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CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 03 2010

John A. Glavin, Executive Officer/Clerk

By [Signature] Deputy
GLORIETTA ROBINSON

4 Attorney for **Plaintiff Sharon Song Byrd**

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6 **COPY**

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF LOS ANGELES**

9 Sharon Song Byrd, an individual,

10 Plaintiff,

11 vs.

12 Tony Wafford, an individual, The Palms
13 Residential Care Facility, a California
14 Corporation, and Does 1 through 100,

15 Defendants.

) Case No. BC 403677

) (Action filed December 10, 2008;
) assigned to Hon. Michael C. Solner)

) **Plaintiff Sharon Song Byrd's**
) **Supplemental Reply In Support of**
) **Motion for Order Permitting Discovery**
) **of Defendant Tony Wafford's Profits**
) **and Financial Information**

) **Declaration of Jeffrey W. Cowan**

16
17 Date: March 4, 2010
18 Time: 9 a.m.
19 Dept.: 39
20 [Trial: April 13, 2010]

21 **I. EVIDENCE OBTAINED ON FRIDAY FEBRUARY 26 WILL CAUSE A JURY**
22 **TO THINK THAT MR. WAFFORD IS A LIAR AND NOT BELIEVE HIM.**

23 On Friday February 26, 2010, Plaintiff Sharon Song Byrd ("Ms. Byrd") started deposing
24 Defendant Tony Wafford.

25 Previously, Defendant Wafford had admitted in his verified form interrogatory responses
26 to having had a consensual sexual relationship with Ms. Byrd from 2000 through about the end
27 of October 2007. (See Motion, Exhibit 6) Such testimony, if believed, would have defeated
28 Ms. Byrd's sexual harassment claim.

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28 Ms. Byrd's sexual harassment claim.

1 When directly questioned at deposition last week about his relationship with Ms. Byrd,
2 however, Defendant Wafford changed his story and denied *ever* having had a sexual
3 relationship with Ms. Byrd. (See Exhibit 9 hereto)

4 Defendant Wafford also had no explanation for the existence of the Instant Message
5 transcripts that were filed with Ms. Byrd's motion. He also admitted to using AOL Instant
6 Messenger to communicate with Ms. Byrd.

7
8 **IV. CONCLUSION**

9 It is now highly likely that a jury will find that Defendant Wafford is a liar – and that
10 none of his denials should be believed.

11 For the reasons set forth herein, Ms. Byrd respectfully submits that the Court should
12 allow her to conduct discovery on Defendant Wafford's finances pursuant to Civil Code § 3295
13 in light of the high likelihood that she will prevail on her sexual harassment and battery claims.

14
15
16 Respectfully submitted,

17 **THE COWAN LAW FIRM**

18 DATED: March 3, 2010

19 By:


Jeffrey W. Cowan
Attorney for Plaintiff Sharon Song Byrd

Supplemental Declaration of Jeffery W. Cowan

1. I Jeffery W. Cowan declare that I am licensed to practice law in the State of California and am trial counsel in this lawsuit for Plaintiff Sharon Song Byrd. I have personal knowledge and if called upon to do so would and could testify to the following:
2. Attached hereto as Exhibit 9 is a true and correct copy of a portion of the rough/“dirty daily” deposition transcript from the February 26, 2010 session of the deposition of Tony Wafford, which I conducted. I did not receive the rough transcript from the court reporter until the afternoon of Tuesday March 2, 2010.
3. In addition, Defendant Wafford admitted that he sometimes used AOL Instant Messenger to communicate with Ms. Byrd but denied authoring the communications coming from his AOL Instant Message account. Defendant Wafford had no explanation for the existence of the transcripts, which were filed with Ms. Byrd’s motion and re-submitted in the correct order last week with her Notice of Errata. I do not have this portion of the “dirty daily”/rough transcript.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct and that I execute this declaration on March 3, 2010

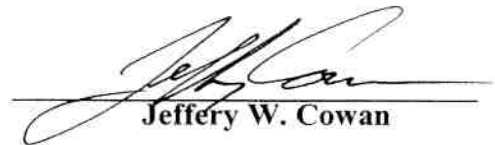

Jeffery W. Cowan

Exhibit 9

1 Q You've never heard my client having
2 sex with anyone else; correct?

3 A Anyone else other than whom.

4 Q Other than you.

5 A Yes.

6 Q Who have you heard her having sex with
7 other than yourself?

8 A Well, she never had sex with me, so I
9 would argue that she had sex with other computer
10 guy, and I would argue that she said - well, she
11 said she had sex with the guy she was living
12 with prior to her coming to the palms. She said
13 that. That's all I can think of that I know of
14 in terms of her saying --

15 Q But she's never had sex with you?

16 A No.

17 Q You're agreeing with me?

18 A Define sex.

19 Q Penis going in a vagina, oral sex,
20 masturbation through the use of the hand or
21 another body part.

22 A No.

23 Q Okay. You're agreeing with me that
24 you've never had any of those sexual activities
25 with my client?

1 A Yes.

2 Q You've never seen my client naked;
3 correct?

4 A No.

5 Q You're agreeing with me?

6 A That I've never seen your client
7 naked?

8 Q Right. You have never seen my client
9 naked; correct?

10 A Correct.

11 Q My client has never seen you naked;
12 correct?

13 A Correct.

14 Q My client has no ability to describe
15 your penis or genitalia; correct?

16 A She may.

17 Q How would my client have the ability
18 to describe your penis or other genitalia or
19 other body part if she's never seen you naked?

20 A Because your client and I, Cynthia
21 Tucker, Kevin have all had sexual conversations
22 in the office about our genitalia.

23 Q Did you show her your genitalia?

24 A No.

25

JEFFREY W. COWAN, ESQ.
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(310) 395-2267

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PROOF OF SERVICE

I am over the age of eighteen years and not a party to this action; my business address is 1541 Ocean Avenue, Suite 200, Santa Monica, California 90401.

On March 3, 2010 I served **Plaintiff Sharon Song Byrd's Supplemental Reply In Support of Motion for Order Permitting Discovery of Defendant Tony Wafford's Profits and Financial Information; Declaration of Jeffrey W. Cowan** on the interested parties in said action as indicated below:

Robert D. Goldberg, Esq.
Clark, Goldberg & Madruga
11400 West Olympic Blvd.
Suite 1150
Los Angeles, CA 90064
Fax: (310) 478-0099

[Attorneys for Defendant The Palms Residential Care Facility]

Dermot D. Givens, Esq.
468 N. Camden Drive, Suite 305
Beverly Hills, CA 90210
Fax: (323) 878-0416

[counsel for Defendant Tony Wafford]

[BY MAIL] by placing a copy of said document for collection and mailing on the date indicated above, in a sealed envelope(s), addressed as set forth above, pursuant to ordinary business practices. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service at Santa Monica, California on that same day in the ordinary course of business.

[BY FACSIMILE] by transmitting a true copy by facsimile transmission at the time indicated on the transmission report from facsimile telephone number (310) 394-1430 to a facsimile machine maintained by the party on whom it was served, at the facsimile machine telephone number indicated on the attached service list. The transmission was reported as complete and without error. The transmission report which was properly issued by the transmitting facsimile machine is attached to the file copy of this document.

[BY OVERNIGHT COURIER] I caused to be delivered to and served by an *Overnight Courier* on all interested parties in said action, the above named document(s) by placing true copies thereof in enclosed sealed envelopes, delivery fees paid or provided for, and addressed as set forth above.

[STATE] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 3, 2010, at Santa Monica, California.



Valerie A. Dearth

HP LaserJet M2727nf MFP

Fax Confirmation Report

The Cowan Law Firm
(310) 394-1430
Mar-3-2010 10:50AM

Job	Date	Time	Type	Identification	Duration	Pages	Result
2295	3/ 3/2010	10:47:22AM	Send	13104780099	1:11	7	OK
2296	3/ 3/2010	10:48:39AM	Send	13238780416	1:27	7	OK

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Plaintiff Supplemental Reply re Motion Seeking Discovery of Defendant's Financial Information