

Excerpts of Deposition of Ripley B. Lebernot

1 Mr. Zuckerberg: Good morning Mr./Ms. Lebernot. I represent the plaintiff in this case.
2 Are you currently employed?
3
4 Witness: Yes. I work for the Coalition Against Football Corruption, or CAFC.
5
6 Q: What do you do at CAFC?
7
8 A: I'm the Director of Research.
9
10 Q: How long have you worked at CAFC?
11
12 A: I've been at CAFC for about ten years. I became Director of Research in
13 2010.
14
15 Q: What do you do as Director of Research for CAFC?
16
17 A: As you know, CAFC is committed to ensure that football—or as we call it
18 in America, soccer—is free from all forms of corruption. As Director of
19 Research, I am principally responsible for assembling whatever data and
20 information we need to address the wide variety of corruption that plagues
21 this noble sport. I do what I need to do to advance our interest in a clean
22 sport.
23
24 Q: I want to direct your attention now to early 2013. Are you aware that
25 FIFA—the international soccer body—issued a call for proposals for a
26 new contract for jersey and other athletic apparel?
27
28 A: Yes, I certainly am.
29
30 Q: CAFC was concerned about that bidding process, right?
31
32 A: Absolutely we were. These types of bidding processes are cesspools of
33 corruption.
34
35 Q: What did CAFC decide to do to address what it saw as a potential for
36 corruption?
37
38 A: As you well know from the so-called trial we recently had, we planned to
39 investigate the process to find the corruption.
40
41 Q: I know you're upset about the result of the trial before Judge Benjamin,
42 but let's try to stay focused on my questions.
43
44 A: Okay, but I really hope to get another bite at that apple.

1
2 Ms. Jobs: What question are you answering Ripley? Just answer his questions.
3
4 Mr. Zuckerberg: Returning to early 2013, tell me what CAFC did to investigate the FIFA
5 bidding process?
6
7 Witness: The first thing I did was determine what would be involved in the process.
8 It seemed to me that it was going to take a major investigative effort. I
9 determined that did not have the internal expertise to conduct this type of
10 investigative effort.
11
12 Q: As a result of that assessment, what did you do next?
13
14 A: I used my research skills of course.
15
16 Q: How exactly?
17
18 A: I started doing some poking around on the internet looking for people who
19 had the investigative skills we were looking for.
20
21 Q: Was that process successful?
22
23 A: Not immediately. But things really came together when I started
24 specifically searching social media sites.
25
26 Q: Tell me more.
27
28 Ms. Jobs: Objection as to form.
29
30 Mr. Zuckerberg: Withdrawn. Tell me how things came together when you looked at social
31 media sites?
32
33 Witness: I eventually found a Facebook page for a former investigative journalist
34 named Nellie Kickwood. S/he had the appropriate background in
35 investigative journalism and seemed quite committed to rooting out
36 corruption wherever it existed—just our kind of person.
37
38 Q: What was the username of for the Facebook account you saw for Nellie
39 Kickwood?
40
41 A: I remember it clearly because it was funny and aggressive all at once. It
42 was “KickA\$\$”—with the two S’s as dollar signs.
43
44 Q: Did you contact Nellie Kickwood?
45
46 A: I did.

1
2 Q: How did you make contact with Nellie?
3
4 A: I went to the Facebook page and was able to get Nellie's email address.
5 But you know, in retrospect that was odd.
6
7 Q: I don't understand. What do you mean that was odd?
8
9 A: I came to learn later that Nellie was a very cautious person. Nellie didn't
10 like people to know too much about her/him?
11
12 Q: What was Nellie's email address?
13
14 A: Kickwood1@kmail.com. I emailed Nellie and Nellie responded . . . it was
15 almost a month later, but s/he ultimately responded.
16
17 Q: Do you remember what the email said?
18
19 A: Mine?
20
21 Q: That was a bad question. Let's start with yours.
22
23 A: It has been some time. I really don't remember the details.
24
25 Q: What did you say, generally?
26
27 A: I was looking for an investigative journalist, and I explained that I was the
28 Director of Research for CAFC, and I asked if s/he would be interested in
29 meeting with me to discuss the project.
30
31 Q: And Nellie's response?
32
33 A: Nellie was real sketchy at first. Nellie wouldn't meet me at our office—
34 CAFC's offices that is—and s/he kept rescheduling our meetings. S/he
35 ultimately agreed to meet me at the 7Eleven on Paring St. in Beakman
36 Town.
37
38 Q: How many times did you email Ms. Kickwood?
39
40 A: Gosh, I don't know. Probably at least a dozen times initially. But since
41 then I've emailed Nellie on and off hundreds of times.
42
43 Q: Do you ever remember emailing Ms. Kickwook at an email address other
44 than kickwood1@kmail.com?
45
46 A: No.

1 Q: I am handing you what I've marked as Exhibit 1. Do you recognize it?
2
3 A: Yes. It's an email dated 11/13/14, from Nellie to me. This was after the
4 lawsuit was filed. I had emailed her/him to discuss the lawsuit and I
5 wanted to know why s/he was playing hard to get, you know, my lawyers
6 were wondering . . .
7
8 Ms. Jobs: Mr. Lebernot, please just answer the question. You know that you cannot
9 disclose any conversation you had with me and to the extent you are
10 inclined to disclose any of our conversations I am instructing you not to
11 answer that question.
12
13 Mr. Zuckerberg: Well, Ms. Jobs, if he discussed your conversation with Nellie Kickwood
14 (or anyone else for that matter) then the privilege is waived.
15
16 Ms. Jobs: You know very well there is a joint defense/common interest privilege and
17 your inquiry is improper. Mr./Mrs. Lebernot, do not answer that question.
18
19 Mr. Zuckerberg: We'll deal with that later. Let's move on. You were talking about the
20 email?
21
22 A: Yes, I sent Nellie an email, as you can see from Exhibit 1, that said,
23 "Nellie, why are you playing hard to get? We need to talk about this
24 lawsuit that Over Armor brought against us."
25
26 Q: Do you see Nellie's response, "As God is my witness, as God is my
27 witness they're not going to find me . . . If I have to lie, steal, cheat or kill.
28 As God is my witness, I'll never be found."
29
30 A: Yeah, that seemed like classic Nellie. She was really fond of the movie,
31 "Gone with the Wind." S/he would often recite lines from the movie or
32 even change them a bit to fit something s/he wanted to say. S/he was a
33 renaissance woman/man if I'd ever met one.
34
35 Q: What did s/he mean by that. Well, I have to assume that . . .
36
37 Ms. Jobs: Object to the form. You can answer if you know what Nellie is thinking.
38
39 A: Well, like my lawyer said, I don't know what Nellie was thinking if that
40 was even Nellie writing the email . . . I had assumed at the time that s/he
41 was trying, in her/his own way, to tell me that s/he didn't plan on
42 defending this lawsuit and s/he was running away. But, I am pretty sure
43 now that is not the case.
44
45 Q: Why don't you believe now that Nellie Kickwood was "running away"
46 from this lawsuit, as you put it?

1
2 A: Lots of reasons. First, s/he is here now isn't she? Also, I am not actually
3 sure that Nellie sent this email. You can see that this email wasn't sent
4 from her email address. It is from kickwood2@kmail.com, not
5 kickwood1@kmail.com. I didn't notice it at the time, but that's not
6 her/his email. Also, the signature block has an address, 1234 N. Paring
7 St., Beakman Town, Stetson 23434. Anyone that knows Nellie knows that
8 she does not put an address on anything. She doesn't even stay at the
9 same place for more than a week. I am pretty sure that her son/daughter
10 sent this email.

11
12 Q: Tell me more about her son/daughter.

13
14 A: C.J.? Well, let's just say Nellie and C.J. aren't really on the best of terms.
15 Nellie caught C.J. hacking into the Kickwood's bank account and stealing
16 money a couple years ago. I understand C.J. had a real drug problem and
17 s/he was also a real genius when it came to computers and gadgets, so C.J.
18 had hacked the Kickwood's bank account to transfer funds to C.J.'s
19 account to support her/his habit. I think Nellie told me that CJ had stolen
20 several thousand dollars in a few months' time.

21
22 Q: Was this ever reported, to your knowledge?

23
24 A: No, that is an interesting story. Nellie told me that C.J.'s father/mother
25 demanded that they not report it so as not to ruin C.J.'s future. C.J. had a
26 bright future as a computer programmer, and C.J.'s father/mother knew
27 that a criminal background would be a blemish on his record that might
28 get in the way of landing a good job. This was, s/he told me, the "straw
29 that broke the camel's back," so to speak, and she ultimately walked out
30 on her husband/wife and C.J. They haven't been close ever since.

31
32 * * *

33
34 Q: I want to go back to Nellie's email address, if I showed you a bunch of
35 emails between you and Nellie, using the kickwood2@kmail.com account,
36 is it your testimony that you wouldn't recognize them?

37
38 A: Look, I told you that Nellie only used the kickwood1@kmail.com email, if
39 there are emails between us on the kickwood2@kmail.com then I'd say
40 that C.J. probably had something to do with it, but it wasn't Nellie. I am
41 the Director of Research for CAFC currently, but before this job I was the
42 IT Director for a large computer company, you've probably heard of it—
43 Macrosoft. It isn't a secret that emails and text messages are inherently
44 unreliable because of the anonymity of the message. You can trace the
45 email or text to a computer or a phone, but you can't always trace the
46 message to a particular person. Anyone with the right password or access

1 to the phone or computer can send the email or text, and you'd never
2 know who it came from. That's all I'm saying. You should talk to C.J. I
3 bet s/he'd have some interesting answers for you.
4

5 Q: I am showing you what I've marked as Exhibit 3, do you recognize this
6 email?
7

8 A: Yes. It's pretty straightforward, I think.
9

10 Q: How can you be so sure?
11

12 A: Nellie and I have stayed in touch quite a bit, and we've always used the
13 kickwood1@kmail.com account. You have the emails in that other stack
14 right there.
15

16 Q: Did you ever text Nellie?
17

18 A: Yes.
19

20 Q: Please look at Exhibit 6, is this a printout from the CAFC Facebook page?
21

22 A: Yes, this is the thread with the report attached. It looks like the messages
23 that are referred to in the complaint at paragraphs 25 through 33. The
24 report was attached to the thread, but you can't see it here.
25

26 Q: Okay. I am handing you Exhibit 7, do you recognize these?
27

28 A: Yes, this is a text between from Nellie.
29

30 Q: Did you receive it?
31

32 A: Yes. I produced it for you. I told you that we texted, but this was the last
33 time I heard from Nellie. It was the same day we posted the report,
34 September 1, 2014. I believe Nellie was just getting anxious. We posted
35 the report a couple hours later.
36

37 Q: Why didn't you respond?
38

39 A: I didn't need to. I posted the report. I never sent or received another text
40 from Nellie. She wasn't all that into electronic communications.
41
42