

**In The Matter Of:**  
*WOODWAY USA, INC. v.*  
*LIFECORE FITNESS, INC.*

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*TRACI BATES*  
*January 26, 2024*  
*Confidential - For Attorneys' Eyes Only*

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*NorthStar Deposition Services*

Original File 012624Bates.txt  
Min-U-Script® with Word Index

Page 1	Page 3
<p>1 UNITED STATES DISTRICT COURT</p> <p>2 SOUTHERN DISTRICT OF CALIFORNIA</p> <p>3 Woodway USA, Inc., )</p> <p>4 Plaintiff, )</p> <p>5 -vs- ) Case No.: 3:22-cv-00492-JO-BLM</p> <p>6 LifeCORE Fitness, Inc. )</p> <p>7 d/b/a Assault Fitness, )</p> <p>8 Defendant. )</p> <p>9 LifeCORE Fitness, Inc. )</p> <p>10 d/b/a Assault Fitness, )</p> <p>11 Counterclaim-Plaintiff, )</p> <p>12 -vs- )</p> <p>13 Woodway USA, Inc., )</p> <p>14 Counterclaim-Defendant. )</p> <p>15</p> <p>16</p> <p>17 ** CONFIDENTIAL - ATTORNEYS' EYES ONLY **</p> <p>18</p> <p>19 VIDEO-RECORDED DEPOSITION OF TRACI BATES</p> <p>20 SAN DIEGO, CALIFORNIA</p> <p>21 JANUARY 26, 2024</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES:</p> <p>2</p> <p>3 For the Plaintiff, Woodway USA, Inc.:</p> <p>4 FOLEY &amp; LARDNER LLP</p> <p>5 BY: KADIE M. JELENCHICK, ESQ. (Pro Hac Vice)</p> <p>6 777 East Wisconsin Avenue</p> <p>7 Milwaukee, Wisconsin 53202</p> <p>8 T: 414-271-2400</p> <p>9 E: kjelenchick@foley.com</p> <p>10</p> <p>11 For the Defendant and Counterclaim Plaintiff,</p> <p>12 LifeCORE Fitness, Inc.:</p> <p>13 BROOKS KUSHMAN P.C.</p> <p>14 BY: JOHN M. HALAN, ESQ. (Pro Hac Vice)</p> <p>15 1000 Town Center</p> <p>16 Twenty-Second Floor</p> <p>17 Southfield, Michigan 48075</p> <p>18 T: 248-358-4400</p> <p>19 E: jhalan@brookskushman.com</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 David Wright, Videographer</p> <p>23</p> <p>24</p> <p>25</p>
Page 2	Page 4
<p>1</p> <p>2</p> <p>3 ** CONFIDENTIAL - ATTORNEYS' EYES ONLY **</p> <p>4</p> <p>5</p> <p>6 VIDEO-RECORDED DEPOSITION OF TRACI BATES,</p> <p>7 taken by the attorney for the Plaintiff,</p> <p>8 Counterclaim-Defendant Woodway USA, Inc., commencing</p> <p>9 at the hour of 9:00 A.M. on Friday, January 26, 2024,</p> <p>10 at 11988 El Camino Real, Suite 400, San Diego,</p> <p>11 California, before Bridget L. Mastrobattista,</p> <p>12 Certified Shorthand Reporter No. 7715, RPR, RMR,</p> <p>13 CRR, CCRR in and for the State of California.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 TRACI BATES JANUARY 26, 2024</p> <p>2 C O N T E N T S</p> <p>3 Appearances Page 3</p> <p>4</p> <p>5 Litigation Support Index Page 5</p> <p>6</p> <p>7 Exhibit Index Page 6-7</p> <p>8</p> <p>9 Examination by Attorney Jelenchick Page 9</p> <p>10 Examination by Attorney Halan Page 210</p> <p>11</p> <p>12 Afternoon Session Page 129</p> <p>13</p> <p>14 Acknowledgement Page 219</p> <p>15</p> <p>16 Certification Page 220</p> <p>17</p> <p>18 Errata Page 221</p> <p>19</p> <p>20 Word Index Page 223</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 TRACI BATES JANUARY 26, 2024</p>

Page 5

1	LITIGATION SUPPORT INDEX	
2		
3	QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER	
4	PAGE	LINE
5	115	1
6	115	16
7	133	8
8	134	3
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 7

1	TRACI BATES		JANUARY 26, 2024
2	E X H I B I T S (Continued)		
3	NUMBER	DESCRIPTION	PAGE
4	EXHIBIT 48	Assault AirRunner Competitor Lineup; Bates-stamped LCF000016	197
5	EXHIBIT 49	Document Bates-stamped LCF000015	202
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

Page 6

1	TRACI BATES	JANUARY 26, 2024
2	E X H I B I T S	
3	NUMBER	DESCRIPTION
4	EXHIBIT 36	Technical Specifications & Use Guidelines AirRunner Manual Treadmill; Bates-stamped LCF004260 through 4261
5		
6	EXHIBIT 37	Technical Specifications & Use Guidelines AssaultRunner Pro Manual Treadmill; Bates-stamped LCF002114 through - 2115
7		
8		
9	EXHIBIT 38	Quick Start Guide AirRunner Manual Treadmill; Bates-stamped LCF0004258 through 4259
10		
11	EXHIBIT 39	AirRunner Manual Treadmill Owner's Manual
12		
13	EXHIBIT 40	E-mail exchange; Bates-stamped LCF003525 through 3528
14	EXHIBIT 41	Brochure; Bates-stamped LCF000013
15	EXHIBIT 42	Document Bates-stamped LCF000017
16	EXHIBIT 43	Assault Fitness Presents AssaultRunner Pro; Bates-stamped LCF000014
17		
18	EXHIBIT 44	Responses to Woodway USA, Inc., Interrogatories Numbers 1 through 11
19		
20	EXHIBIT 45	E-mail exchange; Bates-stamped LCF004058 through 4059
21		
22	EXHIBIT 46	E-mail exchange; Bates-stamped LCF004066 through 4070
23	EXHIBIT 47	Letter from Woodway to Roger Bates, President of LifeCORE Fitness, Inc.; Bates-stamped LCF004756 through 4866
24		
25		

Page 8

1	P R O C E E D I N G S	
2	SAN DIEGO, CALIFORNIA	
3	FRIDAY, JANUARY 26, 2024, 9:00 A.M.	
4	- o0o -	
5	THE VIDEOGRAPHER: Good morning. The time	
6	on the record is 9:00 a.m. Today's date is	
7	January 26th, 2024.	
8	My name is David Wright contracted by	
9	NorthStar Deposition Services.	
10	The court reporter today is	
11	Bridget Mastrobattista of NorthStar Deposition	
12	Services located at 120 Eagle Rock Avenue,	
13	Suite 320, East Hanover, New Jersey 07936.	
14	This begins the deposition of Traci Bates	
15	testifying in the matter of Woodway USA,	
16	Incorporated, versus LifeCORE Fitness, Incorporated,	
17	d/b/a Assault Fitness, in the United States District	
18	Court, Southern District of California, Case	
19	Number 3:22-cv-00492-JO-BLM, taken at 11988 El	
20	Camino Real, Suite 400, San Diego, California 92130.	
21	The video and audio recordings will take	
22	place at all times during this deposition, unless	
23	all counsel agree to go off the record. The	
24	beginning and end of each media will be announced.	
25	Will counsel please identify yourselves	

Page 9

1 and state whom you represent.  
2 MS. JELENCHICK: Kadie Jelenchick, Foley &  
3 Lardner on behalf of plaintiff Woodway USA, Inc.  
4 MR. HALAN: John Halan on behalf of  
5 LifeCORE Fitness.  
6 THE VIDEOGRAPHER: The court reporter may  
7 now swear in or affirm the deponent.  
8 - o0o -  
9 TRACI BATES,  
10 having been first duly sworn, testified  
11 as follows:  
12 THE COURT REPORTER: Pursuant to Rule 30,  
13 if there's any stipulations entered into during the  
14 course of the deposition, including custody of the  
15 transcript and the exhibits, must be repeated at the  
16 end of the deposition  
17 THE VIDEOGRAPHER: Counsel may now  
18 proceed.  
19 EXAMINATION  
20 BY MS. JELENCHICK:  
21 Q. Good morning, Ms. Bates.  
22 A. Good morning.  
23 Q. As you heard, I just introduced myself. I  
24 am counsel for Woodway, and I'm here to take your  
25 deposition today.

Page 10

1 Have you been deposed before?  
2 A. No.  
3 Q. Has counsel talked with you a little bit  
4 about how today will go?  
5 MR. HALAN: You can answer yes or no.  
6 A. Yes.  
7 Q. So you understand that I'll be asking you  
8 questions, and you'll be responding to my questions?  
9 A. Yes.  
10 Q. Mr. Halan may interpose some objections to  
11 my questions today. Unless he instructs you not to  
12 answer and you agree to follow that instruction or  
13 we have an order from the Court ordering you to  
14 provide an answer, you must respond to my questions.  
15 Do you understand that?  
16 A. Yes.  
17 Q. I think the most important thing today is  
18 for us not to talk over one another. And I will do  
19 my very best to try not to talk over you. And I'll  
20 just ask that you do the same, because we want to  
21 keep our court reporter happy, and it's nearly  
22 impossible to take down two people talking at once.  
23 So even if you think you know what I'm  
24 going to ask you, just let me finish my question.  
25 And even if I think I know what your answer is, I

Page 11

1 will try my best to hold off before interrupting  
2 you.  
3 Can we agree to that?  
4 A. Yes.  
5 Q. You understand that you're under oath  
6 today, correct?  
7 A. Yes.  
8 Q. And this is the same oath that you would  
9 give if you were testifying in the court, right?  
10 A. Yes.  
11 Q. I may ask a question or more than one  
12 question that I don't state very well. It may be a  
13 total clunker, and you don't understand it. Feel  
14 free to ask for clarification.  
15 Will you agree to do that?  
16 A. Yes.  
17 Q. So if you answer my question, is it fair  
18 for me to assume that you understood my question?  
19 A. Yes.  
20 Q. I'm not certain how long today we'll go.  
21 I suspect we will go at least through the lunch  
22 hour. So if you need a break at any time, please  
23 let me know. I'll only ask that you not request a  
24 break while a question is pending.  
25 Will you agree to that?

Page 12

1 A. Yes.  
2 Q. Is there anything about your health today  
3 that may impact your ability to answer questions  
4 fully and truthfully?  
5 A. No.  
6 Q. Have you taken any medications that might  
7 impact your testimony today?  
8 A. No.  
9 Q. Is there any other reason you can't  
10 testify fully and truthfully today?  
11 A. No.  
12 [REDACTED]

Page 13

Page 15

1

1

17 Q. When did LifeCORE Fitness first introduce  
18 for sale its non-motorized treadmill under the  
19 Assault brand?

20 A. It would have been 2017.

21 Q. How do you know it was 2017?

22 A. Just recall.

23

Page 14

Page 16

1

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5

1E

20

Page 73

Page 75

[REDACTED]

[REDACTED]

25 Q. I will hand you what I marked as

Page 74

Page 76

1 [REDACTED]

1 Exhibit 39.  
2 A. Okay.  
3 (Deposition Exhibit 39 was marked.)  
4 BY MS. JELENCHICK:  
5 Q. Do you recognize this document?  
6 A. No, but I can see it's our owner's manual.  
7 Q. Right. In fact, it's identified as the  
8 AirRunner Manual Treadmill Owner's Manual on the  
9 first page, right?  
10 A. Uh-huh.  
11 Q. And then on the bottom left-hand corner,  
12 it says, "Release V.0.1 (20.February.17)."  
13 Do you see that?  
14 A. Uh-huh.  
15 Q. Does that February 2017 correspond to the  
16 approximate date of introduction of the date of the  
17 AirRunner?  
18 A. No. I feel like it was later. But that  
19 must have been when they were manufactured.  
20 Q. Have you ever seen the AirRunner owner's  
21 manual before?  
22 A. I can't say definitively.  
23 Q. Have you ever read it --  
24 A. No.  
25 Q. -- before today?



<p style="text-align: right;">Page 77</p> <p>1 A. No.</p> <p>2 Q. Have you had any responsibility for the</p> <p>3 contents of the owner's manual?</p> <p>4 A. I don't think so, no.</p> <p>5 Q. What's the intention of the owner's</p> <p>6 manual, if you know?</p> <p>7 A. I don't know. I mean, just like any</p> <p>8 owner's manual, tells you about your product, how to</p> <p>9 build it, warranty, that kind of stuff. How to use</p> <p>10 the console.</p> <p>11 Q. You'll agree with me that the owner's</p> <p>12 manual tells you how to use the AirRunner, right?</p> <p>13 A. Yes. Or it tells you how to build it. I</p> <p>14 don't know if it tells you how to walk on it, but --</p> <p>15 Q. The owner's manual provides safety</p> <p>16 precautions and instructions, doesn't it?</p> <p>17 A. Probably. Yeah.</p> <p>18 Q. Would you expect an owner's manual to</p> <p>19 provide safety precautions and instructions for its</p> <p>20 users?</p> <p>21 A. Yes.</p> <p>22 Q. You don't think that's something that</p> <p>23 should be kept confidential, do you? That's</p> <p>24 publicly available, what you're telling the</p> <p>25 customers --</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. You can go to the page. It's toward the</p> <p>2 back.</p> <p>3 A. Okay.</p> <p>4 Q. I don't actually see a page number.</p> <p>5 A. Yeah, I don't see anything. Oh, the blue?</p> <p>6 The highlighted area or --</p> <p>7 Q. The next page. Well, I mean, my question</p> <p>8 is: You would expect the owner's manual to have</p> <p>9 information about maintenance and service of your</p> <p>10 product, right?</p> <p>11 A. Yes.</p> <p>12 Q. In fact, you can see in Exhibit 39 that it</p> <p>13 includes information about how to provide daily and</p> <p>14 monthly service for the unit, right?</p> <p>15 A. Yes.</p> <p>16 Q. And it also provides some troubleshooting</p> <p>17 directives to the users, right?</p> <p>18 A. Yes.</p> <p>19 Q. If you flip to the very last page of the</p> <p>20 document, see in the upper left -- or excuse me, in</p> <p>21 the upper right-hand corner. You can see the number</p> <p>22 59?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Do you see "Assault Fitness 21" with a</p> <p>25 copyright?</p>
<p style="text-align: right;">Page 78</p> <p>1 A. Yeah.</p> <p>2 Q. -- how to use it?</p> <p>3 A. Yeah.</p> <p>4 Q. The owner's manual also provides</p> <p>5 information about the LifeCORE Fitness warranty,</p> <p>6 right?</p> <p>7 A. I would assume, yes.</p> <p>8 Q. Now that I understand that LifeCORE</p> <p>9 Fitness is doing business as LifeCORE Fitness LLC,</p> <p>10 is LifeCORE Fitness LLC the entity that's providing</p> <p>11 the limited warranty for its non-motorized</p> <p>12 treadmills?</p> <p>13 A. I would guess so, yeah.</p> <p>14 Q. Do you know if there's been any revisions</p> <p>15 to the warranty language in the owner's manuals to</p> <p>16 reflect the name change of the company?</p> <p>17 A. I actually don't know.</p> <p>18 Q. Do you think it's important to communicate</p> <p>19 who's ultimately responsible for the sale of the</p> <p>20 product that the customer is buying?</p> <p>21 A. Uh-huh.</p> <p>22 Q. You'll see in the owner's manual there's a</p> <p>23 section for maintenance and service, right?</p> <p>24 A. Is it on a certain page? Did you want me</p> <p>25 to go to that?</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Yeah. Something's, like, double printed,</p> <p>2 but I see Assault Fitness 21.</p> <p>3 Q. Right. I mean, do you have any reason to</p> <p>4 believe that this isn't the LifeCORE Fitness, Inc.,</p> <p>5 AirRunner Manual Treadmill Owner's Manual?</p> <p>6 A. No.</p> <p>7 Q. Do you consider the information contained</p> <p>8 in Exhibit 39 to be confidential in any way?</p> <p>9 A. I don't think so. You said it's the</p> <p>10 owner's manual, so it would come with the product.</p> <p>11 Q. Right. So if the owner's manual was in</p> <p>12 the box with the product, it would never be</p> <p>13 considered confidential, right?</p> <p>14 A. Uh-huh.</p> <p>15 Q. That's a "yes"?</p> <p>16 A. Yes.</p> <p>17 Q. Would you agree with me that the target</p> <p>18 recipient for the owner's manual is somebody that's</p> <p>19 going to be using the treadmill?</p> <p>20 A. Yes.</p> <p>21 Q. The owner's manual, is that something that</p> <p>22 would be prepared by the product development group</p> <p>23 within LifeCORE?</p> <p>24 A. Yes.</p> <p>25 Q. So you wouldn't consider Exhibit 39 to be</p>

Page 81

1 what you understand sales collateral to be, would  
2 you?  
3 A. No.  
4 Q. If you would look at -- this is the third  
5 page printed double side of Exhibit 39. It starts  
6 sort of the second page of the contents under the  
7 "Safety Precautions and Instructions."  
8 A. Uh-huh.  
9 Q. Can you see where I'm talking about?  
10 A. The back page of that, yes.  
11 Q. So it has "Safety and Precaution" --  
12 excuse me. It says "Safety Precautions and  
13 Instructions," and has intended use, spacing  
14 requirement, instructions for owners, instructions  
15 for owners and users. And then you get to some  
16 warnings on the next page.  
17 Do you see that at the top?  
18 A. Yes.  
19 Q. It specifically says "Warning," doesn't  
20 it?  
21 A. Oh, you're talking about not at the actual  
22 top, like, right below where it says "Warning"?  
23 Q. Yes.  
24 A. Yes, I see that.  
25 Q. And there is two warnings. "Warning: The

Page 82

1 AirRunner treadmill is non-motorized and means the  
2 user initiates and controls the speed of the running  
3 belt. There's not an emergency stop feature, and  
4 the -- will slow to a stop on its own."  
5 A. Yes. Clearly not proofed, but yes.  
6 Q. You don't think this was proofread?  
7 A. Well, that wasn't.  
8 Q. Next warning, it says: "The belt moves  
9 freely in only one direction. Grasp the handrails  
10 whenever mounting and dismounting the treadmill."  
11 I asked Mr. Bates about that particular  
12 warning, the warning that states, "The belt moves  
13 freely in only one direction," and he told me that's  
14 a clerical error.  
15 Do you agree with that?  
16 A. Maybe. Because it does move both  
17 directions.  
18 Q. If it moves both directions, why are you  
19 saying in your owner's manual that it moves in one  
20 direction?  
21 A. I don't know. I didn't write this.  
22 Q. If you'll look at the Table of Contents,  
23 which is in the back of the first page in the  
24 blue --  
25 A. Uh-huh.

Page 83

1 Q. -- it identifies Maintenance and Service  
2 section at page 19.  
3 Do you see that?  
4 A. Uh-huh.  
5 Q. Okay. And then it has a serial number  
6 location at page 21, right?  
7 A. Yes.  
8 Q. So if you flip forward in the document and  
9 you go to the very last page, you'll see that  
10 page 59 that we looked at with the copyright.  
11 A. Oh, this one here?  
12 Q. Right.  
13 A. Yes.  
14 Q. The page immediately before that --  
15 A. Okay.  
16 Q. -- it has the -- the heading in the middle  
17 of the page, "Serial Number Location."  
18 A. Uh-huh.  
19 Q. Okay. And if you flip to the  
20 page previously, it then has the "Maintenance and  
21 Service" heading on the top.  
22 A. Oh. The page before, this one? Yes. I  
23 see that.  
24 Q. So it appears that at the top of -- or at  
25 the very bottom at the end of the Maintenance and

Page 84

1 Service section, before the Serial Number Location  
2 portion of the owner's manual, it states: "Woodway  
3 customer service. 11.2 running surface belt is  
4 stuck/difficult to move. Check for any obstacles  
5 around or under the belt. Remove them if possible."  
6 Et cetera, et cetera.  
7 It also says, "Contact a Woodway customer  
8 service technician to determine where the cause of  
9 the problem could be."  
10 Do you see where I'm reading?  
11 A. I do. Yes.  
12 Q. Why is it the case that the LifeCORE  
13 Fitness Owner's Manual for the Assault treadmill is  
14 referring to Woodway's customer service and  
15 contacting Woodway's customer service?  
16 A. I have no idea.  
17 Q. You indicated that the running surface  
18 moves in two directions. Is that what you said?  
19 A. Yes.  
20 Q. During normal operation, is it expected  
21 that the running surface is moving in a singular  
22 direction?  
23 A. Yes.  
24 Q. In fact, you were advertising that to your  
25 customers, that it moves in a singular direction,



Page 213

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
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24 [REDACTED]  
25 [REDACTED]

Page 215

1 [REDACTED]  
2 [REDACTED]  
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7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 Q. And then let's go to Exhibit 39.

Page 214

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
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20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Page 216

1 And if you -- let's go on to the one, two,  
2 three, fourth page in. Remember, they're two-sided.  
3 My -- the second sheet, fourth page.  
4 A. I see.  
5 Q. And you'll see up here it says, "Warning.  
6 The AirRunner treadmill is non-motorized."  
7 Do you see that?  
8 A. Yes.  
9 Q. And then the word "Warning" overlaps the  
10 "AirRunner" text; is that correct?  
11 A. Yes.  
12 Q. And the next line, too, also the warning  
13 overlaps the text; is that correct?  
14 A. Yes.  
15 Q. And then as you pointed out, too, during  
16 your direct testimony -- or your cross-examination  
17 testimony, I should say, on your -- the last page  
18 where this copy Assault Fitness. Right above that  
19 there's some text -- overlapping text.  
20 A. Yes.  
21 Q. Do you know if this is a -- is there any  
22 way of determining whether this was a draft or  
23 whether this was an actual manual that was used?  
24 A. No. I'd have to think it's a draft just  
25 because of the typeset, but I don't know for sure.

Page 217

1 Q. Okay.

2 A. No way to tell.

3 Q. What do you mean by the "typeset"? Do you

4 mean the mistakes?

5 A. Yeah, the mistakes and how that's

6 overlapping. I can't imagine.

7 MR. HALAN: Okay. I have nothing else.

8 MS. JELENCHICK: No further questions.

9 MR. HALAN: Okay.

10 THE WITNESS: Thank you, guys.

11 THE VIDEOGRAPHER: This concludes the

12 video-recorded deposition of Traci Bates consisting

13 of six media units. The time is approximately

14 4:15 p.m. We're now off the record.

15 MR. HALAN: Oh, wait. I'm sorry. Don't

16 go off the record yet. I'm sorry.

17 THE VIDEOGRAPHER: Okay. I'm still on the

18 record.

19 MR. HALAN: Still on the record. I'm

20 sorry.

21 Again, we're designating this transcript

22 as being confidential for counsels' eyes only or for

23 counsel only, and also I reserve the right for the

24 witness to review the transcript and correct errors

25 to the extent that's necessary. And that's it.

Page 218

1 THE WITNESS: Thank you.

2 THE VIDEOGRAPHER: This concludes the

3 video-recorded deposition of Traci Bates consisting

4 of six media units. The time is approximately

5 4:15 p.m. We're now off the record.

6 (Whereupon, the deposition was concluded

7 at 4:16 p.m.)

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Page 219

1 DECLARATION UNDER PENALTY OF PERJURY

2

3 I, TRACI BATES, the witness herein, declare

4 under penalty of perjury that I have read the

5 foregoing in its entirety; and that the testimony

6 contained therein, as corrected by me, is a true and

7 accurate transcription of my testimony elicited at

8 said time and place.

9

10 Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

11 at \_\_\_\_\_, \_\_\_\_\_,

12 (City) (State)

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15 TRACI BATES

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Page 220

1 CERTIFICATION

2 I, BRIDGET L. MASTROBATTISTA, Certified

3 Shorthand Reporter, in and for the State of

4 California, Certificate No. 7715, do hereby certify:

5 That the witness in the foregoing deposition

6 was, by me, first duly sworn to testify to the

7 truth, the whole truth, and nothing but the truth in

8 the foregoing cause; that the deposition was

9 reported by me in machine shorthand and thereafter

10 transcribed through computer-aided transcription,

11 under my direction, and that the foregoing

12 transcript is a true record of the witness at said

13 deposition.

14 I do further certify that I am a disinterested

15 person and am not of counsel or attorney for either

16 or any of the parties in the foregoing proceeding

17 and caption named nor in any way interested in the

18 outcome of the cause in said caption.

19 The dismantling, unsealing, or unbinding of

20 the original transcript will render the reporter's

21 certificate null and void.

22 Dated this 9th day of February, 2024, at

23 San Diego, California.

24 Reading and Signing was: ☒ Requested

25 ☐ Waived

☐ Not Requested

\_\_\_\_\_

BRIDGET L. MASTROBATTISTA

CSR No. 7715, RPR, RMR, CRR, CCRR

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