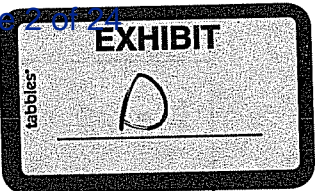


EXHIBIT "D"



UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JERRY RAY CORLISS, : NO. 5:08-CV-5624

Plaintiff :

ORIGINAL

vs. :

DALE STOKES AND THE CITY OF :
ALLENTOWN, :

Defendants :

DEPOSITION OF DAWN BARRY

Taken in the law offices of
Worth, McGee & Fisher, 2610 Walbert Avenue,
Allentown, Pennsylvania, on Thursday, July 9, 2009,
commencing at 1:00 p.m., before Suzanne L. E. Toto,
Registered Professional Reporter.

APPEARANCES:

WORTH, MCGEE & FISHER

BY: ROBERT MCGEE, ESQUIRE

2610 Walbert Avenue

Allentown, PA 18104

-- For The Plaintiff

* * *

SLIFER, VOICE & SHADE

A Veritext Company

4949 Liberty Lane

Suite 200

Allentown, PA 18106

(610) 434-8588

1 APPEARANCES: (CONTINUED)
2 LAVERY, FAHERTY, YOUNG & PATTERSON, PC
3 BY: ROBERT G. HANNA, JR., ESQUIRE
4 225 Market Street
5 Suite 304
6 Harrisburg, PA 17108-1245
7 -- For The Defendant

8 THE CHARTWELL LAW OFFICES, LLP
9 BY: KENNETH M. DUBROW, ESQ.
10 1717 Arch Street
11 46th Floor
12 Philadelphia., PA 19103
13 -- For Home Depot

14 ALSO PRESENT: Kimberly Bassler
15 Jerry Corliss
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22 * * *

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I N D E X

WITNESSES

Page

DAWN BARRY

Examination by MR. HANNA

4:8

DAWN BARRY

Cross-Examination by MR. McGEE

9:20

EXHIBITS

1 Drawing

11:11

1 (It is stipulated by and between
2 counsel for the respective parties that all
3 objections except as to the form of the question are
4 reserved until the time of trial.)

5 * * *

6 DAWN BARRY, having been duly
7 sworn, was examined and testified as follows:

8 EXAMINATION

9 BY MR. HANNA:

10 Q. Would you state your name for the
11 record?

12 A. Dawn Barry.

13 Q. And it's, D-A-W-N. How do you spell
14 your last name?

15 A. B-A-R-R-Y.

16 Q. My name is Robert Hanna. You probably
17 know that. I am the attorney who represents the
18 Defendants in this particular lawsuit. Have you
19 ever given any testimony in a deposition before?

20 A. Not in a long time.

21 Q. It's not real complicated. Basically, I
22 get to ask the questions. If you don't understand a
23 question, let me know that you didn't understand the
24 question. I will attempt to clarify it. If your
25 attorney or either one of the attorneys -- I'm

1 surrounded here -- voice an objection, just wait
2 until it gets resolved. That's not your job, okay.
3 If you don't know the information necessary to
4 answer a question, you can say, I don't know, I
5 don't recall. Guessing is not part of this whole
6 process.

7 We are here today because a
8 person, who is seated to my right at the end of the
9 table who was an unknown customer initially but
10 whose name is Jerry Corliss, came to the Home Depot.
11 And we understand that you may have seen him in the
12 store, encountered him. And I'm just trying to get
13 some information as to what you know and what you
14 don't know. Do you understand my question so far?

15 A. Yes.

16 Q. What is the nature of your employment at
17 Home Depot?

18 A. Sales associate.

19 Q. And do you work in a particular location
20 in the store?

21 A. Electrical.

22 Q. I'm sorry?

23 A. Electrical department.

24 Q. In the electrical department. On
25 October 6, 2008, did you have occasion to observe an

1 individual apparently carrying a firearm openly?

2 A. Yes.

3 Q. Where were you in the store at the time
4 you made whatever observations you made?

5 A. I was walking across the front main
6 aisle of the store.

7 Q. And where was this individual relative
8 to where you were?

9 A. About, 10, 15 feet in front of me.

10 Q. And what was this individual doing?

11 A. Walking.

12 Q. Did you have any conversations with him?

13 A. No.

14 Q. Did you talk to any customers concerning
15 him?

16 A. No.

17 Q. Did you have any conversations regarding
18 whatever you observed with Kim Bassler or any other
19 employee of the store?

20 A. Yes.

21 Q. And who would that be?

22 A. Kim.

23 Q. Is she the only person you talked to?

24 A. Yes.

25 Q. And do you have any recollection as to

1 what you may have told her?

2 A. I told her that there was a customer
3 with a gun clearly visible on his side. There was
4 customers that had walked the opposite direction;
5 and their facial expressions to me, they were very
6 concerned with seeing the gun. And I wasn't sure
7 what to do. I just brought it to her attention.

8 Q. And was that the full extent of your
9 involvement in the matter?

10 A. Yes.

11 Q. And who is Kim Bassler? For the record,
12 I know she is seated here; but who is she for the
13 record? Is she your boss?

14 A. No, she's an associate.

15 Q. And do you know generally speaking what
16 she does at the store?

17 MR. DUBROW: At what point in
18 time, then or now, because there may be a difference
19 and that's why?

20 Q. Okay, at the time in October 6th, 2008,
21 what was her job at the store?

22 A. Loss prevention.

23 Q. Now, you are answering the questions
24 before I get my question out.

25 A. Sorry.

1 Q. We usually caution witnesses to wait
2 until the lawyer finishes the question because the
3 stenographer, who is very good, cannot
4 simultaneously record the question and answer.

5 However, I don't have any --
6 excuse me. Let me back up one second.

7 Did you ever talk to police
8 officer, I believe his name is, Stokes?

9 A. No.

10 Q. Did you see him in the store that day?

11 A. Yes.

12 Q. Did you recognize him, I mean because of
13 his relationship to an employee at the store?

14 A. Yes.

15 Q. Again, you answered the question before
16 I finished it. The answer is, yes, you recognize
17 him?

18 A. Yes.

19 Q. Do you know him to be the husband of an
20 employee of the store?

21 A. Yes.

22 Q. And who would that person be?

23 A. Julia Stokes.

24 MR. MCGEE: Joanne?

25 A. Julia.

1 Q. Do you know what Julia does? What is
2 her job in the store?

3 A. She is a department supervisor.

4 Q. Did you happen to see her on the 6th of
5 October in conjunction with your observations of
6 Mr. Corliss and your conversations with Kim?

7 A. Yes.

8 Q. Do you remember where she was?

9 A. She was standing next to Kim at the pro
10 desk.

11 Q. When you voiced whatever you voiced to
12 Kim, she was physically present and may have heard
13 whatever you said?

14 A. Yes.

15 MR. HANNA: I don't have any
16 additional questions.

17 MR. McGEE: Off the record.

18 (Discussion held off the record.)

19 * * *

20 CROSS-EXAMINATION

21 BY MR. McGEE:

22 Q. Just so I understand, no customer ever
23 came up to you and complained that there is this guy
24 with a gun and I'm scared?

25 A. No customer ever complained.

1 Q. And do you know if all the Home Depot
2 stores are set up the same way inside?

3 A. I don't know.

4 Q. I know you are not an artist. I assume
5 you are not. Are you an artist?

6 A. No.

7 Q. With that understanding, I'm going to
8 ask you to draw a very basic diagram of you talked
9 about being in the front aisle or the main aisle
10 across the front of the store, and you saw this
11 gentleman walking in front of you?

12 A. Um-hum.

13 Q. Is that yes?

14 A. Yes.

15 Q. Did you follow him to any particular
16 destination?

17 A. I walked, and he made a left into the
18 tool corral.

19 Q. And what did you do?

20 A. I went straight, and Kim was off to the
21 right.

22 Q. When you saw that and you saw the
23 gentleman make the left into the tool corral, was it
24 your intention at that time to report it to
25 somebody?

1 A. Yes.

2 Q. Now, I was just wondering if you would
3 be kind enough to draw the main aisle that you saw
4 him in and followed him in, the general idea where
5 the tool corral was, and the general idea where you
6 first saw Kim. Does the store look the same?

7 MR. DUBROW: You want her to draw
8 this or answer you?

9 MR. MCGEE: I was hoping she could
10 do both, but I will wait until you are done drawing.

11 (Barry Deposition Exhibit Number 1
12 was marked for identification.)

13 Q. Ma'am, I show you what has been marked
14 as Barry Exhibit 1 and ask you to take a look at
15 that. Is that the diagram that you just got
16 finished drawing at my request?

17 A. Yes.

18 Q. Now, would you mark on there where the
19 entrance doors are, if they can be shown on there?

20 MR. DUBROW: The only concern that
21 I have is there are multiple entrance doors.

22 MR. MCGEE: Are there really?

23 MR. DUBROW: If you want to ask
24 the closest entrance door --

25 MR. MCGEE: I guess it wouldn't

1 matter.

2 BY MR. MCGEE:

3 Q. Is the area where the cash registers end
4 or self-check out aisles located on Barry Number 1?
5 Would you be able to put them in there without going
6 off the side of the page and bottom of the page?

7 MR. DUBROW: With the
8 understanding this isn't drawn to scale obviously,
9 but I guess the question would be is that where the
10 cashiers and the self-check out aisles are in the
11 same location, correct?

12 THE WITNESS: They are down here.

13 Q. They would be off Barry Exhibit 1 off to
14 the left side?

15 A. Yes.

16 Q. Good enough. Now, do you know how
17 long -- strike that.

18 Do you know over what distance you
19 followed this individual displaying the firearm?

20 A. I don't know.

21 Q. And you said you were about 10 or 15
22 feet behind him?

23 A. Yes.

24 Q. I take it this is the first time you
25 have had any situation with a customer openly

1 displaying a firearm appear at the store while you
2 were working?

3 MR. DUBROW: Objection as to form.
4 You can answer the question.

5 A. Yes.

6 Q. How long have you been working there?

7 A. Since November of 2007.

8 Q. Are you still employed there?

9 A. Yes.

10 Q. Now, once this individual went into the
11 tool corral, did you continue walking; or did you
12 stop to see where he was going or what he was doing?

13 A. I continued to walk.

14 Q. Just so this is clear, along the front
15 aisle, would you draw an arrow showing the direction
16 in which both you and Mr. Corliss were moving when
17 you observed him? So you were both moving from the
18 left side of Barry Exhibit 1 towards the right side
19 of Barry Exhibit 1, is that correct?

20 A. Yes.

21 Q. Now, one of the things that you have
22 drawn on there on the bottom right-hand corner, you
23 have labeled a pro desk?

24 A. Yes.

25 Q. What is that?

1 A. That is where contractors go to buy
2 stuff. There's registers and such right there.

3 Q. I understand that area now. Now, at
4 some point -- strike that.

5 When Mr. Corliss did turn to the
6 tool corral, did you even look to your left to see
7 what he was doing?

8 A. When he turned left and walked into the
9 tool corral, I saw him turn in; and I just looked
10 straight and went towards the pro desk.

11 Q. Is the tool corral set up as such that
12 there is that one area where you can enter the tool
13 corral?

14 A. Yes.

15 Q. In the tool corral between the interior
16 of the tool corral and the front aisle, are there
17 any barricades or barriers, visual barriers?

18 A. There's half walls, but nothing too
19 high.

20 Q. Now, if you had stopped other than
21 standing by the entrance way there, if you had
22 stopped and looked into the tool corral here, would
23 you have been able to see in the tool corral?

24 A. Yes.

25 Q. But you proceeded on to contact

1 Ms. Bassler, is that correct?

2 A. Yes.

3 Q. Where did you see her?

4 A. At the pro desk.

5 Q. Fair enough. Tell me exactly what you
6 told her.

7 A. I told her that there was a customer
8 with a gun that was visible on his side. He was
9 wearing a purple T-shirt. And when I was walking
10 behind him, I said customers had walked -- they were
11 coming from the other direction; and when they
12 walked past him and saw me, they had a look of
13 concern on their face. They were surprised to see
14 it.

15 Q. But none of them actually stopped you
16 and asked if you were going to do something about
17 this man?

18 A. No. And I said, I don't know what to do
19 about it.

20 Q. You never received any training or
21 communications from Home Depot about whether or not
22 this was acceptable or unacceptable in this
23 particular store?

24 MR. DUBROW: Objection. You can
25 answer.

1 A. No.

2 Q. Would you estimate for me how many
3 individuals walked past you and made the faces that
4 you described?

5 A. Two or three.

6 Q. Do you remember their ages?

7 A. No.

8 Q. Do you remember their genders?

9 A. I don't remember.

10 Q. Were they three separate individuals or
11 were they perhaps two in one group, a husband and
12 wife perhaps and one individual by him or herself,
13 or was it three separate entities?

14 A. I don't remember.

15 Q. What did Ms. Bassler tell you?

16 A. She made the statement that she didn't
17 know; she'll find out.

18 Q. And then what did you do?

19 A. I walked away.

20 Q. And went about doing your job or
21 whatever that was?

22 A. Yes.

23 Q. When is the next time you saw either
24 Mr. Corliss or Officer Stokes or Julia Stokes?

25 A. I never saw Mr. Corliss or Mr. Stokes

1 since.

2 Q. That day -- did you see Mr. Stokes that
3 day?

4 A. No, I don't think I did.

5 Q. I don't know. I may have just misheard
6 you. Did you not see Officer Stokes there that day
7 at the store?

8 A. I saw him there earlier, not after I had
9 walked away from the pro desk.

10 Q. What was he doing there that day?
11 Strike that.

12 Let me put it this way, where did
13 you see him?

14 A. He was across in the aisle looking at
15 door knobs.

16 Q. Would that be directly across from the
17 pro desk?

18 A. Yes.

19 Q. And he was in full uniform?

20 A. Yes.

21 Q. If you recall?

22 A. Yes.

23 Q. But that was -- was that before you saw
24 Mr. Corliss with the open firearm?

25 A. No, that was after.

1 Q. I'm getting confused here, and it's not
2 your fault, I'm sure.

3 A. When I walked up to the pro desk and
4 talked to Kim, when I turned around to leave, I saw
5 Mr. Stokes across --

6 Q. Looking at the door knobs?

7 A. Yes.

8 Q. But you didn't speak to him, and you
9 just went on wherever you were going to continue
10 your job?

11 A. Yes, I continued in the direction I was
12 going.

13 Q. And you never saw Mr. Stokes later that
14 day?

15 A. No.

16 Q. And you never saw Mr. Corliss?

17 A. No.

18 Q. Did you see Mrs. Stokes?

19 A. No.

20 Q. At any point, did you notice that a
21 crowd was gathering looking into the tool corral?

22 A. I don't remember.

23 Q. Since that time, have you received any
24 communications from management about what to do if
25 any similar situation occurs?

1 MR. DUBROW: Objection. Instruct
2 her not to answer. That is not part of this case.

3 MR. MCGEE: That's fair. That's
4 all I have.

5 (Deposition concluded at 1:20 p.m.)

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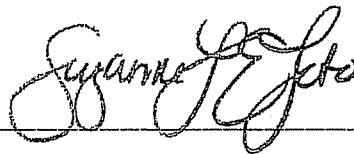
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_____, 2009

I hereby certify that the evidence and proceedings are contained fully and accurately in the notes taken by me of the testimony of the within witness who was duly sworn by me, and that this is a correct transcript of the same.



Suzanne L. E. Toto
Registered Professional Reporter

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I hereby certify that I have
read the foregoing transcript of my testimony taken
at the within deposition and find it to be true and
correct.

DAWN BARRY

EXHIBIT
Barry
7-9-09 SGT
PENGAD 800-631-6989

