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UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

KATHERINE VEILLEUX, and)
JENNIFER CHON, ROCK COAST)
FAMILY ACUPUNCTURE, P.A.,)
individually and on behalf)
of all others similarly)
situated,)

Plaintiffs)

V.)

Civil Action)
No. 1:16-cv-571-NT)

ELECTRICITY MAINE, LLC,)
PROVIDER POWER, LLC, SPARK)
HOLDCO, LLC, KEVIN DEAN,)
and EMILE CLAVET,)

Defendants)

CORPORATE 30(b)(6) DEPOSITION of
ELECTRICITY MAINE, LLC by DANIEL W. KUEHL, taken
pursuant to notice dated April 4, 2018, at the law
offices of Norman, Hanson & DeTroy, LLC, Two Canal
Plaza, Portland, Maine, on May 9, 2018, commencing
at 9:32 a.m., before Laurel A. Long, a Notary
Public in and for the State of Maine.

Duvernay Reporting, Inc.
72 Ocean Street, Suite 304
South Portland, ME 04106
(207) 653-0301

1 he'll testify -- he can testify about this, but he
2 never reviewed them. They were provided to me,
3 and they're work product; and I'm not going to
4 produce them. He never saw them. What he got was
5 a verbal explanation from Mr. Dean. And based on
6 that verbal explanation and information Mr. Dean
7 provided to counsel, we prepared that summary for
8 him to use as the 30(b)(6) deponent.

9 MR. CUMMINS: Okay. So why don't we make
10 some copies of this. I'll mark it as -- because I
11 had premarked a bunch of exhibits that we'll
12 either get to or not as things proceed.

13 MR. AROMANDO: Sure.

14 MR. CUMMINS: I'm going to mark this three-
15 page document as Plaintiffs' Exhibit 75. And it's
16 captioned Value Electricity Maine Summary Re:
17 Electricity Maine Advertising Content. Let me get
18 some copies so that we can --

19 (Deposition Exhibit No. 75 was marked.)

20 (A short recess was taken.)

21 MR. CUMMINS: Well, let's move on for a
22 moment while that's being copied.

23 John, there's a collection of documents
24 tabbed together in the group I gave you, the top
25 portion of which is 45. And there's a whole group

18

1 of exhibits. There's other group exhibits that
2 I've marked as well. And --

3 MR. AROMANDO: 45 is the depo notice.

4 MR. CUMMINS: It's the same as Exhibit 1.

5 And then in addition, you should have Group
6 Exhibits 50, 51 and 52. And I'll get into those,
7 but I'll -- Ben is back.

8 MR. DONAHUE: Someone is coming up.

9 MR. CUMMINS: Okay. We'll let's take -- let

10 me put in front of the witness Group Exhibit 50.

11 MR. AROMANDO: 50?

12 MR. CUMMINS: 50. It's in that pile.

13 BY MR. CUMMINS:

14 Q. If you would just thumb through that quickly, sir,
15 and see if that's the kind of materials you
16 reviewed in anticipation of this deposition.

17 And each of the documents is marked -- for
18 example, the Electricity Maine fact sheet,
19 Defendants' Bates No. 952, is Exhibit 50-4. And
20 my question for you is are these the materials --
21 some of the materials you reviewed in anticipation
22 of this deposition?

23 A. Yes.

24 Q. Take a look at 50-13 just for a moment. In the
25 second subheading, Fall and Winter Months, same

1 with EMA, there's is a line that reads,
2 Electricity Maine can help offset your rising
3 energy costs by saving you up to 5 percent, and so
4 forth.

5 How is that 5 percent calculated?

6 MR. AROMANDO: Hold on. Hold on.

7 He needs the document you're having copied in
8 front of him when he answers these questions, but
9 I can give him my copy if you want to push ahead.

10 MR. CUMMINS: Okay. Just -- so if I ask
11 questions about the 5 percent and the \$20 million,
12 he'll be able to answer them based on this
13 document we've marked as Plaintiffs' Exhibit 75?

14 MR. AROMANDO: He'll be able to provide an
15 answer. I don't know if he'll be able to give you
16 everything you want, but we'll do the best we can.

17 MR. CUMMINS: Do you know how disappointed
18 I'm going to be if that's the case?

19 MR. AROMANDO: I can only imagine, but we'll
20 persevere.

21 BY MR. CUMMINS:

22 Q. And take a look at 50-8. That says that
23 Electricity Maine saved Mainers \$14 million in
24 2012. Where does that number come from?

25 A. Based on Kevin's approach, it's my understanding

20

1 **that he would take what the standard offer was at,**
2 **calculate the difference between Electricity**
3 **Maine's rate and the standard offer, use an**
4 **average for the household consumption -- an annual**
5 **average for household consumption of energy, take**
6 **that difference and multiply it by the number of**
7 **customers to come up with that savings.**

8 Q. So it was a calculation, sort of an average
9 number, right?

10 A. In some cases the average was on the usage -- the
11 average usage of electricity -- or a Maine
12 household.

13 Q. Oh, you have a copy.

14 MR. AROMANDO: Well, he's got my copy.

15 I don't need that. You can give that to Bob.

16 BY MR. CUMMINS:

17 Q. Okay. Let's take a look at this. The first line
18 says the folks responsible for marketing content
19 in the period 2011-2014 were Dean, Clavet, and a
20 Ms. Sanborn, right?

21 A. Correct.

22 Q. No longer with the company. By whom are they
23 currently employed?

24 A. I do not know that answer.

25 Q. Are they no longer a part of the Spark family?

1 Q. And are you familiar with these postings that are
 2 referred to on the first page of 51-1?
 3 A. **I've read them.**
 4 Q. And when was this -- was this actually published
 5 on Facebook, these --
 6 A. **I don't know when this --**
 7 Q. Okay.
 8 Take a look at 51-2. The 7.07 cents per
 9 kilowatt hour at the top compared to the Central
 10 Maine Power and Bangor Hydro Power numbers, those
 11 were calculated in the same fashion as Exhibit 75?
 12 MR. AROMANDO: Objection.
 13 A. **Can you repeat that question?**
 14 **BY MR. CUMMINS:**
 15 Q. Yes. How did you come up with the 7.07 cents?
 16 A. **It was based on the cost of power at that time,**
 17 **our operating expenses, and our profit margin,**
 18 **essentially 10 percent.**
 19 Q. Now, in 2012, if somebody wanted to cancel, did
 20 they get charged 100 bucks?
 21 A. **Over time our terms of service changed, and I**
 22 **don't recall for that time period what that was.**
 23 Q. Take a look at 51-3. It's Bates No -- Defendants'
 24 Bates No. 17 -- 161717. Do you know when this was
 25 published, or approximately?

1 getting into one of Sandra's topics here.
 2 He is not the witness on that subject matter,
 3 Bob, Sandra is.
 4 MR. CUMMINS: He's pointing the finger at you
 5 again.
 6 MR. AROMANDO: Yes.
 7 MR. CUMMINS: Okay. We'll defer it to the
 8 next witness.
 9 BY MR. CUMMINS:
 10 Q. Now, take a look at 51-5. Again, do you have any
 11 idea when this was published? And 51-5 is
 12 Defendants' Bates No. 173940, 41, and 42.
 13 A. **You mean when it was published? I do not know**
 14 **that.**
 15 Q. Take a look at the first question and the first
 16 answer. You will see a savings in the supply
 17 portion of your bill. The bigger the group, the
 18 bigger the savings will be. Discounts can be as
 19 high as 10 percent. Current discounts for CMP
 20 customers are 6.
 21 Where do those numbers come from?
 22 A. **Those were based on the same calculations that --**
 23 **as in this document right here, the same approach.**
 24 Q. And then the next one is, There is no catch.
 25 Do you see that?

1 A. **I do not. There's no date on this one.**
 2 Q. Now, when you joined the company, what was the
 3 date again?
 4 A. **March of 2012.**
 5 Q. How long had they been in the market selling
 6 electricity at that point?
 7 A. **They started in July of 2011, August 2011 time**
 8 **frame.**
 9 Q. And at or about the time you joined the company,
 10 they were publicizing that there were no contracts
 11 when you signed up with Electricity Maine,
 12 correct?
 13 A. **I don't recall the exact time that we changed our**
 14 **terms and service. I was not involved with that**
 15 **part.**
 16 Q. But there was a time when the promotional
 17 statements to the customer or potential customers
 18 was that there would be no contract with
 19 Electricity Maine, right?
 20 A. **Yes.**
 21 Q. And then that changed?
 22 A. **Yes.**
 23 Q. Why?
 24 A. **I --**
 25 MR. AROMANDO: Objection. I believe we're

1 A. **Yes.**
 2 Q. No commitment. Cancel at any time. No additional
 3 fees. That all changed, right?
 4 A. **At some point, yes.**
 5 Q. Why?
 6 A. **I don't recall why that was changed.**
 7 Q. Well, it was because you were losing money, right?
 8 MR. AROMANDO: Objection.
 9 BY MR. CUMMINS:
 10 Q. It was because you were losing money?
 11 MR. AROMANDO: Objection.
 12 A. **I don't recall when and where, why, we changed our**
 13 **terms.**
 14 **BY MR. CUMMINS:**
 15 Q. Okay.
 16 A. **Terms and conditions.**
 17 Q. Take a look at 51-6. This was a typical
 18 enrollment form used at the time you joined the
 19 company, right?
 20 A. **I don't know if this was used when I joined the**
 21 **company.**
 22 Q. Well, take a look at it.
 23 A. **Okay.**
 24 Q. Are you familiar with it at all?
 25 A. **I've seen it, yes.**

1 Q. Okay. And what time frame would you identify with
 2 this document, in terms of when it was used?
 3 A. **I see no date on this, so I would -- I don't know**
 4 **the exact time that this document would have been**
 5 **used, this form.**
 6 Q. Well, we can place it that it was before the time
 7 that a cancellation fee was imposed, right? Take
 8 a look at the penultimate question on Bates 1744.
 9 A. **Repeat that.**
 10 Q. Go to the second page. And you'll see, Do I have
 11 to sign any type of contract to pay a fee for
 12 cancelling?
 13 It's over in the right-hand column. And it
 14 says, Nope.
 15 A. **And the question, again, was?**
 16 Q. So this would have been used prior to the time
 17 that the cancellation fee was applied?
 18 A. **I believe so.**
 19 Q. And what time -- give me a ballpark.
 20 A. **I do not know that time frame.**
 21 Q. 2014? 2015? Can you give me a year?
 22 A. **I don't know when we switched.**
 23 MR. AROMANDO: Again --
 24 MR. CUMMINS: And Ms. Nadeau would be the
 25 person?

1 MR. DONAHUE: Some of those were produced in
 2 the native form, so --
 3 MR. CUMMINS: Just printed.
 4 MR. DONAHUE: -- they were all -- yeah, the
 5 date stamp is whenever they were produced.
 6 MR. CUMMINS: Let's go off the record.
 7 (Discussion off the record.)
 8 MR. AROMANDO: Based on -- you've been asking
 9 him about terms of service. If the rate is in
 10 there, then that could be something they can trace
 11 to a date because they have knowledge about what
 12 rates apply to what years. But not in every
 13 instance can they tell when a document was
 14 prepared, certainly not to the exact date.
 15 MR. CUMMINS: Let's just take a couple of
 16 minutes.
 17 (A short recess was taken.)
 18 BY MR. CUMMINS:
 19 Q. Okay. We talked briefly about the process for
 20 dealing with the renewal rates, and you talked
 21 about batches. In a particular year -- well, let
 22 me ask you this first. When did the renewals
 23 start to kick in? This was after you joined the
 24 company.
 25 MR. AROMANDO: Objection.

1 MR. AROMANDO: She's the witness on that.
 2 MR. CUMMINS: Okay.
 3 BY MR. CUMMINS:
 4 Q. Take a look at 51-7. This is an enrollment form
 5 that apparently was used in the fall of --
 6 September of 2011, if you take a look at the last
 7 page of the exhibit. These are Bates Nos.
 8 Defendants' 1745 to 47.
 9 A. **This page here?**
 10 Q. Yes, sir. Just tell me, was it about the time
 11 that this enrollment form was used?
 12 A. **When this document was created, yes.**
 13 Q. Okay.
 14 MR. CUMMINS: John, some of these forms don't
 15 have dates. I assume that Ms. Nadeau is going to
 16 be able to give me a ballpark on these if this
 17 witness can't address it?
 18 MR. AROMANDO: Well, possibly. I mean, not
 19 always. If --
 20 Katherine, I assume if we had a date, if
 21 there was some date on the documents, we gave it
 22 to them?
 23 MS. KAYATTA: Is this from the metadata?
 24 MR. AROMANDO: Well, it's a document we
 25 produced; so --

1 You can answer.
 2 A. **At the end of their term, at the end of whatever**
 3 **they enrolled for.**
 4 **BY MR. CUMMINS:**
 5 Q. So the initial group of customers was enrolled in
 6 2011, right?
 7 A. **Yes.**
 8 Q. And, so, the enrollment period for them would kick
 9 in when?
 10 A. **When -- their first meter read date and then**
 11 **whatever term they enrolled on that. It's usually**
 12 **expressed in months.**
 13 Q. And beginning in 2011, what were the options in
 14 terms of terms?
 15 A. **I believe it was 12.**
 16 Q. 12 months. So in 2012 and 2013 when you were
 17 involved in this reenrollment process, how many
 18 batches would there be in a particular year and at
 19 what time of year?
 20 A. **One per month and usually up to -- towards the --**
 21 **in between 30 and 60 days of whatever month the**
 22 **term would be that we would have to have the**
 23 **notices out per the regulations.**
 24 Q. So would there be a batch each month of the year?
 25 A. **There could be once we reached that point.**

1 Q. So, for example, in 2013 would there have been a
 2 batch every month?
 3 A. Yes.
 4 Q. And we've previously marked at Mr. Clavet's
 5 deposition the renewal letters or communications
 6 that were sent to the plaintiffs in this case, and
 7 they're marked here. I'll dig them out.
 8 MR. AROMANDO: It's 30 and 31, Bob.
 9 MR. CUMMINS: Thank you very much.
 10 BY MR. CUMMINS:
 11 Q. Would you take a look at those, sir?
 12 And I have a predicate question. Did you
 13 review these exhibits before you showed up here
 14 today?
 15 A. I have seen them, yes.
 16 Q. Okay. And when was it that you saw them?
 17 A. Earlier this week in their office.
 18 Q. And were those letters part of a batch?
 19 A. Yes.
 20 Q. And all of the substance of the letters, other
 21 than the name and address and so forth, would be
 22 the same, correct, in the batch?
 23 A. It could be slightly different based on the
 24 utility within a batch.
 25 Q. Oh, you mean the price would be slightly different

1 particular year?
 2 MR. AROMANDO: Objection. You can answer.
 3 A. At times they could be the same, but then at times
 4 they would also change.
 5 BY MR. CUMMINS:
 6 Q. And what would change, if you will?
 7 A. The price could change.
 8 Q. I'm talking about just --
 9 A. The message. And then some of the different
 10 messages within the notice would change as well.
 11 Q. Now, where are the -- so you were given a format,
 12 correct?
 13 A. Yes.
 14 Q. And you were given a format each month for each
 15 batch or did you get a format and it covered
 16 several batches? How did that work?
 17 A. It could be both. There were months, several
 18 months, sequential months, that we would use the
 19 same message or template.
 20 Q. Yes. Oh, good. Template, that's the word. Where
 21 are these templates? I mean, if the judge said, I
 22 want to see all these templates that you folks
 23 use, how would we get ahold of them?
 24 MR. AROMANDO: Objection.
 25 MS. HEWEY: Objection. Form.

1 depending upon whether it's CMP or EME?
 2 A. Yes, it could be.
 3 Q. But that would be the only -- that would be a
 4 number change?
 5 A. Yes.
 6 Q. Not the substance of the document itself?
 7 A. Yes.
 8 Q. Okay. Who is responsible for preparing these
 9 letters, these renewals?
 10 A. Myself and one other -- there was actually several
 11 people. Myself and one of my coworkers, Sandra
 12 here today.
 13 Q. So you and Sandra?
 14 A. The marketing team would come up with the text,
 15 the message, provide that to us, and we would
 16 operationally make it happen --
 17 Q. Okay.
 18 A. -- get the notices sent.
 19 Q. So there will be a format, if you will, that was
 20 prepared by the marketing team and then you
 21 plugged in the numbers?
 22 A. Yes.
 23 Q. And how many formats were used with each batch --
 24 I mean -- let me try again.
 25 Were the formats the same for batches in a

1 MR. AROMANDO: You can answer.
 2 BY MR. CUMMINS:
 3 Q. They're stored somewhere, right?
 4 A. They --
 5 MR. AROMANDO: Objection.
 6 A. They are. And what we have we have turned over as
 7 part of discovery.
 8 BY MR. CUMMINS:
 9 Q. So you've turned over the blank templates used for
 10 the batches for what period of time?
 11 A. For the ones that were available. I wouldn't -- I
 12 don't know if they were all there.
 13 Q. Well, how do you know they were turned over?
 14 A. I believe they were because I've seen them in the
 15 documentation in some of this.
 16 Q. In preparing for this deposition?
 17 A. I don't recall everything that's been asked of us,
 18 but we've turned over what we have.
 19 Q. Okay. So -- so there's no misunderstanding, we've
 20 got a lot of documents produced. You saw a
 21 discrete collection of templates for the various
 22 batches?
 23 A. Not in that --
 24 MS. HEWEY: Object to form.
 25 BY MR. CUMMINS:

1 asking Ms. Nadeau about some of this same stuff,
2 if you could get them over the noon hour, that
3 would be great.

4 MR. AROMANDO: Bob, we're not going to do
5 that. There are rules, as I know you know from
6 your long experience as a trial lawyer, that apply
7 to discovery. You've got to ask for them, and
8 we've got to go according to the rules. It's --

9 MR. CUMMINS: No, actually, my long
10 experience as a trial lawyer is that folks that
11 want to advance the case in a fashion that's civil
12 and easy to deal with, you don't have to put it
13 all in writing. So anyway --

14 BY MR. CUMMINS:

15 Q. Okay. Let's take a look at 30 and 31. Did you
16 have a hand in preparing these?

17 A. **As exhibits or originals?**

18 Q. Original, yes, sir.

19 A. **Yes.**

20 Q. Okay. And you used a template in preparing those?

21 A. **We used the message that was provided to us from
22 marketing to construct these two documents.**

23 Q. Right. And how many were constructed at that
24 point in time; do you have any idea?

25 A. **I don't recall. Every month it --**

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1 Q. Could I have them a moment, sir?

2 Well, the time frame here is October of 2014.
3 Do you have an independent recollection of whether
4 or not in October of 2014 there were 10,000
5 renewals or 5,000 renewals or do you have any
6 sense?

7 A. **I don't recall in that month how many renewals
8 were -- for that month were sent.**

9 Q. There is a record, though, of how many renewals
10 were sent, for example, in October of 2014, right?

11 A. **Yes.**

12 Q. And those would all use the same template,
13 correct?

14 MR. AROMANDO: Objection.

15 A. **The same message --**

16 **BY MR. CUMMINS:**

17 Q. Right.

18 A. **-- would have been.**

19 Q. Right.

20 A. **Yes.**

21 Q. So there is a -- there will be a record that shows
22 that in January of 2014 we had this many renewals
23 and February and March, throughout the entire
24 year, right?

25 A. **How many notices were sent, yes.**

1 Q. Yes.

2 And there would be a companion or
3 corresponding template for those time frames,
4 correct?

5 A. **There could be.**

6 Q. There could be one or there could be four, right?

7 A. **Potentially if there were four months, yes.**

8 Q. Okay.

9 MR. CUMMINS: So, John, just to put a finer
10 point on it, we would like to get the numbers of
11 renewals in each of the years at issue, along with
12 copies of the templates that were employed in
13 implementing those renewals. And we can formalize
14 it, but that's our request.

15 MR. AROMANDO: Yes, please do formalize it.

16 BY MR. CUMMINS:

17 Q. I'm going to hand you a copy of one of the
18 exhibits that were marked during Mr. Clavet's
19 deposition. It's Deposition Exhibit 33.

20 MR. CUMMINS: John, here is one you can read.

21 MR. AROMANDO: Thank you.

22 MR. CUMMINS: Are you okay down there?

23 MS. HEWEY: I was hoping that I could follow
24 along; but if you don't have enough, that's okay.

25 MR. CUMMINS: You can sit next to me if you

56

1 would like.

2 MS. HEWEY: That's all right. I'm good.

3 MR. CUMMINS: It's Exhibit 33, but this is
4 blown up so --

5 MS. HEWEY: Well, we never got Exhibit 33
6 from you yet; but that's okay.

7 MR. CUMMINS: Oh, well, here. Let me give
8 you the original of Exhibit 33.

9 MS. HEWEY: Just go ahead. If I have
10 questions, I'll come lean over your shoulder.

11 MR. CUMMINS: Okay. All right.

12 MR. AROMANDO: To be clear for the record,
13 just for the witness, this is something that you
14 folks created, right? This isn't an Electricity
15 Maine document?

16 MR. DONAHUE: That's correct.

17 MR. CUMMINS: That's right.

18 MR. AROMANDO: Right.

19 Just so you understand that, Dan, this is not
20 a company record. This is something that the
21 plaintiffs' lawyers created.

22 THE DEPONENT: Okay.

23 BY MR. CUMMINS:

24 Q. Did you review this document before you showed up
25 here today? Or the original of it is much

1 **A. I don't believe we did such studies. I'm not**
 2 **aware of any such studies that we did.**
 3 **BY MR. CUMMINS:**
 4 **Q.** Well, you know as you sit here today under oath
 5 that the principal motivation for customers in the
 6 period that you were involved with Electricity
 7 Maine from 2012 to 2014 was price, correct?
 8 MR. AROMANDO: Objection.
 9 **A. We did market on savings at some period of times,**
 10 **and then we had other messages as well.**
 11 **BY MR. CUMMINS:**
 12 **Q.** And forget about the other messages. The primary
 13 motivation for consumers in the period that you
 14 joined the company in 2012 until at least 2014 was
 15 price, correct?
 16 MR. AROMANDO: Objection.
 17 MS. HEWEY: Objection. Form, foundation.
 18 MR. AROMANDO: Is that how it works, Bob, you
 19 forget about the parts that don't work for your
 20 case? I mean, you cannot instruct the witness to
 21 forget about anything. You can ask him questions
 22 and he'll answer the questions.
 23 MR. CUMMINS: The question was the primary.
 24 Primary. That's one.
 25 BY MR. CUMMINS:

1 MR. AROMANDO: Objection. Objection. He's
 2 here to answer factual questions, Bob, not
 3 metaphysical debates about what's common sense.
 4 Ask him factual questions.
 5 MR. CUMMINS: Does this have a Bates number,
 6 Ben?
 7 MR. DONAHUE: Yes. It's right at the top.
 8 MR. CUMMINS: At the top?
 9 MR. DONAHUE: Yes.
 10 BY MR. CUMMINS:
 11 **Q.** You folks produced a document for us as Bates No.
 12 3291.
 13 My presbyopia is not helped much with these
 14 specs.
 15 MR. CUMMINS: Have you heard "presbyopia"
 16 before?
 17 THE REPORTER: I haven't, but I'll look it
 18 up.
 19 MR. CUMMINS: I tried a case once, and I
 20 never got the word.
 21 BY MR. CUMMINS:
 22 **Q.** Let me show you -- Mr. Ben here, who's smarter
 23 than I am, pulled up this exhibit. We'll produce
 24 it in tangible form and mark it as Plaintiffs'
 25 Exhibit 76, but right now it's on his little

1 **Q.** The primary purpose that folks -- the reason --
 2 the primary reason that folks chose Electricity
 3 Maine in the period from 2012 until 2014 was
 4 price, isn't that correct, sir?
 5 MR. AROMANDO: Objection.
 6 MS. HEWEY: Objection.
 7 MR. AROMANDO: You can answer.
 8 **A. I don't know what drove every customer to select**
 9 **our product. Some people chose it on price, and**
 10 **some people chose it on some of the other products**
 11 **that we had offered.**
 12 **BY MR. CUMMINS:**
 13 **Q.** What were the other products?
 14 **A. Buy local.**
 15 **Q.** Stop there. What does that mean?
 16 **A. A local company.**
 17 **Q.** Okay. And, so, your position is that purchasing
 18 from a local company was as important as price?
 19 **A. I don't --**
 20 MR. AROMANDO: Objection.
 21 Go ahead and answer.
 22 MS. HEWEY: Same objection.
 23 BY MR. CUMMINS:
 24 **Q.** What does common sense tell you?
 25 MS. HEWEY: Objection.

1 computer. And I want you to take a look at
 2 Defendants' Exhibit -- Defendants' Bates No. 3291.
 3 And your lawyer can look at it, too.
 4 MR. AROMANDO: Gee, thanks.
 5 MR. CUMMINS: Would you show it to him,
 6 please?
 7 MR. AROMANDO: Yes, when I'm done looking at
 8 it, I'll show it to him.
 9 MS. HEWEY: I think I can pull it up here.
 10 MR. CUMMINS: I'll have it produced as
 11 lunchtime.
 12 (Exhibit No. 76 was identified for the
 13 record.)
 14 BY MR. CUMMINS:
 15 **Q.** That's a document your lawyers produced.
 16 You've never seen that document before, sir?
 17 **A. I have not.**
 18 **Q.** Do you know who would have created it?
 19 **A. I --**
 20 **Q.** Who was in the marketing department in the period
 21 from 2011 until 2014?
 22 **A. I don't know every employee. I know the leaders.**
 23 **Q.** Who was the quarterback?
 24 **A. At times it was Kevin and Emile, and then at times**
 25 **it was Candace.**