

KENT MERCIER (ATTORNEY FOR MINOR PLAINTIFFS) DEPOSITION

CASE NO. 02-05045

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Q Let me ask you a question, Mr. Mercier. The Request for Production of Documents No. 10, Mr. Ackermann said something earlier on that, despite the existence of the trust, that he answered that no such document existed?

A Yes.

Q This asks for a copy of any trust instrument which Wilfred Bell is or has been a beneficiary --

A Uh-huh.

Q --trustee or owner for the past ten years; is that correct?

A Yes.

Q All right. And when you reviewed the trust, you saw that the only beneficiaries were Wilfred Bell's children; is that correct?

A I really don't remember, Mr. Durand. I couldn't tell you the contents of the trust as I sit here now. It's been years since I looked at it.

I do know that -- in all candor, when we received the trust documents -- trust documents are not something that we deal with as a personal injury firm. So this was almost a blanket, try to get anything related to this, just to make sure we have everything, you know.

We certainly knew there was a trust. We knew that

** See*

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1 we probably would not have insurance coverage because
2 of the nature of the case. You know, insurance
3 companies insure accidental conduct, not intentional
4 conduct. And if we were going to make a recovery, it
5 was probably going to come from this trust fund, you
6 know. And we had the paperwork, so we felt good
7 about it...

8 But we just wanted any other documents that were
9 generated relative to it. And that's the language
10 that I approved. It may or may not have been
11 sufficient to generate, other than an answer, than
12 what they gave. I would have to look at the actual
13 trust documents to make an assessment of that. If
14 you'd like me to, I can.

15 Q You'd agree with me -- well, first of all, if Wilfred
16 Bell was not a beneficiary, was never a beneficiary
17 and was never a trustee, then at least as to those
18 first two items, the correct answer would be no?

19 A If that's, in fact, true.

20 Q Yes.

21 A I don't know if he transferred the funds and was some
22 kind of beneficiary. And, quite frankly, I haven't
23 looked at a trust document like this in a long time.

24 I don't even know the context of the word

25 "beneficiary." I just don't remember it. If it was

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