

1 MR. PRESTIA: May I approach, Your Honor?

2 THE COURT: Yes. Uh-huh.

3 Thanks. Go ahead. You may inquire.

4 MR. PRESTIA: Thank you.

5 CROSS EXAMINATION

6 BY MR. PRESTIA:

7 Q So that I don't have -- I don't want to say
8 your name wrong. Can you just pronounce it for me?

9 A It's Kuerzi.

10 Q Kuerzi.

11 A Yes.

12 Q Ms. Kuerzi, it's a pleasure to meet you. My
13 name is Tom Prestia. I represent the defendants in this
14 case. I just have a couple of -- I have a good amount
15 of questions for you as it pertains to the documents
16 that you discussed with plaintiff's counsel. Before we
17 get going with that, you would agree with me that you
18 have a financial stake in the outcome of this case?

19 A I'm not sure I understand what you mean.

20 Q Well, you're an employee of SPS, right?

21 A Yes.

22 Q And you're paid to be here, correct?

23 A It is my job to testify in trials, yes.

24 Q And as part of your job you're paid, correct?

25 A Yes.

1 Q And how much are you paid?

2 A An annual salary.

3 Q Which is?

4 A \$50,000.

5 Q And part of that \$50,000 is for you to come
6 here to testify in cases such as this one, correct?

7 A It is paid for my job duties to research,
8 review accounts, prep files and work with my counsel and
9 get accounts ready for trial, if -- if that's the case,
10 yes.

11 Q So the answer to my question is yes, as part
12 of your salary you're paid to come here to court and
13 testify in cases such as this one, correct?

14 MR. NEW: Objection, asked and answered.

15 THE COURT: Okay. Overruled. Go ahead.

16 A Yes.

17 Q And you make your living solely by testifying
18 in cases such as this, right?

19 A No.

20 Q No? You have another job?

21 A No.

22 Q So your -- your sole form of income is from
23 SPS, correct?

24 A Yes.

25 Q And your job at SPS is to, as you said, review

1 files and come in and testify in cases such as this,
2 correct?

3 A Yes.

4 Q Okay. And you've worked there how long?

5 A Seventeen years.

6 Q Now, you're not an employee of the plaintiff
7 in this case, are you?

8 A No.

9 Q Who is the plaintiff in this case?

10 A Fifth -- Fifth Third Bank.

11 Q And you at no point were ever employed by
12 Fifth Third Bank, correct?

13 A Right.

14 Q And you were never employed by DLG -- let
15 me -- I apologize, strike that.

16 You were never employed by DLJ Mortgage
17 Capital Incorporated, correct?

18 A Correct.

19 Q So you would agree with me then -- well, let
20 me kind of back up. I apologize. Since you are in the
21 business of testifying in these types of cases, you
22 would agree with me that your employer, if your employer
23 found out that you were a poor witness, you would no
24 longer be doing what you're doing, correct?

25 MR. NEW: Objection, speculation.

1 THE COURT: Okay. Overruled.

2 A I have not found that to be the case. I don't
3 know that personally.

4 Q All right. So if it's your testimony that you
5 don't do a full and thorough and good job testifying in
6 these cases, that you would still retain your job at
7 SPS, correct?

8 A I would assume that would be up to my
9 superiors.

10 Q Well, in general practicality, you would agree
11 with me that if someone isn't doing a good job at
12 their -- for their employer, they would not be there,
13 correct?

14 A I can't say yes or no to that. I would not
15 know.

16 Q Well, just -- I mean, on a common sensible
17 basis, you would agree that if an employee is not doing
18 their job thoroughly and accurately and to the standards
19 of their employer, they would not be an employee of that
20 company for very long, correct?

21 A Well, it depends if they want to give them
22 additional training and coaching.

23 Q Well, let's talk about that now that you've
24 mentioned that. You're actually given formal training
25 and coaching to testify, right?

1 A It's -- sometimes, yes.

2 Q No, in -- at your employment within the last
3 17 years, you're actually coached and trained on how to
4 testify in court just like this; isn't that true?

5 A I have had training, but I'm not trained on a
6 daily basis.

7 Q So the answer to my question then is yes?

8 A I have had training.

9 Q As it pertains to courtroom testimony,
10 correct?

11 A Yes.

12 Q Okay. And that training involves mock trials,
13 correct?

14 A No.

15 Q No? The training involves -- what does the
16 training involve?

17 A It's just a one-on-one session.

18 Q With who?

19 A With whoever the company sees -- it could be
20 one of the corporate attorneys.

21 Q Okay. So you actually receive training from a
22 attorney in preparation for you going to cases and
23 testifying; is that what your testimony is?

24 A They have been known to do that, yes.

25 Q And who was the person that trained you in

1 regards to this case?

2 A I -- I did not have any training regarding
3 this case.

4 Q Okay. When was your training?

5 A I had some training regarding court in general
6 about a year ago.

7 Q So about a year ago you met with an attorney
8 who trained you as it pertains to court procedures and
9 testifying, correct?

10 A I cannot say that he was an attorney, no.

11 Q Well, I thought you just told me that you had
12 met with a attorney and he was the person that gave you
13 training?

14 A We do in general at times.

15 Q Okay. And you particularly, you said you got
16 one-on-one training, right?

17 A Yes.

18 Q And you advised that the individual that
19 trained you was an attorney, did you not?

20 A No, I did not say that.

21 Q Okay. Well, who was the person that trained
22 you then?

23 A It was someone that the company had hired.

24 Q Who was that person?

25 A I do not recollect his name.

1 Q Do you recall what type of -- what did he do
2 for a living?

3 A He was a trainer.

4 Q Employed by SPS?

5 A Not a hundred -- not full time, no.

6 Q So he -- but he does have some legal
7 background, correct?

8 A As far as I know, yes.

9 Q And he trained you on how to testify, correct?

10 A He trained us on, you know, what to expect in
11 the courtroom.

12 Q Okay. So you -- you were made well aware of
13 the types of questions and issues that could arise in
14 these types of cases, correct?

15 A Yes.

16 Q And, specifically how to formulate a response
17 favorable to your employer, right?

18 A I wasn't told that, but I could say I was
19 trained to answer the question properly and accurately.

20 Q Okay. And properly and accurately as an
21 employee of SPS would be favorable to them; isn't that
22 right?

23 MR. NEW: Objection, argumentative.

24 THE COURT: Okay. Overruled.

25 Q Correct? It's a yes or no, ma'am.

1 A I would say so long as I give the correct
2 answer and it's the truth, that would be yes.

3 Q Okay. So then the answer to my question is
4 yes?

5 A (No response).

6 Q Correct?

7 A Yes.

8 Q Okay. You've testified in hundreds of cases,
9 correct?

10 A I would say yes.

11 Q Approximate -- approximately how many?

12 A That's kind of hard to say. I --

13 Q Over 500?

14 A No, I would not say that. I'd say maybe
15 between 100 and 300.

16 Q Between 100 and 300. So 100 -- between 100
17 and 300 times you've come into court and testified
18 before in the -- in this same fashion, before attorneys
19 and judges and court reporters and things of that
20 nature, correct?

21 A Yes.

22 Q Okay. So in essence you're a professional
23 witness, right?

24 A No.

25 Q You wouldn't agree with that assessment?

1 A No, I wouldn't.

2 Q And why not?

3 A Because I actually work on accounts. I review
4 accounts. I -- you know, I don't do this
5 professionally, no.

6 Q Well, this is your profession, right?

7 A No, I -- I do testify in cases, yes.

8 Q But approximately 100 to 300, right?

9 A Yes.

10 Q Okay. Let's go ahead and start with -- what
11 did I do with that? Here we go.

12 Now, you mentioned before that Fifth Third
13 Bank is the plaintiff in this case, right?

14 A Yes.

15 Q DLG is not -- DLJ Mortgage Company is not a
16 party to this action, to your knowledge?

17 A They are -- they are the owner.

18 Q So DLJ is the owner of what?

19 A The note.

20 Q Okay. And who is the holder of the note?

21 A That would be DLJ.

22 Q What is a holder of a note, what does that
23 mean?

24 A They actually own the note.

25 Q Okay. But you said that they were the owner