he is entitled to
16 inquire and sort that out.

17 MR. VAN DEELEN: Judge, I would be
18 happy to answer a general -- first of all, he
19 didn't ask me that question. But I would be happy
20 to answer generally out of all the past
21 litigations that I may have had, there is no
22 residual psychological harm that is attached to me
23 from any of them.

24 THE COURT: So it's clear that
25 that's your claim, but it would seem to me he is

1 entitled to test the veracity of that statement by
2 finding out more particularly what the harm was
3 that you suffered, for example, in the lawsuit
4 that you filed and was concluded last simply to
5 compare that to see whether or not that statement
6 is accurate. I have no idea whether it is or it
7 isn't. You may very well be correct, Mr.
8 Van Deelen, that there is none, but I think he is
9 entitled to inquire.

10 It would be no different than someone
11 seeking your medical records to go back ten years
12 or so to evaluate whether or not there is some
13 other undisclosed medical condition that could
14 have explained the harm that is now being alleged
15 to have emanated from the conduct of the defendant
16 in this case. It's purely a question of -- it's
17 not just relevancy. I don't mean to lecture.

18 MR. VAN DEELEN: That's okay.

19 THE COURT: But it is a question of
20 whether or not the information sought may lead to
21 the discovery of admissible evidence, and it's
22 just not purely an issue related to whether or not
23 it's relevant in the context of it being
24 specifically used in the trial of this case. If
25 it's capable of leading to the discovery of

1 admissible evidence, that is sufficient for Rule
2 26, and I know you have that because you cited
3 some of it to me earlier here today.

4 MR. VAN DEELEN: Yes.

5 THE COURT: We'll certainly allow
6 you the opportunity to appeal this decision to
7 Judge Crow.

8 MR. VAN DEELEN: Judge, let me just
9 say one thing. Last year Mr. Seck tried this in a
10 lawsuit and the Court, I don't remember who the
11 Judge was, limited him to inquiring five years
12 in the past about these lawsuits. If he will
13 agree here before you to inquire only about the
14 last five years, this will go away. If he won't
15 agree to do that, then I am going to appeal this
16 to Judge Crow and I am going to include the
17 Court's last order that they levied against Mr.
18 Seck prohibiting him from inquiring into lawsuits
19 prior to within five years ago.

20 THE COURT: Well, that's fine. Mr.
21 Seck, if you want to limit it, it sounds like
22 there is a solution. If you don't, I think that
23 that area of inquiry will have to wait to another
24 day, if at all, depending upon Judge Crow's
25 review.

1 MR. SECK: Your Honor, for the
2 record we're not willing to limit it because the
3 -- it's not only relevant as to the damages he is
4 claiming in this case, but it also goes to his
5 credibility. And the ruling he is referring to
6 was by Judge Waxse in a prior lawsuit that he has
7 filed that involved the ability for us to obtain
8 Mr. Van Deelen's medical records.

9 We're not even asking for medical records
10 in this case because he has told us he has no
11 medical treatment. All we're asking is to discern
12 the emotional distress he is claiming now from the
13 emotional distress he has previously claimed, and
14 that's the sole basis for the questioning.

15 MR. VAN DEELEN: Well, Mr. Seck has
16 really hit the nail on the head. He is attempting
17 to address my credibility and that is exactly why
18 I am trying to prevent this from happening, Judge.
19 He wants to open up all of these cases, 99 percent
20 of which have been settled in my favor, and to use
21 that as an attempt to paint me as some kind of a
22 suit-mongering guy out there that sues people.

23 And that's -- you know, at this point in
24 time that's his strategy and I am not going to
25 allow him to do that without a fight. And if that

1 has to go further than we are here today, then so
2 be it. Mr. Seck also misstated the record when he
3 said it had to do with legal records. This was
4 over precisely the same thing he attempted to
5 inquire about past lawsuits and he was prevented
6 from doing so by the Court.

7 So I am trying to compromise with Mr.
8 Seck. Even, you know, certainly five years is a
9 long time, and he was ordered to do that in the
10 past and I'm hopeful and confident, actually, that
11 Judge Crow will order him to do that in the future
12 should this end up on his desk. So other than
13 that, I am going to say, well, let's proceed, but
14 I'm not going to agree to inquire about any past
15 lawsuits that were more than five years ago that
16 were all settled favorably to me, when Mr. Seck
17 sits here and tells you that he wants to test my
18 credibility.

19 What about my credibility? The fact I
20 won those lawsuits, is that going to somehow make
21 me not credible? So it's just simply -- Mr. Seck
22 has a very weak case in the instant action and he
23 is going to attempt to demonize me in the eyes of
24 the jury and I am not going to allow that to
25 happen.

1 THE COURT: Well, we're talking
2 about a discovery issue which may very well be
3 different from ultimately what the Court allows
4 either you or Mr. Seck to put into the record
5 before the jury. That may very well be a very
6 different limiting question than whether or not he
7 is entitled to discovery.

8 I think what I would like the parties to
9 do on this question since I am going to be getting
10 a transcript on the other aspect is certify the
11 question that you sought to ask for which Mr. Van
12 Deelen -- and if it's more than one, include them
13 so there is some context for me for which you seek
14 some protective order indicating -- let's do all
15 of this colloquy we have had here today so that
16 it's understood as to what he wants as protective
17 order not to go back more than five years.

18 Mr. Seck, let me ask you this. You both
19 seem to be familiar with the decision by Judge
20 Waxse. I am not familiar specifically with that
21 decision. Can that be sent to me today by fax or
22 e-mail?

23 MR. SECK: We will try to locate
24 it, Your Honor. It's in a closed file from a
25 prior lawsuit, but I will try to locate it and

1 send it to you as well.

2 THE COURT: When was that closed?

3 MR. SECK: It was closed I believe
4 just last year.

5 THE COURT: So it may very well be
6 something that's even on our CMETF electronic
7 docketing system.

8 MR. SECK: As a matter of fact, if
9 you give me a second I can probably tell you the
10 case number.

11 THE COURT: That would be helpful I
12 think to both you and Mr. Van Deelen for me to be
13 aware of that and I fashion the order on that
14 aspect, but I am not going to require Mr.
15 Van Deelen in light of his desire to appeal the
16 decision to answer questions to do so today. We
17 will deal with both of those in the order, either
18 the minute order or what we have here in the way
19 of transcript, so that both of you can feel
20 comfortable when Judge Crow reviews this decision,
21 he will have your arguments. I think that is the
22 only way to fully address it, but I would like the
23 case number from the prior case.

24 MR. VAN DEELEN: Thank you, Judge.

25 And I would like to ask you to direct Mr. Seck to,

1 when he finds the document, to send it to me to
2 make sure that I am in agreement with what he is
3 talking about because he has implied that it had
4 to do with medical records and it had nothing to
5 do with medical records. So whatever he sends
6 you, I would like to have a copy of so that I can
7 at least refute it or give you what I think my
8 copy of the right order is.

9 MR. SECK: We will be glad to
10 provide a copy, Your Honor. There were two
11 lawsuits filed in the United States District Court
12 involving the Shawnee Mission Unified School
13 District No. 512. The ones that I have in front
14 of me today, the case number is 03-2018, and I
15 can't tell from my copy of just the complaint
16 whether that was the one that Judge Waxse entered
17 his ruling.

18 THE COURT: Mr. Van Deelen, you
19 were the sole plaintiff in both of those lawsuits;
20 is that correct?

21 MR. VAN DEELEN: I'm not sure which
22 lawsuit it was, Judge. Mr. Seck is telling you
23 what he thinks it was, but to answer your
24 question, yes, but I am not sure if the lawsuits
25 that he is quoting you are the correct ones.

1 THE COURT: Well, do you happen to
2 have a copy of that order?

3 MR. VAN DEELEN: I can look and
4 see.

5 THE COURT: If you do, would you be
6 willing to mail the Court a copy today?

7 MR. VAN DEELEN: I can't do it
8 today, Judge, but I can do it next week. I can
9 look and if I have them, I can do it early next
10 week.

11 THE COURT: Well, I think that we
12 can probably search it out faster than that. So
13 maybe we will just be left to our own devices to
14 see if we can find it for you all. We have got
15 the one. Do you happen to know the docket number
16 you are referring to in the order, Mr. Seck?

17 MR. SECK: No, sir, I don't because
18 Mr. Van Deelen was the one that raised this order
19 so we don't have the docket sheet or the order in
20 front of us. It may well be here in our file and
21 I can have my clerk begin to look for it as soon
22 as we adjourn this deposition.

23 THE COURT: Is this the last topic
24 that you all are discussing?

25 MR. SECK: Yes. My game plan, Your

1 Honor, was to conclude the damage discussions by
2 noon and we were going to take a lunch break and
3 then let Mr. Van Deelen come back and cross
4 examine himself. My proposal would be that we
5 adjourn now, let the Court rule on both of the
6 issues dealing with my direct examination,
7 conclude whatever direct the Court permits, and
8 then Mr. Van Deelen can cross examine himself as
9 to all of his direct testimony.

10 MR. VAN DEELEN: Well, that's not
11 what Mr. Seck promised me five minutes before we
12 called you, Your Honor.

13 THE COURT: What do you say about
14 that proposal? Let's just deal with what he is
15 proposing now. Are you comfortable with having a
16 future opportunity to ask yourself questions
17 rather than doing it now and knowing that there
18 may be some other questions that you would have to
19 answer?

20 MR. VAN DEELEN: No, I'm not, Your
21 Honor, because I am not sure whether Mr. Seck
22 quite frankly will even follow up with what he
23 said he will do today.

24 THE COURT: The question is what do
25 you want to do, Mr. Van Deelen?

1 MR. VAN DEELEN: I want to come
2 back and give -- I have things I want to put on
3 the record today and I would like to do that. It
4 shouldn't take me very long.

5 THE COURT: Well, you do understand
6 that should the Court ultimately conclude that he
7 is entitled to ask these questions, you will be
8 required to come back again on those issues, and
9 that he also is entitled to do redirect after you
10 finish your cross examination of yourself?

11 MR. VAN DEELEN: I understand that,
12 Judge, and if you could -- if we could sit here
13 and I could have any confidence right now that
14 we're, in fact, going to be back, I mean, I
15 wouldn't mind coming back, but there are things --

16 THE COURT: Well, you said that you
17 want to oppose it and I am certainly trying to
18 accommodate your desire to have these decisions by
19 me reviewed. You know, I don't see any reason why
20 you can't go forward this afternoon with what you
21 want, but I just wanted you to be aware that if
22 the order stands, then you would be subjected to
23 further questioning on direct as well as redirect
24 by Mr. Seck on whatever you put in the record.

25 MR. VAN DEELEN: Yeah, I would like

1 to come back this afternoon, Your Honor, because
2 there is documents and actually discovery that I
3 intended to give Mr. Seck today during this
4 deposition.

5 THE COURT: Well, Mr. Seck, that
6 doesn't sound like to be too much of a problem if
7 you already planned for it.

8 MR. SECK: That's not a problem at
9 all, Your Honor. I was trying to be a little
10 efficient, but I will be glad to come back after
11 the lunch hour and let Mr. Van Deelen cross
12 examine himself.

13 THE COURT: Very well. Gentlemen,
14 keep working on. We will try to resolve these two
15 issues so that they can be placed in a posture
16 that if you want to appeal them, Mr. Van Deelen,
17 you can do so.

18 MR. VAN DEELEN: Thank you, Your
19 Honor.

20 MR. SECK: Thank you, Judge.

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