

**Excerpts of Deposition of Nellie Kickwood**

1 Mr. Zuckerberg: Good morning Mr./Ms. Kickwood. I represent the plaintiff in this case.  
2 How are you this morning?  
3  
4 Witness: Good.  
5  
6 Q: You are familiar with this lawsuit, aren't you?  
7  
8 A: Unfortunately, yes. I am now.  
9  
10 Q: I am glad you mentioned that. Let's talk about when you first learned of  
11 this lawsuit. When was that?  
12  
13 A: I learned about it sometime in June. I got a call from my colleague at  
14 CAFC, Ripley Lebernot.  
15  
16 Q: How did Mrs./Mr. Lebernot make you aware of this lawsuit?  
17  
18 A: We spoke on the phone. S/he told me that one of the judges in this case, I  
19 think Judge Benjamin, entered a judgment against me and CAFC for  
20 \$750,000,000. It's ridiculous. It is not going to stick, no way. How can I  
21 have a judgment against me when I didn't even know I was being sued?  
22  
23 Q: Is it your testimony that you didn't know you were being sued until  
24 sometime in June of this year?  
25  
26 A: Yes.  
27  
28 Q: What did Mrs./Mr. Lebernot tell you during that phone call in June?  
29  
30 A: We talked about a lot of things. S/he told me that the plaintiff, those  
31 crooks at Over-Armor, didn't have any real proof but the judge gave them  
32 a crazy amount of money anyway. He said that I had a, I think he called it  
33 a default, yes, a default, entered against me or something. I didn't really  
34 understand what that meant until I spoke to my lawyer and he said—  
35  
36 Ms. Jobs: Do not tell him what we talked about, Nellie. Answer the question, but do  
37 not disclose our conversations.  
38  
39 Mr. Zuckerberg: Well, before we go there, let me ask a couple questions. Tell me who was  
40 present when you talked to your lawyer . . . I assume your lawyer was Ms.  
41 Jobs?  
42  
43 Witness: Yes, it was me, Ms. Jobs, and Mrs./Mr. Lebernot.  
44

1 Q: Anyone else?  
2  
3 A: No, just the three of us.  
4  
5 Q: Did you have a written agreement with Ms. Jobs at that time?  
6  
7 A: Not at that time. We do now.  
8  
9 Q: When did you sign the written agreement?  
10  
11 A: I think it was the following week. We had to sign something called a  
12 conflict waiver, or something like that. And we signed an engagement  
13 letter also. I had to pay a lot of money up front. This report has cost me a  
14 lot money, but it was worth it because I exposed those crooks at Over-  
15 Armor.  
16  
17 Q: So, is it fair to say that you didn't think Ms. Jobs was acting as your  
18 lawyer at the time you spoke with her and Mrs./Mr. Lebernot?  
19  
20 Ms. Jobs: Object to the form. Actually, I object to this entire line of questioning. It  
21 is highly improper and you know it.  
22  
23 Mr. Zuckerberg: I disagree. Are you instructing this witness not to answer?  
24  
25 Ms. Jobs: Not yet, but I am getting close. Please move on.  
26  
27 Mr. Zuckerberg: You can answer the question.  
28  
29 Witness: Well, that's tricky. I guess I have to say I didn't think Ms. Jobs was my  
30 lawyer, I mean I knew she was CAFC's lawyer but I really liked her idea  
31 of getting a second bite at the apple—  
32  
33 Ms. Jobs: Nellie, do not say anything else about that conversation. I am instructing  
34 you not to answer on the grounds that our conversation is protected by the  
35 attorney-client privilege.  
36  
37 Mr. Zuckerberg: I disagree, Ms. Jobs. She just said that she didn't think you were her  
38 lawyer at the time of the phone call, so there's no privilege. And that's  
39 assuming you don't have a conflict in this case.  
40  
41 Ms. Jobs: We'll take that up with the Court. For now, move on please.  
42  
43 Mr. Zuckerberg: Do you think that you will have a second bite at the apple in this case?  
44  
45 Witness: I hope so. Your client never should have won this case. They are a bunch  
46 of crooks and they had to be exposed. I've never really cared much for the

1 sport of soccer, but after I investigated the side deals and bribery that  
2 Over-Armor engaged in I can't help but be outraged. I understand lots of  
3 people think soccer, or I guess football, is a noble sport and I think Over-  
4 Armor should be punished for calling its integrity into question.  
5  
6 Q: How long have you known Mrs./Mr. Lebernot?  
7  
8 A: Not very long. I guess about a year or so. She/he got in touch with me  
9 using that Facebook thing all the kids are using these days. I think she/he  
10 sent me an email.  
11  
12 Q: What is your email address?  
13  
14 A: It's [Kickwood1@kmail.com](mailto:Kickwood1@kmail.com).  
15  
16 Q: How about [Kickwood2@kmail.com](mailto:Kickwood2@kmail.com)?  
17  
18 A: That's an email my son/daughter set up for me. I don't use it though.  
19  
20 Q: Have you ever used it?  
21  
22 A: Not that I recall.  
23  
24 Q: I am showing you what's been marked as Exhibit 3, do you recognize it?  
25  
26 A: Yes. It looks like an email from me on November 9, 2014.  
27  
28 Q: Now look at Exhibit 1, how about this one?  
29  
30 Ms. Jobs: Object to the form.  
31  
32 Mr. Zuckerberg: Do you know who sent the email identified as Exhibit 1?  
33  
34 Witness: I don't. I can guess . . .  
35  
36 Q: Who do you think sent it?  
37  
38 Ms. Jobs: Object to the form.  
39  
40 Mr. Zuckerberg: You can answer the question.  
41  
42 A: I bet it was CJ. S/he's been mad at me since his father and I split up. I bet  
43 s/he is trying to punish me. Gosh, s/he stole about \$10,000 from me you'd  
44 think that is enough. Now s/he is trying to get me nailed with a  
45 \$750,000,000 judgment.  
46

1 Q: Let's talk about that. Why do you think CJ would even know how to set  
2 you up. S/he's not a lawyer is s/he?  
3

4 A: Of course s/he isn't one of you guys. Thank goodness. CJ is only 16, but  
5 s/he is very smart. S/he was tested as a young child and s/he scored off  
6 the charts on the IQ test. S/he was even invited to join MENSA. S/he can  
7 learn anything s/he puts her/his mind to. S/he uses the computer all the  
8 time and s/he's always picking up new things. The kid has all of the  
9 smarts in the world and s/he's always dreaming big, but s/he has no  
10 common sense. I always tell her/him, "Dreams! Always dreams with you,  
11 never common sense."  
12

13 Q: I have no idea what you're talking about, dreams, common sense?  
14

15 A: It's a saying, sir. You should watch Gone with the Wind, it's a fabulous  
16 movie. I'm just saying that the kid is very smart and s/he dreams big, but  
17 s/he never thinks about the real world and reality.  
18

19 Q: I heard you're a big Gone with the Wind fan. Do most people know that  
20 about you?  
21

22 A: Oh, gosh yes. I used to always try to get my wife/husband to watch it with  
23 me, but s/he always fell asleep in the first 15 minutes.  
24

25 Q: So, to be clear, you didn't send the email marked as Exhibit 1?  
26

27 A: That's what I said.  
28

29 Q: Looking at Exhibit 1, how can you say that you didn't send it?  
30

31 A: It's an email between Ripley and someone using the [Kickwood2@kmail.com](mailto:Kickwood2@kmail.com)  
32 address. Perhaps someone logged in and sent the email from my  
33 kmail account on Thursday. I can't tell you. But I can tell you that I didn't  
34 send it.  
35

36 Q: Were you at 1234 N. Paring St., Beakman Town, Stetson 23434 on  
37 Thursday, November 13, 2014?  
38

39 A: I don't know. That's over a year ago.  
40

41 Q: Could you have been at your house, at 1234 N. Paring St., Beakman  
42 Town, Stetson 23434?  
43

44 A: That's not my house. I don't live there.  
45

46 Q: It used to be your house, didn't it?

1  
2 A: Yes, sir. But that was before my husband and I split up.  
3  
4 Q: When did you move out?  
5  
6 A: I don't remember. Honestly, that was part of the problem with my  
7 marriage. I am an investigative journalist and I have a lot of enemies. I  
8 expose a lot of bad people that do lots of bad things. Just ask your client.  
9  
10 Ms. Jobs: Just answer the question, Nellie.  
11  
12 Mr. Zuckerberg: Let's talk about where you were living during the months of October and  
13 November. Where did you live?  
14  
15 A: That's going to be a long list. Let's see. I lived in the Super 8 in  
16 Beakman Town; I lived in the Paradise Inn on the beach in Peru (in  
17 Stetson); I lived in Kaysville (in Stetson); I stayed at the Marriott a couple  
18 times in Beakman Town. I'm sure there's more.  
19  
20 Q: How would someone find you?  
21  
22 A: They wouldn't, at least I hope not. That's the whole point.  
23  
24 Q: To be clear, were you at 1234 N. Paring St., Beakman Town, Stetson  
25 23434 on Thursday, November 13, 2014?  
26  
27 A: I am positive I wasn't there. I'm sure. In fact, I was staying on the beach  
28 in Peru that week. That's right.  
29  
30 Q: Do you have your receipt to show you were there?  
31  
32 A: No. I always pay cash and I don't keep receipts.  
33  
34 Q: Do you have a car?  
35  
36 A: Not my own car, no. Sometimes I borrow my husband's/wife's. We are  
37 still working out the details of the divorce and I think s/he will keep it.  
38  
39 Q: What kind of car is it?  
40  
41 A: It is a fire engine red Mustang, 2002 GT. It was a birthday present for me,  
42 but it was titled in his/her name. I am still upset about it.  
43  
44 Q: When is the last time you drove it?  
45  
46 A: Actually, I took it to the beach.

1 Q: How did you pick up the car?  
2  
3 A: I don't remember.  
4  
5 Q: When did you pick up the car?  
6  
7 A: I don't remember.  
8  
9 Q: CJ is pretty good with computers, isn't s/he?  
10  
11 A: Yes, s/he is.  
12  
13 Q: Is that why you asked her/him to set up all of your accounts?  
14  
15 A: That's why I asked her/him to set up my Facebook page at KickA\$\$ and  
16 my e-mail at [Kickwood1@kmail.com](mailto:Kickwood1@kmail.com). I didn't ask her/him to set up the  
17 email at [Kickwood2@kmail.com](mailto:Kickwood2@kmail.com) or the other Facebook page at  
18 KickOverArmorA\$\$.  
19  
20 Q: Sure about that?  
21  
22 A: Yes.  
23  
24 Q: Take a look at Exhibit 2, do you recognize this email?  
25  
26 A: Yes, I've seen it. Like I told Ms. Jobs when we met the other day, I don't  
27 remember this —  
28  
29 Ms. Jobs: Nellie, you need to stop disclosing our communications. You can waive  
30 the privilege if you keep doing that. Do not finish that sentence.  
31  
32 Witness: Anyway, I don't remember this email. That's the truth.  
33  
34 Mr. Zuckerberg: But you could have sent it, correct?  
35  
36 A: No. Probably not.  
37  
38 Q: You were at the N. Paring St. address on November 9, 2014, weren't you?  
39  
40 A: If you say so. I don't know.  
41  
42 Q: Do you remember being at the house when CJ was at a concert the night  
43 before?  
44  
45 A: Yes. Now I remember. My wife/husband was out of town that week and I  
46 decided to go there late on Saturday night, the 8th I think, and I spent the

1 night there. I was going there because I had to pick up my laptop from CJ.  
2 He was going to fix some bugs in it. It was running really slowly.  
3  
4 Q: So, you were at the N. Paring St. address at 3:55 a.m., on the 9th, when the  
5 email identified as Exhibit 3 was sent, weren't you?  
6  
7 A: Yes. As I already told you, I sent it. I remember CJ came home really late  
8 . . . I think s/he was stoned, and s/he couldn't get in the house. I had to let  
9 her/him in.  
10  
11 Q: When was that?  
12  
13 A: I don't know. It was in the middle of the night sometime. I woke up to let  
14 CJ in and I sent Ripley an email, but I am not sure how the email was sent  
15 from the [Kickwood2@kmail.com](mailto:Kickwood2@kmail.com). It was around 4:00 a.m.  
16  
17 Q: Did CJ have a drug problem?  
18  
19 A: I don't think that is an appropriate question.  
20  
21 Ms. Jobs: Nellie, I know it's tough but you have to answer the question.  
22  
23 Witness: CJ had a drug problem. S/he's a good kid, but s/he just starting hanging  
24 out with the wrong crowd. Listening to rap music and that one guy,  
25 Snoopy Dog, I think his name is. I'll tell you what, I don't know why the  
26 feds don't go after that Snoopy guy. I am sure he's a drug dealer and I bet  
27 he's selling drugs at the concerts; maybe that'll be one of my next  
28 investigations.  
29  
30 Ms. Jobs: Are you answering a question, Nellie?  
31  
32 Witness: Sorry. So, as I was saying, CJ had a drug problem and we caught CJ  
33 stealing money to pay for her/his habit. It was a real problem. I think s/he  
34 stole like \$10,000 from me. It's just like Ripley testified during her/his  
35 deposition. I told him all about it.  
36  
37 Q: Did you report CJ to the authorities?  
38  
39 A: No. I wanted to but my wife/husband wouldn't do it. S/he didn't want to  
40 ruin CJ's future. I felt like nothing else was working. CJ needed some  
41 discipline. S/he just couldn't get her/his act together. It was a real sore  
42 spot between me and my ex.  
43  
44  
45  
46  
47

1 Q: Do you think CJ was mad at you?  
2  
3 A: Sure s/he was. S/he didn't understand why his/her own mother/father  
4 would want to turn her/him in to the police. This happened in mid-  
5 August. It's pretty fresh.  
6  
7 Q: Take a look at Exhibit 4, do you recognize it?  
8  
9 A: Yes, that looks like a text message I sent to CJ on the night of the concert.  
10 I remember that now.  
11  
12 Q: So, you sent this text message at 11:28 p.m. on Saturday, November 8th  
13 from your cell phone and you received the response from CJ?  
14  
15 A: That's correct.  
16  
17 Q: Exhibit 5, do you recognize it?  
18  
19 A: What is this? I see the Facebook page KickOverArmorA\$\$, but I didn't  
20 send this. That's weird.  
21  
22 Q: Are you sure?  
23  
24 A: Yes. I'm sure.  
25  
26 Q: Did you ever send or receive message to or from that Facebook account  
27 (the KickOverArmorA\$\$ account)?  
28  
29 A: Not that I recall. I told you, I didn't use this account and I never asked CJ  
30 to set it up.  
31  
32 Q: Did you ever send any emails from [Kickwood2@kmail.com](mailto:Kickwood2@kmail.com) address, that  
33 you recall?  
34  
35 A: Not that I recall.  
36  
37 Q: Did you ever receive any emails at that address?  
38  
39 A: No.  
40  
41 Q: So, you never received any messages from the process server about this  
42 lawsuit, is that your story.  
43  
44 A: That's right. Never received anything.  
45  
46



1 Q: Please take a look at Exhibit 6. Do you recognize this?  
2  
3 A: Yes. This is the CAFC Facebook page on which the report was published.  
4  
5 Q: Do you see the comment by KickA\$\$ at September 5, 2014, at 4:34 a.m.?  
6 Did you write that?  
7  
8 A: I did. And it's true too!  
9  
10 Q: Take a look at the post on September 5, 2014, at 11:58 p.m., do you see  
11 that?  
12  
13 A: I see it. But I didn't write that. Must've been CJ again.  
14  
15 Q: Do you know that CJ posted that comment using your  
16 KickOverArmorA\$\$ Facebook account?  
17  
18 A: Look, it's not my account and I told you I didn't write it. I don't know  
19 that CJ wrote it, but it's a good guess.  
20  
21

22 \* \* \*  
23