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**CONFIDENTIAL BUSINESS INFORMATION
SUBJECT TO PROTECTIVE ORDER**

Transcript of Steve Spangler

Date: November 23, 2022

Case: Certain Soft Projectile Launching Devices (337-TA-1325)

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Transcript of Steve Spangler

1 (1 to 4)

November 23, 2022

1 UNITED STATES INTERNATIONAL TRADE COMMISSION 2 Washington, D.C. 3 x 4 In the Matter of : 5 CERTAIN SO T PROJECTILE : 6 LAUNCHING DEVICES, : Inv. No. 337 TA 325 7 COMPONENTS THEREO , : 8 AMMUNITION, AND PRODUCT : 9 CONTAINING SAME : 0 x 2 CON IDENTIAL BUSINESS IN ORMATION 3 SUBJECT TO PROTECTIVE ORDER 4 5 Videotaped Deposition of STEVE SPANGLER 6 Conducted Virtually 7 Wednesday, November 23, 2022 8 0:03 a.m. CST 9 Job No.: 472542 20 Pages: 55 2 Reported by: THERESA A. VORKAPIC, 22 CSR, RMR, CRR, RPR	3 A P P E A R A N C E S 2 ON BEHAL O ON BEHAL O COMPLAINANT 3 HASBRO, INC: 4 JE REY SHNEIDMAN, PH.D. 5 ISH & RICHARDSON, PC 6 One Marina Park Drive 7 Boston, Massachusetts 022 0 878 8 6 7 956 5948 9 0 ON BEHAL O RESPONDENT SPLATRBALL: GIANNI CUTRI, ESQUIRE 2 KIRKLAND & ELLIS LLP 3 300 North LaSalle 4 Chicago, IL 60654 5 3 2 862 3775 6 and 7 LAURA KELLEY UHLENHUTH, ESQUIRE 8 KIRKLAND & ELLIS, LLP 9 60 East South Temple 20 Suite 700 2 Salt Lake City, Utah 84 22 80 877 8 68
2 Virtual Videotaped deposition of Steve 3 Spangler taken pursuant to notice before Theresa 4 A. Vorkapic, a Certified Shorthand Reporter, 5 Registered Merit Reporter, Certified Realtime 6 Reporter, Registered Professional Reporter and a 7 Notary Public in and for the State of Illinois. 8 9 0 2 3 4 5 6 7 8 9 20 2 22	4 A P P E A R A N C E S (Continued) 2 ON BEHAL O THE US INTERNATIONAL TRADE 3 COMMISSION: 4 TODD R. TAYLOR, ESQUIRE 5 O ICE O UN AIR IMPORT INVESTIGATIONS 6 500 E Street, SW 7 Washington DC 20436 8 202 205 2000 9 0 APPEARED ON BEHAL O RESPONDENTS GEL BLASTER, LLC: 2 JOLIE BRETT SCHENERMANN, ESQUIRE 3 KELLEY DRYE & WARREN, LLP 4 3 World Trade Center 5 75 Greenwich Street 6 New York, New York 0007 7 2 2 808 7695 8 9 20 2 22

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A P P E A R A N C E S (Continued) ON BEHAL OF THE RESPONDENT PRIME TIME TOYS: KENNETH P. GEORGE, ESQUIRE AMSTER ROTHSTEIN & EBENSTEIN, LLP 90 Park Avenue, 2 st loor New York, NY 00 6 2 2 336 8090 ALSO PRESENT: Andrew Stromberg, Audiovisual Technician, Planet Depos Jeremy Hatfield, Videographer, Planet Depos	P R O C E E D I N G S THE VIDEOGRAPHER: Here begins the video deposition of Steve Spangler in the matter of Certain Soft Projectile Launching Devices in the United States International Trade Commission, Case No. 337-TA-1325. Today's date is November 23rd, 2022. The time on the video monitor is 10:05 a.m. Central time. The remote videographer today is Jeremy Hatfield representing Planet Depos. All parties of this video deposition are attending remotely. Would counsel please voice-identify themselves and state whom they represent. MR. SHNEIDMAN: Good morning. This is Jeffrey Shneidman of the law firm Fish & Richardson for Complainant Hasbro, Inc. MS. UHLENHUTH: Good morning. This is Laura Uhlenhuth from the law firm of Kirkland & Ellis representing respondent SplatRBall. With me from Kirkland & Ellis is Gianni Cutri. MS. SCHENERMAN: Good morning. This is
6	8
C O N T E N T S EXAMINATION OF STEVE SPANGLER PAGE Examination By Mr. Shneidman 9 E X H I B I T S (Attached to transcript.) SPANGLER DEPOSITION EXHIBITS PAGE Exhibit Spangler Phys_00000 50 Exhibit 2 Spangler Phys_000002 Exhibit 3 Spangler Phys_000003 4 Exhibit 4 Spangler Phys_000004 32 Exhibit 5 Spangler Phys_000005 32 Exhibit 6 Spangler Phys_000006 32 Exhibit 7 (Video) Spangler_000000 67 26 Exhibit 8 Spangler_000000 60 68 Exhibit 9 Spangler_00000027 23 Exhibit 0 Spangler_00000004 28	Jolie Schenerman from the law firm Kelley Drye & Warren. I'm representing the Gel Blaster. MR. GEORGE: Good morning. This is Kenneth George from the law firm of Amster Rothstein & Ebenstein representing the PTT respondents. MR. TAYLOR: Good morning. This is Todd Taylor representing the Office of Unfair Import Investigations. THE VIDEOGRAPHER: The court reporter today is Theresa Vorkapic representing Planet Depos. Would the reporter please swear in the witness. MS. UHLENHUTH: I'd like to -- I wanted to clarify that we're also representing the witness Steve Spangler today. THE REPORTER: Would you raise your right hand, please. (The witness was duly sworn.) STEVE SPANGLER, called as a witness herein, having been first duly

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9 1 sworn, was examined and testified as follows: 2 EXAMINATION 3 BY MR. SHNEIDMAN: 4 Q Good morning, sir. Could you introduce 5 yourself, please. 6 A Good morning. I'm Steve Spangler. 7 Q All right. I'm going to go through the 8 ground rules for this deposition, okay? 9 A Sure. 10 Q Do you understand that you are under oath? 11 A I do. 12 Q And do you understand that you must tell 13 the truth? 14 A I do. 15 Q And the whole truth? 16 A I do. 17 Q And nothing but the truth? 18 A Yes, sir. 19 Q And you will do that today of course, 20 right? 21 A Yes, I will. 22 Q And you understand the testimony that	1 A I will. 2 Q And I'll let you do that, fair? 3 A Yeah, absolutely. Thank you. 4 Q And we're going to take breaks about every 5 hour. Is that all right? 6 A Sure. 7 Q And if you ever want to take an early 8 break, let me know, okay? 9 A Okay. 10 Q And I will let you do that, okay? 11 A Yes. 12 Q Now, is there any reason medical or 13 otherwise why you cannot give truthful, complete 14 and accurate testimony today? 15 A No. 16 Q Okay. And if that ever changes, let me 17 know immediately, please, okay? 18 A Sure. 19 Q Now, where are you located, today? 20 A I am in Littleton Colorado. 21 Q Okay. And where in Littleton, Colorado 22 are you?
0 1 you're giving here today is just as important as 2 if we were in court before a judge? 3 A Absolutely. 4 Q And so you know you must give truthful, 5 complete and accurate testimony today, right? 6 A Correct. 7 Q And you'll do that of course, right? 8 A Of course. 9 Q If you don't understand a question, let me 10 know, all right? 11 A I will. 12 Q Today's deposition is a remote video 13 deposition. If you experience any problems with 14 the technology or anything else, can you let me 15 know immediately? 16 A I will. 17 Q Otherwise we'll all understand that you 18 heard and understood my question, all right? 19 A Okay. 20 Q And if you ever want to take take back or 21 change or add to or modify in any way an answer 22 you've already given, let me know, okay?	2 1 A Well, we're at our office house. 2 Q Okay. Sorry? 3 A It's an office, it's a house, it's an 4 office, yeah. 5 Q Is this an office for one of your 6 companies? 7 A It is. It's where we tape our television 8 shows. 9 Q Excellent. Is anyone in the room with you 10 today? 11 A No, there's not. 12 Q Okay. And if that changes at any point, 13 please let me know, okay? 14 A I will. 15 Q Do you have anything else in front of you 16 today other than the computer? 17 A I have the exhibits that are the products 18 that are there and some coffee and a couple of 19 snacks and a pad of paper and a pen, but that's 20 it. 21 Q Excellent. I'm going to join you on the 22 coffee.

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3 1 A All right. Cheers. 2 Q Let's see. So I'd like to learn a little 3 bit more about you, and I'll confess that my kids 4 knew about you but I did not. 5 I see looking at your background that STEM 6 education or science education is obviously 7 something that's very important to you? 8 A It is. 9 Q And out of college you became a science 10 teacher? 11 A I did. Right out of college I was -- I 12 was teaching in elementary school and also within 13 about a year, year and-a-half started doing 14 television, working in television as a scientist 15 on NBC. 16 Q What attracted you to teaching science and 17 in particular teaching kindergarten elementary 18 school through fifth grade? 19 A It's a job so that's a good thing, and I 20 was always fascinated with chemistry and had 21 gotten bitten by the teaching bug when I was in 22 high school and it made sense, so that's what I	5 1 it was an opportunity to be able to sell some 2 products. And instead of just sending people to 3 Walmart, I could put some stuff in a bag and it 4 worked. 5 Q Got it. 6 And I see so while teaching you became a 7 science toy designer. 8 What is a science toy? 9 A Something that a kid would play with. 10 Something that we were playing with in class that 11 in my particular case it was an educational toy so 12 they could learn something and a kind of 13 open-ended play. 14 Q Was the purpose of Steve Spangler Science 15 to get kids excited about science? 16 A That was the number one purpose. 17 Q And I see it looks like you started a 18 second company called Be Amazing Toys in 2002? 19 A I did. 20 Q And what led you to start a second 21 company? 22 A The wholesale market, so we had some good
4 1 did. 2 Q Had you majored in one of the sciences 3 during college? 4 A Yeah, chemistry. 5 Q Chemistry. 6 Do you -- what led you also to the 7 television work? 8 A My dad had worked in television, and so I 9 had been exposed to it at an early age and I was 10 approached, I was doing science shows because 11 teachers sometimes get a second job. So I was 12 doing science shows and was approached by a 13 producer from NBC, and they said how would you 14 like to be a part of a show that we're producing, 15 and so that was in 1991. 16 Q Got it. 17 And I saw in '93 you created a company 18 Steve Spangler Science? 19 A I did. 20 Q And what led you to do that? 21 A Again, sometimes teachers need a second 22 job and so I was doing workshops for teachers, and	6 1 success in the retail market going from -- you 2 know, from selling direct to teachers, direct to 3 consumers, and so Be Amazing Toys was a great way 4 to be able to sell into -- into the wholesale 5 market and hopefully in mass market. 6 Q And did they sell -- Be Amazing Toys sell 7 the same products as Steve Spangler Science? 8 A Some of them. Steve Spangler Science had 9 a larger catalog of things that were very specific 10 to teachers, but Be Amazing Toys was selling to 11 general public. So many of the ideas that we 12 started with with Steve Spangler Science would 13 morph into something that worked well for that 14 market, the wholesale market. 15 Q Was it a different set of staff between 16 Steve Spangler Science and Be Amazing Toys? 17 A There was different for Be Amazing Toys, 18 but their -- their -- it was on both sides, so we 19 had people who were not with Steve Spangler 20 Science who were responsible for sales and 21 managing the sales team and that type of thing, 22 and then we had people on the Steve Spangler

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7 1 Science side that were with me doing product 2 development. 3 Q And then how large were these companies -- 4 and I know they were around for awhile, but how 5 large were they over time? 6 A I assume you're asking about revenue; is 7 that correct? 8 Q Just first maybe with staffing and 9 personnel. 10 A Be Amazing Toys was a fairly small 11 company, maybe when we owned Be Amazing -- are you 12 asking when we owned Be Amazing Toys or when we 13 sold Be Amazing Toys? 14 Q Let's start with when you owned Be Amazing 15 Toys? 16 A When we owned Be Amazing Toys, then it was 17 just a part of Steve Spangler Science, it was kind 18 of a subset of Steve Spangler Science. And so at 19 that time we probably had 15 employees or so, 20 small revenue. And then when we sold Be Amazing 21 Toys, that's when part of that agreement -- we had 22 people on the Steve Spangler Science side that	9 1 royalty agreement, so they wanted my ideas, and so 2 I was product development. And they wanted for 3 lack of a better term, celebrity, somebody to 4 endorse those and a face for many of those 5 products, and so that was yours truly. 6 Q Got it. 7 So you mentioned you started Be Amazing 8 Toys for wholesale or mass market sales, right? 9 A Correct. 10 Q And how successful was the endeavor in 11 placing products within mass retail? 12 A It's hard to determine who considers -- 13 what's success, but we were in mass market so 14 those products were in stores like Toys "R" Us and 15 Target and a lot of stores, just a lot of stores. 16 Q And were you involved with getting the 17 products sold into the Toys "R" Us or Target? 18 A There were times that I was part of those 19 sales presentations. 20 Q How easy or hard was it to sell a product 21 into Toys "R" Us? 22 A In the toy business it kind of depends on
8 1 were helping with Be Amazing Toys and then they 2 had their group of people and their investors in 3 Salt Lake City, and that group was, I think, six 4 or eight people. 5 Q And what led you to sell Be Amazing Toys? 6 A I wasn't capitalized the way that I needed 7 to be able to play with the big retailers. 8 Q I see. And did the investors find you or 9 did you go out and find the investors? 10 A It was actually one of our employees, our 11 nation sales manager, approached us and said I've 12 got a group of investors in Salt Like City and 13 we'd like to buy this. 14 Q Now, I saw that after selling Be Amazing 15 Toys which was in 2004, right? 16 A Correct. 17 Q And you stayed involved with Be Amazing 18 Toys for another 10 years? 19 A 14 years. 20 Q 14 years. And why did you stay involved 21 with Be Amazing Toys for another 14 years? 22 A There was -- they incentivized me with a	20 1 how the wind blows that day. So it's which buyer 2 you're dealing with, when he or she came on that 3 day, it's a very transient business, so it can be 4 difficult sometimes. It really just depends on 5 the buyer and the day. 6 Q And what about with Target, how difficult 7 was it to sell into Target? 8 A Again, same answer. It's just -- really 9 is dependent upon the buyer and what they're 10 looking for, and you're at the -- you're really at 11 the mercy of if the buyer likes it then the 12 customer gets to see it on the shelves. 13 Q And how does that process work? When you 14 want to sell to Toys "R" Us or Target, do you call 15 them up and say we've got a toy idea or do they 16 come to you, or how does that conversation get 17 started? 18 A I wasn't on the sales side. I was brought 19 in after those contacts were made, but there was a 20 sales network, there's professional salespeople 21 that have their reps, and there's a whole other 22 world to make that happen. I just simply came in

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2 1 when it was time to help make that sale. 2 Q I see. 3 A I wasn't part of it all the time. 4 Q Okay. And so the initial sales efforts 5 were made by the sales staff for Be Amazing Toys; 6 is that right? 7 A Correct. 8 Q And do you have any idea of, like, how 9 successful they were in terms of the number of 10 attempts to sell products into Target or Toys "R" 11 Us versus how many times that Target and Toys "R" 12 Us took you up on the -- the toy? 13 A I don't know what that success rate was. 14 They're -- those big companies were always on the 15 radar screen, and so -- and many of them had very 16 specific things that they wanted and they would 17 come back to me and say, can we do something 18 around this. And that was my job to kind of come 19 up with those ideas and see if I could -- I could 20 give them something that they could run with. 21 Q So is it fair to say that you were on the 22 product development and creative side?	23 1 Q Did you have a laboratory or some work 2 area where you would play with chemicals? 3 A Yeah, yeah. It started in our home when 4 we started the business, and there were iterations 5 of warehouses and ultimately a warehouse, a much 6 larger space until we sold Steve Spangler Science 7 in 2018. 8 Q And since you sold Steve Spangler Science 9 in 2018, have you been developing any other new 10 toys or not so much? 11 A No, I've continued to work and to help the 12 company who purchased Steve Spangler Science. I'm 13 on their product development team to kind of help 14 them. So it seems to be a pattern, doesn't it? 15 Q Do you have a favorite product that you 16 created? 17 A No, again, it changes whenever I think 18 that I have a favorite product and then all of a 19 sudden you get a letter or you meet somebody in 20 the public who says, I was playing with this or my 21 son had this 20 years ago and now he's in college 22 at Duke or whatever it is, so it seems to change
22 1 A Yes. 2 Q What do you look for when you're creating 3 a science toy? 4 A I usually have my -- I come from two 5 worlds. I come from being a teacher, and then I 6 come from this entrepreneurial endeavor. 7 So for me I'm looking for something that 8 is not only going to spark the interest of a young 9 learner but to teach them something, to be 10 open-ended, to have a sense of play to it that 11 they could explore some new things and causes them 12 to ask new questions. 13 Q And what were some of the ways that you 14 came up with ideas for your -- your science 15 products? 16 A From the classroom. So I would -- that 17 truly was our research and development lab. And 18 the school knew it, the parents knew it, the kids 19 loved it, it was fun for them to see something 20 that they had played with and then maybe a year or 21 two later see it show up in the store. So 22 that's -- that was fun.	24 1 depending on -- on how people used it, so no 2 specific favorites. 3 Q And when you -- when your companies -- 4 well, let me ask this first. 5 When you had Be Amazing Toys, did you 6 market to the parents or the kids or both? How 7 did you approach marketing the products? 8 A Be Amazing Toys marketed the products, and 9 so our sales team would market the products, but 10 they're marketing them to stores. So, again, 11 that's not a direct-to-consumer. 12 So your new customer is a buyer at a 13 retail chain, a specialty toy store, a big toy 14 store, whatever it might be. 15 Q What are they looking for in the product? 16 MS. UHLENHUTH: Objection. Calls for 17 speculation. 18 BY THE WITNESS: 19 A They are -- everybody has something that 20 they want, so some buyers might want clever title, 21 some buyers might want something that fits 22 specifically in a SKU or a line of products.

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25 1 That's what made that business challenging is 2 they're constantly bringing new ideas and wanting 3 new product developed for different stores. 4 Q How important was price to them in buying 5 products? 6 MS. UHLENHUTH: Same objection. 7 BY THE WITNESS: 8 A There are price points I'm sure, but, 9 yeah, I don't know. 10 BY MR. SHNEIDMAN: 11 Q How important was novelty in buying 12 products? 13 MS. UHLENHUTH: Same objection. 14 BY THE WITNESS: 15 A Again, each person had their own set -- 16 each buyer had their own kind of wish list and 17 they would just come to us and see if we could do 18 that. 19 BY MR. SHNEIDMAN: 20 Q Okay. I want to ask you today about a 21 couple of the products that have been made by your 22 companies. The first is the Potato Gun Launcher.	27 1 MR. SHNEIDMAN: All right. Can you play 2 that, please? 3 (Video played as follows:) 4 "Hi. This is Steve Spangler. I want 5 to show you the workings of the potato gun 6 and how this operates and then how we use 7 this to launch jelly marbles as well. 8 So first of all, this is a piece of 9 acrylic tube. It's actually 10 polycarbonate. We core out a piece of the 11 potato there and then this plunger now 12 moves the potato down like that, core out 13 another piece, got it. So now as you push 14 here, you now increase the pressure and 15 you pop the potato, it looks like this. 16 Bam. And it's ready to load and to do it 17 again. 18 So we're up and we're ready to go. 19 And so this is the potato gun that's used 20 at Science in the Rockies and teachers 21 learn, Charles law and they learn Boyle's 22 law, okay.
26 1 Which company made the Potato Gun Launcher? 2 A Steve Spangler Science. 3 Q Okay. Let's look at a video that's been 4 produced in this case which is Bates labeled 5 Spangler 167. 6 MR. SHNEIDMAN: And, Andrew, in a moment 7 if you're able to play the file, I'd like you to 8 do that. 9 And, Mr. Spangler, I'll ask you after the 10 video is over to explain the video that we're 11 about to see. All right? 12 AV TECH STROMBERG: And, Mr. Shneidman, 13 would you like this video marked? 14 MR. SHNEIDMAN: Yes. Let's mark this 15 as -- 16 AV TECH STROMBERG: No. 7? 17 MR. SHNEIDMAN: -- No. 7, yeah. 18 AV TECH STROMBERG: Okay. Stand by. 19 (A certain video was marked Spangler 20 Deposition Exhibit 7 for identification, 21 as of 11/23/2022.) 22 AV TECH STROMBERG: Exhibit 7 is now up.	28 1 All right. So if I clear this like 2 this and push the piece of potato out now, 3 this pipe can be used with jelly marbles. 4 So here is our jelly marbles. And now our 5 jelly marble goes into the pipe like this, 6 and so now just pushing it out we can 7 shoot the jelly marbles. 8 So that's how it functions as a jelly 9 marble launcher as well. Like that. 10 That's dual purpose." 11 BY MR. SHNEIDMAN: 12 Q Mr. Spangler, do you recognize that video? 13 A I do. 14 Q And the person in the video is of course 15 you, right? 16 A It is. 17 Q When was the video recorded? 18 A I don't know. A month, two months ago. 19 Q Within the last two months? 20 A I believe so. 21 Q Okay. And who recorded the video? 22 A Brian Higgins, who is here in our office.

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29 1 Q And was anyone else present? 2 A No one else was present. 3 Q And unfortunately the video transcript was 4 not captured by the court reporter, so can you 5 explain what we just saw in the video? 6 MS. UHLENHUTH: Objection. Calls for a 7 narrative. 8 BY THE WITNESS: 9 A I was asked to show how the Potato Gun 10 works, and so it was a demonstration of carving 11 out the piece of potato and loading the chamber on 12 both ends and using the plunger to push the potato 13 out and then clearing that and using that same 14 chamber to be able to feed in jelly marbles and to 15 shoot them from the chamber. 16 BY MR. SHNEIDMAN: 17 Q And can you explain how the potato gun 18 works when you're firing a potato? 19 A Yes. So as you increase the pressure 20 that's built up between the two plugs of potato, 21 it reduces the volume of gas. We use it to teach 22 Boyle's law and eventually there is enough	3 1 witness, Steve, you can answer to the extent you 2 don't reveal privileged information, but you can 3 answer who asked you to prepare the video? 4 THE WITNESS: Okay. 5 BY THE WITNESS: 6 A Brian and Gianni and Laura asked us to 7 prepare the video. 8 BY MR. SHNEIDMAN: 9 Q Who is Brian, is that Brian Higgins? 10 A No, from Kirkland & Ellis. 11 Q The second part of the video shows you 12 using a tube with a jelly marble, correct? 13 A That's correct. 14 Q And what you're doing there is putting in 15 one jelly marble into the tube with your fingers 16 and then you are blowing on the tube to launch out 17 the jelly marble; is that correct? 18 A In that video I'm putting the jelly marble 19 in the tube and blowing it out using the air in my 20 lungs. 21 Q Okay. And you have some physical exhibits 22 in the room with you today.
30 1 pressure to be able to push out the forward-facing 2 potato. 3 Q So you push using a pusher stick a piece 4 of potato causing the potato plug on the other 5 side to launch out of the tube, correct? 6 MS. UHLENHUTH: Objection. 7 Mischaracterization. 8 BY MR. SHNEIDMAN: 9 Q Mr. Spangler, is that correct? 10 A Would you ask the question again? 11 Q Sure. So using a pusher stick, one piece 12 of potato that causes the potato plug on the other 13 side to launch out of the tube; is that correct? 14 MS. UHLENHUTH: Same objection. 15 BY THE WITNESS: 16 A Yes. That's correct. 17 BY MR. SHNEIDMAN: 18 Q And why were you demonstrating the potato 19 gun in this video? 20 A I was asked to demonstrate the potato gun. 21 Q And who asked you to do so? 22 MS. UHLENHUTH: I want to caution the	32 1 A Yes, I do. 2 Q Let's start with Spangler physical 3 Exhibits 4 and 5. 4 A Let's see. That's 4 and this is 5, so 5 these are the physical exhibits. 6 Q Great. 7 (Certain items were marked Spangler 8 Deposition Exhibits 4, 5 for 9 identification, as of 11/23/2022.) 10 BY MR. SHNEIDMAN: 11 Q First before I ask the court reporter to 12 pull up the pictures of these, are these Spangler 13 physical Exhibits 4 and 5 the same items that were 14 shown in the video that was recorded in the last 15 two months that we just saw? 16 A Yes, they are. 17 Q Okay. And is physical Exhibit 6 the 18 instructions on how to use physical Exhibits 4 and 19 5? 20 (A certain item was marked Spangler 21 Deposition Exhibit 6 for identification, 22 as of 11/23/2022.)

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33 1 BY THE WITNESS: 2 A Yes, it is. 3 Q Okay. 4 MR. SHNEIDMAN: Andrew, can you pull up 5 physical Exhibit 4 which has been premarked as 6 Spangler Deposition Exhibit 4. 7 AV TECH STROMBERG: Sure. Please stand 8 by. Exhibit 4 is now up and I'll be dropping them 9 into the chat shortly. 10 BY MR. SHNEIDMAN: 11 Q Mr. Spangler, does this picture on the 12 screen accurately depict the physical exhibit 13 Spangler Exhibit 4 that you have in front of you 14 right now? 15 A Yes, it does. 16 Q And is physical Exhibit 4 what you used to 17 launch the video -- excuse me -- launch the 18 potatoes in the video that we just saw? 19 MS. UHLENHUTH: Objection. Vague. 20 BY THE WITNESS: 21 A Yes. This is the tube that was used to 22 launch the potato in the video.	35 1 BY THE WITNESS: 2 A Yes, it was. 3 BY MR. SHNEIDMAN: 4 Q Okay. Now, in the video we saw you put 5 two potato plugs into the acrylic tube, right? 6 A Yes. 7 Q Is it important to plug the ends of the 8 tube to launch the potato piece? 9 A In this particular potato gun, I have to 10 put a piece of potato in both ends to be able to 11 push out one of the pieces of potato. 12 Q And why is that? 13 A Because you are going to build up pressure 14 and then you're going to pop out the potato. 15 Q So if you have a projectile or a piece of 16 potato that doesn't seal the gap, there would be a 17 lack of air pressure, correct? 18 A If it didn't seal the gap, air would leak 19 out but the potato will still for the most part 20 pop out. You're building up enough pressure it 21 will pop out. 22 Q Have you experimented in the past with how
34 1 BY MR. SHNEIDMAN: 2 Q And it was also used to launch the jelly 3 marble in the video as well, right? 4 A That is correct. 5 Q Okay. 6 MR. SHNEIDMAN: And can we pull up 7 Spangler physical Exhibit No. 5, Andrew? 8 AV TECH STROMBERG: Sure. Please stand 9 by. Exhibit 5 is now up and also into the chat. 10 BY MR. SHNEIDMAN: 11 Q And this has been premarked as Spangler 12 Deposition Exhibit 5. 13 Mr. Spangler, does the picture on the 14 screen accurately depict the physical exhibit 15 Spangler Exhibit No. 5 that you have in front of 16 you right now? 17 A Yes, it does. 18 Q And this is the same pusher that was used 19 to push out the potato piece in the video we saw, 20 correct? 21 MS. UHLENHUTH: Objection. 22 Mischaracterizes.	36 1 much of a gap you can have and have the potato 2 piece still pop out? 3 A I wouldn't say that I have launched 4 experiments with the gap. I just know from 5 launching these for years and years and years that 6 some potatoes will seal better than other 7 potatoes, and you can -- you can actually see 8 bubbles coming out sometimes. 9 Q Okay. And you also had something called a 10 jelly marble that video, too, right? 11 A That's correct. 12 Q And can you describe what you did with the 13 jelly marble in the video? 14 A Yeah. As you saw in the video I loaded 15 the jelly marble into the tube or chamber and then 16 used air in my lungs to build up pressure and to 17 push out the jelly marble. 18 Q So you were providing the force to expel 19 the jelly marble, correct? 20 A Yes, I was building up pressure in my 21 lungs to -- through my mouth to push out the jelly 22 marble.

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37 1 Q And you did not use the yellow pusher 2 stick Spangler physical Exhibit No. 5 when you 3 expelled the jelly marble from the tube, right? 4 A Correct. 5 Q Why was that? 6 A Because the jelly marble will -- when I'm 7 trying to build up pressure will break when I'm 8 trying to use the pressure from the stick. It 9 doesn't work well. 10 Q Okay. And will the plunger break the 11 jelly marble because of -- when you -- when you -- 12 if you were to try to press the yellow stick 13 through the tube? 14 A Sometimes it will break the jelly marble. 15 Other times if you apply pressure slowly, it will 16 not break the jelly marble, but the result isn't a 17 good pop of the jelly marble that you would want. 18 Q Okay. And how big is the tube that you 19 are using in the video you just showed there? 20 A I would have to take a ruler or a scale 21 and I'd have to measure it. 22 Q Okay. Does the fragility of jelly marbles	39 1 acrylic tube, correct? 2 A I believe that this one is a polycarbonate 3 tube. So in the video if I said acrylic tube I 4 believe I also said polycarbonate, but this is a 5 polycarbonate tube. 6 Q Okay. And what is Spangler physical 7 Exhibit No. 5? 8 A That is an acrylic rod. 9 Q Okay. And the acrylic rod, Spangler 10 Exhibit No. 5, is smaller in diameter than 11 physical Exhibit 4, correct? 12 A That is correct. 13 Q And if you insert the stick, physical 14 Exhibit No. 5 into the tube physical Exhibit 15 No. 4, there is an air gap around the stick, 16 right? 17 A There is. 18 Q And so the stick does not create an air 19 chamber within the tube, correct? 20 MS. UHLENHUTH: Objection. Vague. 21 BY THE WITNESS: 22 A I guess I'm unclear what you're asking.
38 1 change depending on the size of the jelly marble? 2 A Yes. 3 Q And is it fair to say that the bigger the 4 jelly marbles get the more fragile they are? 5 A Yes. 6 MR. SHNEIDMAN: And if you could pull 7 open, Andrew, Spangler physical No. 6. 8 AV TECH STROMBERG: Sure. Please stand 9 by. Exhibit No. 6 is now up and in the chat. 10 BY MR. SHNEIDMAN: 11 Q Mr. Spangler, does this picture on the 12 screen accurately depict the physical exhibit 13 Spangler Exhibit 6 that you have in front of you 14 right now? 15 A It does on Page 1 that I'm looking at on 16 your screen, yes, and if you scroll down I can 17 look at Page 2. It looks to be the same. 18 Q Great. 19 Now, Spangler physical Exhibit 4 and 5 and 20 6 form a product that was sold, correct? 21 A That is correct. 22 Q And Spangler physical Exhibit 4 is a plain	40 1 BY MR. SHNEIDMAN: 2 Q The stick does not seal the tube, correct? 3 A The stick is smaller than the tube so 4 there is an air gap and so nothing is sealed on 5 the end. 6 Q Okay. And so that's why you use the 7 potato plug on one side, correct, to create a 8 seal? 9 A Correct, there is a potato on either end 10 and we're trying to compress the air in between. 11 Q So you're using that stick to push an 12 intermediary piece through the tube? 13 MR. CUTRI: Objection. Calls for a legal 14 conclusion. 15 BY THE WITNESS: 16 A The stick is being used to push a piece of 17 potato and it moves forward and compresses the 18 air. 19 BY MR. SHNEIDMAN: 20 Q And that piece of potato is between the 21 stick and the air chamber, correct? 22 MR. CUTRI: Same objection.

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4 1 BY THE WITNESS: 2 A The potato is compressing air and is as we 3 say breaching the integrity of the potato on the 4 other side. 5 BY MR. SHNEIDMAN: 6 Q And it's been pushed along by the stick, 7 correct? 8 A Correct. 9 Q And when was the potato gun product first 10 sold? 11 A I do not know the date of the first sale 12 of the potato gun. 13 Q Was it before 2008? 14 A Yes, it was before 2008. 15 Q Okay. And was anything else included with 16 the potato gun product aside from the three pieces 17 we've seen, physical No. 4, 5 and 6? 18 A Yes, there was -- usually just depending 19 on when you bought it, there were a pair of safety 20 glasses that went inside as well. 21 Q Got it. 22 And the potato gun was not sold with	43 1 Exhibit 4 made? 2 A I would not know that. 3 Q Is it possible it's made in the last five 4 years? 5 A I don't believe so, no. 6 Q What about the last 10 years? 7 A I'd have to speculate. I just -- I don't 8 know. 9 Q Why don't you know when Spangler physical 10 Exhibit 4 was made? 11 A Because this is my potato gun and I have a 12 special Lucite rod that I use for -- on stage, in 13 television, that type of thing, and it's colored 14 and you'll see that in the instructions the one is 15 not colored, one is red, you can see maybe with 16 that picture of young Steve Spangler and another 17 one of the pictures were clear as well. So this 18 one's -- this one's an older one. 19 Q And when was Spangler physical Exhibit 5 20 made? 21 A That 5 was before -- same time -- I'm 22 sorry. I confused so let me clarify. 4 is not
42 1 potatoes I imagine, right? 2 A No, didn't sell a potato. 3 Q I imagine you didn't want to sell a moldy 4 potato to a customer, correct? 5 A That is correct. 6 Q Okay. And so no ammunition came with the 7 potato gun product, right? 8 MR. CUTRI: Objection. 9 BY THE WITNESS: 10 A What came with the potato gun was the 11 plunger, the tube, the instructions and many times 12 the -- the safety glasses. 13 BY MR. SHNEIDMAN: 14 Q So you agree with me that no ammunition 15 comes with the potato gun product, right? 16 MS. UHLENHUTH: Objection. 17 BY THE WITNESS: 18 A Yeah. The only things that were included 19 in there were those -- those items that I 20 mentioned. 21 BY MR. SHNEIDMAN: 22 Q Okay. When was Spangler physical	44 1 different colored, so physical exhibit that you've 2 marked here, the tube, is just clear. 3 What I was referring to is the plunger, 4 physical Exhibit 5, that's the colored Lucite rod. 5 So they were together, so again, I wouldn't be 6 able to tell you when they were made. I would 7 have to go back and try to do some investigation. 8 I don't know when they were actually made. 9 Q Is it possible they were made prior to 10 2010? 11 A Yes, they could have been made prior to 12 2010. 13 Q Is it possible they were made after 2010? 14 A No, I don't think so. I just -- I don't 15 know how far back. They're older, but I've had -- 16 this is my piece so I couldn't -- again, I 17 couldn't tell you when it was made, but it was 18 before 2010. 19 Q Have you ever broken a potato gun in the 20 course of using it? 21 A Yes, I have. 22 Q When was the last time you broke a potato

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45 1 gun launcher? 2 A I would have to speculate, but it's been 3 years and years and years ago. 4 Q How do you know that this potato gun 5 launcher was made before 2010? You seem more sure 6 of that. 7 A Because, again, this is one that I use -- 8 have used for television. It's one that I've used 9 on stage, and this has been a part of the act for 10 many years, many, many, many years. 11 So I can just -- I can tell that the 12 picture -- well, I can just -- this is one that's 13 been around for a long, long time. I've used 14 this -- I've used this for a long, long time. 15 Q Now, back in 2008 I understand you were 16 doing something called Science in the Rockies? 17 A Yes. 18 Q And what is Science in the Rockies? 19 A Science in the Rockies is an institute 20 program that we run here in Colorado. It's a 21 three-day training class to get teachers and 22 people excited about science using products like	47 1 anybody who was getting things excited about 2 science. 3 Q And were the attendees in 2008 school 4 teachers and school administrators? 5 A There were a number of attendees, so in 6 addition to teachers and administrators there were 7 other people who were at Science in the Rockies. 8 The media would come to Science in the Rockies, 9 bloggers, salespeople, Be Amazing Toys, people 10 from stores could come to Science in the Rockies 11 to see how their products were being used in a 12 room of 170 teachers. So there was a lot of 13 people at Science in the Rockies. 14 Q And do you remember back then 15 demonstrating blowing out a jelly marble through a 16 acrylic tube or a polycarbonate tube? 17 A Yes, I do. 18 Q And can you describe that demonstration? 19 A Yeah. Just as you saw on the video I put 20 a jelly marble in the tube and used my air to push 21 it out and taught the people in the room how to do 22 that, and chaos ensued.
46 1 this. 2 Q Okay. And did you come up with the idea 3 of doing Science in the Rockies? 4 A I did. 5 Q And how did you come up with the idea? 6 A I was teaching as an adjunct professor at 7 Regis University in the 1990s and ran a program 8 called the National Hands-on Science Institute, 9 and we transformed that into -- ran that program 10 until 2002 and I believe started Science in the 11 Rockies in 2003. 12 Q 2003. 13 And how often do you run Science in the 14 Rockies? 15 A Annually. 16 Q And back in 2008 was Science in the 17 Rockies aimed at school teachers and 18 administrators? 19 A Anybody who was a -- to answer your 20 question, yes, school teachers, administrators, 21 informal science educators, people in the public 22 who were using science to demonstrate things, and	48 1 Q What do you mean by "chaos ensued"? 2 A Just that, teachers become like kids that 3 they teach. So you can imagine that the idea was 4 seeded and they had a blast. 5 Q So the teachers had the clear 6 polycarbonate tube and were blowing out jelly 7 marbles? 8 A Yes, they were. 9 Q Okay. And it was done in the same way 10 that was shown in the video that we just saw, 11 right? 12 A Yes, that was a way. There were -- I 13 don't know all the ways they did it. I couldn't 14 see 170 people. You can imagine they all had 15 their ideas for how to do it, so they loaded them 16 in, I don't know if some tried to push them 17 through with this, but my idea in doing it was 18 just to give them -- as I said, to seed the idea, 19 to up their mind to go how could we do -- how 20 could we do this. Again, to play with it, kind of 21 play with a purpose. 22 Q Got it.

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49 1 So what you saw or what you're aware of is 2 the same type of placing one jelly marble within 3 the tube and then blowing it out as we saw earlier 4 on the video, correct? 5 MS. UHLENHUTH: Objection. 6 Mischaracterizes. 7 BY THE WITNESS: 8 A That's one of the ways that they launched 9 the marbles. 10 BY MR. SHNEIDMAN: 11 Q But are you aware of personal knowledge of 12 any other way that they launched the marbles? 13 A There were people that would put the jelly 14 marbles in their mouth and then blow them out that 15 way, and I would recommend that that's not a good 16 idea. But it was pretty chaotic at the time and 17 there were people who tried to push them this way 18 as well. 19 Q Okay. So aside from putting the jelly 20 marbles in the mouth and also blowing them out 21 through the tube, were there any other ways that 22 you remember?	5 1 as of 11/23/2022.) 2 AV TECH STROMBERG: Exhibit 1 is now up. 3 BY MR. SHNEIDMAN: 4 Q All right. This is Spangler Deposition 5 Exhibit 1 which is also Spangler physical Exhibit 6 No. 1. Mr. Spangler, does the picture on the 7 screen accurately depict the physical exhibit that 8 you have in front of you right now? 9 A Yes, it does. 10 Q And how did this object come about? 11 A This was a prototype that I used to show 12 Be Amazing Toys for a possible product idea. 13 Q And what product idea was that? 14 A To shoot a jelly marble like a pea shooter 15 through a tube as a toy. 16 Q And did you create Spangler physical 17 Exhibit No. 1? 18 A Yes, I did. 19 Q How did you create it? 20 A I found a piece of -- this is acrylic, so 21 I found a piece of acrylic tube that worked well 22 with our jelly marbles, and I hate to admit it's
50 1 A No. 2 Q Okay. And that was 14 years ago, right? 3 A That was 14 years ago. 4 (Certain documents were marked 5 Spangler Deposition Exhibit 4, 5 for 6 identification, as of 11/23/2022.) 7 BY MR. SHNEIDMAN: 8 Q And are Exhibits Spangler physical 4 and 9 Spangler physical 5 the same exhibits that were 10 used in the demonstration 14 years ago at Science 11 in the Rockies in 2008? 12 A I can't tell you for sure. I would have 13 to go back and take a look at pictures or 14 something from 2008, but there is a strong 15 possibility that this is the -- this is the tube. 16 MR. SHNEIDMAN: All right. Can we look at 17 Spangler exhibit -- physical Exhibit No. 1, 18 please, Andrew? 19 AV TECH STROMBERG: Sure. Please stand 20 by. 21 (A certain document was marked Spangler 22 Deposition Exhibit 1 for identification,	52 1 that simple. So that's what I did. 2 Q And what made you think to make Spangler 3 physical 1? 4 A Because I was playing with the idea of 5 shooting jelly marbles, they are fun to throw and 6 I was playing with ideas, it was my job was to 7 come up with product ideas, and I had started 8 playing -- it kind of made sense, I've got jelly 9 marbles and we shoot marshmallows through tubes 10 like this, and so it kind of made sense to try to 11 shoot a jelly marble through there and it worked. 12 Q And it looks like there are two red bands 13 on either end of the tube. What are -- what are 14 those? 15 A Decoration. That's not much other than 16 was just something to make it look more special. 17 Q And what's written on the tube? 18 A My name that I came up with this was 19 Weltster 3,000. 20 Q And why did you call it the Weltster 21 3,000? 22 A Because I learned firsthand that if you

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53 1 are in a jelly marble fight with colleagues at the 2 office and you hit them with it at close range, it 3 could possibly produce a welt. And I thought it 4 was irreverent enough that it was kind of a cool 5 product. 6 Q And when did you have this office 7 firsthand knowledge? 8 A In 2008. I can't tell you the exact date, 9 but I know it's before we presented it to Be 10 Amazing Toys, so probably in early first quarter 11 of 2008. 12 Q And specifically did you use this tube to 13 blow out a jelly marble in the same way that we've 14 seen in the video today? 15 A Yes. 16 Q And were there any other prototypes for a 17 shooter that would expel jelly marbles? 18 A Yes. 19 Q What are they? 20 A Many of them. So the play area or the 21 laboratory that you asked about before, there were 22 lots of different examples that we played with	55 1 Q Okay. Can you list for me all the 2 different types of tubes you used? 3 A Well, I don't think that this is an 4 inclusive list, but I can tell from memory there 5 was -- there are a number of different prototypes 6 using PVC, anything and everything that we could 7 shoot through PVC because that's what we'd used 8 for the marshmallow launcher that we had on the 9 market from Be Amazing Toys. 10 Copper pipe, there was a glass pipe that 11 we tried to do a combustion reaction because that 12 would ruin the plastic otherwise and we wanted to 13 see it. It didn't work well. 14 There was PVC pipe that we hooked to an 15 air compressor with a gun release or a nozzle 16 release that we would load them in and then try to 17 shoot them that way. 18 Those are things that I could think of 19 just off the top. 20 Q And when did you build these prototypes? 21 A That would be, as we talked about before, 22 probably the first quarter of 2008 because we
54 1 trying to shoot a jelly marble through the tube. 2 Q And these were all operating on the same 3 design where you would have a tube and a jelly 4 marble and you're blowing the jelly marble through 5 the tube? 6 MS. UHLENHUTH: Objection. 7 Mischaracterizes testimony. 8 BY THE WITNESS: 9 A The answer is no. There are many 10 different ways that we tried to launch a jelly 11 marble through a tube. Compressed air, chemical 12 reaction, building up pressure using an 13 Alka-Seltzer, feeding them in like our marshmallow 14 launcher. We had many different versions of this. 15 BY MR. SHNEIDMAN: 16 Q Okay. And you have not produced any of 17 those prototypes in this case, correct? 18 A Correct. I don't have those. 19 Q Okay. And those other ways that you 20 attempted to launch the jelly marble involved an 21 acrylic tube; is that correct? 22 A No, a variety of different tubes.	56 1 would be coming up to a meeting with Be Amazing 2 Toys at the end of that time or just going into 3 the summer, and that's my opportunity to come up 4 with ideas to pitch to Be Amazing Toys. 5 Q Okay. And do you have any photographs of 6 these prototypes? 7 A No, I don't have any -- well, I don't know 8 if there's photographs of these, but today if you 9 asked me to put my hands on them, I don't have a 10 photograph today of any of those things. 11 Q And do you have any videos of these 12 prototypes? 13 A I don't know if videos exist. There could 14 very well be videos. We videotaped so many 15 different things during that time, so there could 16 very well be videos or photos. 17 Q And who was present for this prototyping? 18 A My right-hand man was a gentleman by the 19 name of Jeff Brooks. Jeff was an employee with me 20 for a long time, and so he helped with product 21 development because he was the liaison between 22 Steve Spangler Science and the leadership team,

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57 1 salespeople, whatever logistics over at Be Amazing 2 Toys. 3 So was with me. There probably -- oh, I 4 can't remember everybody who would have been 5 present for one of those jelly marble fights, but 6 as is the case, I would go into the warehouse, 7 grab a couple of people and try to pull them off 8 of whatever they were supposed to be doing at the 9 time to enter into whatever playtime I wanted them 10 to enter into, so I don't know. But Jeff -- Jeff 11 for sure was there. 12 Q Okay. Can you describe the marshmallow 13 launcher to me insofar as it used -- insofar as it 14 used jelly marbles as ammunition? 15 A Yes. There were many different versions 16 of a marshmallow launcher. It's interesting to 17 understand the science of a marshmallow launcher. 18 People think that it's just pushing a marshmallow 19 through a tube, but I can change the pressure by 20 putting kinks and different pieces of PVC in 21 there, so I can -- using this potato launcher as 22 the example, I can bring up a piece that comes up	59 1 back into your mouth. So that was a design as 2 well. 3 Q Do you remember any other designs for the 4 marshmallow launcher relating to jelly marbles? 5 A It was just playtime, so on the table we 6 tried anything that we could do drop jelly marbles 7 in. What we wanted was to go one after the next 8 after the next after the next, and nothing ever 9 kind of came of it. I couldn't get them to drop 10 in and push simply and kind of abandoned the idea. 11 But there were funnels, bigger pieces of PVC that 12 would come down and narrow down so it would try to 13 just drop one jelly marble at a time, but 14 ultimately the one that worked the best and seemed 15 to be the most fun was just loading it in. 16 Q When you say "just loading it in," you 17 mean taking a jelly marble, putting in the tube 18 and blowing it? 19 A That was -- that was the final one that I 20 presented to Be Amazing -- well, I presented many 21 of them to Be Amazing Toys, but ultimately it's 22 the one that worked the best.
58 1 like this, a right-hand turn, bring up another 2 little piece and load the jelly marble in and 3 actually have it travel through the tube and get 4 some interesting effects with pressure when we 5 shoot out a jelly marble. 6 Another version was to have a T-piece, 7 three quarters of the way down with another piece 8 of PVC coming out of the top and we would drop 9 marshmallows or drop in this particular case jelly 10 marbles in and then use air to blow that way. 11 Trying to use kind of what's considered a 12 venturi effect, you know, a rudimentary 13 Bernoulli's principle, fast moving air, low 14 pressure to kind of pull them in. And so we 15 played with -- those are two that just come -- 16 come off the -- the top there. 17 Q Do you remember any of the other designs? 18 A There was one with a screen on the end so 19 you wouldn't suck the jelly marble back in. So 20 that was the reason to load it from up here was to 21 only be able to push the air in that direction. 22 If you pull the air back, then nothing would come	60 1 Q And what about the copper pipe prototype, 2 can you tell me about that? 3 A I just simply dug into my archive of 4 potato guns. In this warehouse we would have big 5 bins of materials, and so copper pipe was the very 6 first potato gun I think I had, so it kind of made 7 sense to try to shoot it through the copper pipe, 8 and it worked. 9 Q And, again, with the copper pipe, it's you 10 placing a jelly marble in the pipe and then 11 blowing? 12 A Correct. For that one I believe because I 13 don't remember there being a modification to the 14 copper pipe. I probably wouldn't want to ruin 15 my -- my original demo. 16 Q Okay. And then what about the glass pipe? 17 A The glass pipe was tricky. There was -- I 18 was trying to put -- I was trying to find a way to 19 be able to put ethyl alcohol in there and then to 20 light it so that there was combustion in there and 21 it would shoot it out like a potato gun. It 22 didn't work at all, but it was fun playing with

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6 1 it. 2 Q And then you mentioned a PVC pipe to an 3 air compressor with a gun release. 4 Can you describe that to me? 5 A That was a lot of fun. So there's -- I 6 don't know how to explain it. There's -- there 7 are various nozzles that will go on the end of an 8 air compressor hose, so an air compressor in the 9 office that we used for a whole bunch of different 10 things. And there is a trigger one that has a 11 little piece of metal that comes out, and I can 12 modify that, so I modified it and hooked that 13 entire thing on to a piece of PVC and so tried the 14 idea of dropping a jelly marble into the end like 15 this, having it come down and then pull the 16 trigger for a blast of air that would shoot it 17 out. 18 Also wanted that to be able to drop the 19 jelly marbles and shoot them out, and that -- that 20 worked. You had to vary the pressure and there 21 was a lot of messing around with it, so it was far 22 more fun for just something to mess around with	63 1 A I don't recall. I don't know if Jeff 2 played with that or not. I was kind of the Pied 3 Piper of those things, so anybody had free reign 4 to go and experiment down in the little play lab 5 or the playroom as we called it. So I don't know 6 if he did something like that, but I don't have 7 it, and you can see that we didn't do anything 8 with that. 9 Q And does that cover all of the prototypes 10 that you performed with respect to the jelly 11 marbles? 12 A Those are the ones that I can remember. 13 Just right offhand those are the ones that I can 14 remember. 15 Q And have you looked for any prototypes 16 that you just described? 17 A No. It's not anything that we would have 18 kept. It didn't move forward other than just our 19 playing and experimenting. So all the pieces, 20 parts I'm sure were disassembled and thrown back 21 into kind of our little maker space and used for 22 other things.
62 1 than -- I couldn't see us selling an air 2 compressor, so... But we played with the idea. 3 Q And what do you mean by drop the marbles 4 in and shoot them out? 5 A Well, that design that I shared with you 6 before with a piece of PVC where we could drop the 7 jelly marble into the T-piece, have it fall into 8 the chamber, and then to be able to shoot the air 9 through that and make it come out the other end. 10 Q And how would it work when you have the 11 air into the tube, how did you make sure that the 12 air propelled the jelly marble out as opposed to, 13 say, going up the T-piece? 14 A That was a design problem. So if we 15 wanted to do that, then we'd have to engineer a 16 flap of some kind that would fall back into place, 17 but it was pretty easy for us just to put your 18 thumb over the top. So you could put your thumb 19 over the top, close the chamber and give it a 20 blast. 21 Q And so you didn't design the flap that you 22 mentioned just now, right?	64 1 Q I understand. 2 And you didn't demonstrate these 3 prototypes outside of your maker space, correct? 4 MR. CUTRI: Objection. Mischaracterizes 5 the witness's testimony. 6 BY THE WITNESS: 7 A I can't tell you who I showed them to 8 because I don't know. There's a lot of people 9 that would come through the office, and so it 10 depends on what we were doing at the time, who we 11 were playing with. The office would parade 12 people -- people in the office would parade people 13 through all the time, so I -- I don't know. 14 Likely that I would have shown these to 15 anybody and everybody who would come through 16 because it was one of the ways that I would see if 17 people liked the idea. I would test the idea. 18 So everybody -- we probably had -- 2008, 19 let me just -- 30 employees, 20 or 30 employees. 20 So one way or another they all saw what we were 21 playing with or were part of the fun or got shot 22 with it, one way or another.

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65 1 MS. UHLENHUTH: Hey, Jeff, we've been 2 going for a little over an hour. Can we take a 3 quick five-, ten-minute break? 4 MR. SHNEIDMAN: Sure. I just have a 5 couple of questions here to finish off this line 6 if you don't mind. 7 MR. CUTRI: Jeff, I'd like to step to the 8 bathroom if that's okay. We've been going for an 9 hour-ten. 10 MR. SHNEIDMAN: Sure. 11 MR. CUTRI: Thanks. 12 MR. SHNEIDMAN: All right. Let's take 13 five minutes. 14 MR. CUTRI: Great. 15 THE VIDEOGRAPHER: We are going off the 16 record. The time is 11:12 a.m. 17 (A recess was had.) 18 THE VIDEOGRAPHER: We are back on the 19 record. The time is 11:20 a.m. 20 BY MR. SHNEIDMAN: 21 Q Mr. Spangler, when you were developing new 22 product ideas, did you keep those product ideas	67 1 marbles, do you remember that testimony? 2 A I do remember that testimony. 3 Q And do you remember specifically showing 4 any of those prototypes to anyone else? 5 A Yes. 6 Q And who? 7 A As we had talked about, anybody who came 8 through the office, employees, anybody who might 9 give me some feedback as to I like it, I don't 10 like it, that's fun, that's not fun. 11 I'm sure I showed it to kids at schools 12 that I was working at. Just anybody who would 13 give me feedback. 14 Q Do you remember specifically which 15 prototypes were shown to whom? 16 A I do not. 17 Q And what ammunition were you using at the 18 time? 19 A Our jelly marbles. 20 Q Okay. 21 MR. SHNEIDMAN: Can we pull open Spangler 22 Exhibit 160, so Bates No. Spangler 000000160?
66 1 confidential? 2 A Not always. Depends on what product I was 3 working on and where we were going to use it and 4 introduce it, and so not always. 5 Q With respect to the launchers of jelly 6 marbles, did you keep those confidential prior to 7 the meeting with Be Amazing Toys? 8 A No. 9 Q Did you have confidentiality agreements 10 between Steve Spangler Science and the 20 or 30 11 employees that you had in the office? 12 A No. 13 Q And aside from the -- let me ask a 14 different question, okay? 15 A Sure. 16 Q Do you remember anyone else who saw these 17 prototypes that you've been describing 18 specifically? 19 A Ask the question again if you don't mind. 20 I'm not understanding. 21 Q The prototypes that you've just described 22 of the various types of shooters for jelly	68 1 AV TECH STROMBERG: Sure. Please stand 2 by. 3 MR. SHNEIDMAN: And mark that as 4 Exhibit -- Deposition Exhibit No. 8. 5 (A certain document was marked Spangler 6 Deposition Exhibit 8 for identification, 7 as of 11/23/2022.) 8 AV TECH STROMBERG: Exhibit 8 is now up. 9 BY MR. SHNEIDMAN: 10 Q Mr. Spangler, can you take a look at this 11 exhibit and tell me when you're done? 12 A Sure. Can I scroll through the exhibit? 13 Is that right? 14 AV TECH STROMBERG: I can give you control 15 if you like. 16 THE WITNESS: Yes, please. 17 AV TECH STROMBERG: If you just click on 18 the screen now you'll be able to control it. 19 BY THE WITNESS: 20 A Yes, sir. All right. So I'm just going 21 to scroll down. 22 Okay. Yep, I've taken a look at it.

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69 1 BY MR. SHNEIDMAN: 2 Q Do you recognize this document? 3 A Yes, I do. 4 Q What is this document? 5 A These are meeting notes for a meeting that 6 we had with Be Amazing Toys it looks like on 7 May 28th of 2008. 8 Q And did you write this document? 9 A No, I did not. 10 Q All right. Who wrote the document? 11 A I don't know who wrote the document. So 12 somebody in the meeting on our side put this 13 together as the agenda. Jeff Brooks was at that 14 meeting, so he may know who authored this 15 document. 16 Q Was anyone else at the meeting on your 17 side? 18 A Yes, but probably in and out. I believe 19 my wife, Renee Spangler, was at the meeting. 20 There could have been a couple of other employees. 21 There for sure were other employees that would pop 22 and in and out of these meetings, but I can't tell	7 1 this was a consideration to do some sort of video 2 showing the difference. 3 Q Okay. And on the same page under product 4 ideas it says: "Potato gun launcher license 5 concerns with third party." Do you see that? 6 A Product ideas -- here, let me scroll down. 7 Will you just scroll down for me whoever has 8 control, Mr. Andrew? 9 AV TECH STROMBERG: I apologize, I had to 10 click on, but if you just -- if it doesn't give 11 you control, if you just click back on to the 12 screen you'll get control back. 13 BY THE WITNESS: 14 A Yep, I got it back. Thank you. 15 So I'm scrolling down under product ideas. 16 Yes, potato launcher, license concern third party. 17 BY MR. SHNEIDMAN: 18 Q What was the license concern with the 19 third party? 20 A I first saw the potato gun presented this 21 way by another science teacher, and so to be fair 22 to that teacher we entered into a license
70 1 you during the entire meeting. I know that Jeff 2 Brooks was there the entire time plus the Be 3 Amazing Toys team. 4 Q And how often would you have meetings with 5 Be Amazing Toys? 6 A We would try to meet quarterly but in 7 person at least twice a year. This was an 8 in-person meeting. 9 Q On the first page, Spangler 160, that 10 says: "Possibly create a YouTube video to show 11 the difference between BAT and SE," do you see 12 that? 13 A Yes. 14 Q What is that about? 15 A BAT is how we abbreviate Be Amazing Toys 16 and SE is a competitor and it stands for 17 Scientific Explorer. 18 So it looks like we were going to use 19 YouTube to be able to produce a marketing video 20 maybe to show since they were -- they seemed to 21 like our ideas and would take our ideas and put 22 them on to the market. We would -- it seems like	72 1 agreement which was basically a way of saying that 2 I would pay him a royalty for anything that we 3 sold, and if we were to now put this into the Be 4 Amazing Toys lineup, that could be a concern. 5 Q And who was the teacher who you saw 6 demonstrate this design? 7 MS. UHLENHUTH: Steve, I'm going to 8 caution you against revealing -- just in case 9 there was anything privileged, relating to that 10 prior license or confidential, but to the extent 11 there isn't, you should feel free to answer the 12 question. 13 BY THE WITNESS: 14 A Okay. That teacher is part of a team of 15 teachers called Weird Science. 16 BY MR. SHNEIDMAN: 17 Q And who was the teacher specifically? 18 A The teacher was a gentleman by the name of 19 Lee Marek. 20 Q And this potato gun launcher refers to the 21 launcher product that is Spangler physical 4, 22 Spangler physical 5 and Spangler physical 6?

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73 1 A Yes, it is. 2 Q Okay. And the next line says: "Shooting 3 jelly marbles, jelly marble kit component." 4 Do you see that? 5 A Yes. 6 Q And can you explain what was discussed at 7 this meeting regarding shooting jelly marbles, 8 jelly marble kit component? 9 A Yes. So we had a product that had a 10 small -- that had jelly marbles, and it was a 11 component. So we had packaged jelly marbles with 12 test tube, Petri dish, coloring agents and a small 13 acrylic tube that you could feed jelly marbles 14 into and cap both ends and allow their colors 15 to -- allow them to change color from one to the 16 next, and so I wanted to share with them that just 17 using the kit that we currently have here, look at 18 something kind of cool that you can do. You can 19 shoot a jelly marble using this tube. 20 Q And how did you propose shooting the jelly 21 marbles using this tube? 22 MS. UHLENHUTH: Objection. Vague.	75 1 MS. UHLENHUTH: Same objection. 2 BY THE WITNESS: 3 A This is a myriad of ideas here, so the 4 fact that one is next to the other one, they are 5 shooting jelly marbles and then jelly marble 6 rainbow tube, same for the shooter would have been 7 that same thing of loading jelly marbles into the 8 tube to be able to shoot them and then also being 9 able to use that same tube for another experiment 10 where we used the jelly marbles and caused them to 11 change color, create kind of a rainbow in a tube. 12 BY MR. SHNEIDMAN: 13 Q So let me see if I understand correctly 14 and please correct me if I am wrong. 15 A Sure. 16 Q These lines refer to the idea of having a 17 tube as part of the jelly marble kit that you were 18 selling; is that right? 19 A No. This was a -- we had a kit called -- 20 I don't know, we would have to go back and take a 21 look at the time, but we had a kit that had jelly 22 marbles, coloring agents, various containers. And
74 1 BY THE WITNESS: 2 A I showed them putting the jelly marble 3 into the tube, feeding into the chamber and 4 blowing air through it because that's the only 5 thing that was there was the little bit of acrylic 6 tubing. 7 BY MR. SHNEIDMAN: 8 Q And so the idea was to use the existing 9 jelly marble kit components to shoot the jelly 10 marbles; is that correct? 11 MS. UHLENHUTH: Objection. Misstates 12 testimony. 13 BY THE WITNESS: 14 A Will you ask the question again for me 15 so -- because I was looking at the next line down 16 that says "jelly marble rainbow tube." 17 BY MR. SHNEIDMAN: 18 Q The shooting jelly marbles, jelly marble 19 kit component, can you just explain to me if you 20 were -- what you were proposing to do there, like 21 what the product idea was? 22 A Well, this is just --	76 1 what I was showing them, I believe, is the -- it 2 must have been in this sequence anyway, the 3 shooter first so showing them how to shoot jelly 4 marbles out of the Weltster 3,000 for example, and 5 then being able to use this same tube to create 6 the jelly marble rainbow tube so we would get kind 7 of two products in one if we wanted to package 8 them that way. 9 Q I see. So you were suggesting including a 10 acrylic tube as part of the jelly marble kit, some 11 sort of expansion, and showing them that you could 12 blow jelly marbles through the tube; is that 13 right? 14 MS. UHLENHUTH: Objection. Compound. 15 BY THE WITNESS: 16 A The idea -- I think the idea first was 17 look at what I learned how to do? I can shoot 18 jelly marbles. That was number one, and then 19 number two would be we can now include that in a 20 bigger kit. So the jelly marble kit that we 21 currently have, if we add the acrylic tube to it, 22 it would just make that kit much better as a

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77 1 variation. 2 BY MR. SHNEIDMAN: 3 Q Got it. 4 And so the next line, jelly marble rainbow 5 tube, same tube for shooter, this is reusing that 6 tube that you were having for shooting but in a 7 non-shooting way, right? 8 A It could be used that way, correct. 9 Q And that's what that line is referring to, 10 right? 11 A The line that says "jelly marble rainbow 12 tube same tube for shooter" was simply to 13 demonstrate the fact that we could -- after we're 14 done shooting and playing, that we could put jelly 15 marbles in, cap off both ends with a cork and 16 allow them to share their colors and create a 17 rainbow kind of effect with the jelly marbles. 18 Q Got it. 19 And then if we scroll down to Spangler 162 20 if you could. Okay. There we see a reference to 21 clear spheres? 22 Do you see that?	79 1 speak. 2 Q And so the testimony you're giving today 3 about jelly marbles equally applies to clear 4 spheres? 5 A Yes, that's true. 6 Q And then the testimony about clear spheres 7 would equally apply to jelly marbles? 8 A That is correct. 9 Q Okay. Does one product date from a 10 certain time that's different from the other 11 product? 12 A No. I don't know which trade name we used 13 first. I'm not sure which trade name we used 14 first. 15 Q Okay. And then here under clear spheres, 16 it says: "Jelly marble plaster (Weltster 3,000) 17 with PVC or clear plexi." 18 Do you see that? 19 A Yes. 20 Q And is that referring to the Exhibit 21 Spangler physical No. 1? 22 A Yes.
78 1 A Yes, I do. 2 Q And what are clear spheres? 3 A Clear spheres are jelly marbles, and jelly 4 marbles are clear spheres. 5 Q Okay. So is it just another name for 6 jelly marbles? 7 A Clear spheres are another name for jelly 8 marbles, correct. 9 Q And why were two names used? 10 A So now I have to put on my marketing hat. 11 We just don't know what resonates best with 12 customers, and at this time don't know what 13 resonates best online. So which keywords would 14 work better, is it better to call it a clear 15 sphere or a jelly marble, so we played with both 16 of those names. 17 Q And are there any differences at all 18 between jelly marbles and clear spheres? 19 A No, there's not. 20 Q Was it the same product just branded 21 differently? 22 A Correct, just a different trade name so to	80 1 Q Okay. And did you bring Spangler physical 2 Exhibit No. 1 to this meeting with Be Amazing 3 Toys? 4 A Yes, I did. 5 Q And did you demonstrate it at the meeting 6 with a jelly marble or clear sphere? 7 A Yes, I did, and I brought other pieces 8 like this, I'm sure, to the meeting for them to 9 try it as well. 10 Q What other pieces did you bring to the 11 meeting? 12 A Exactly like the Weltster 3,000. 13 Q Got it. 14 And you have here safety concerns. Do you 15 see that? 16 A Yes. 17 Q What are the safety concerns? 18 A Well, immediately, as I told you as we 19 were playing with this, the whole idea of a child 20 or a customer sucking a jelly marble back into his 21 or her mouth were a concern, a concern of hitting 22 somebody with just a stick as silly as that might

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8 1 sound, a concern with exactly what is called the 2 Weltster 3,000, if you shot somebody too close 3 then it could possibly hurt. 4 Q And what was the reaction of Be Amazing 5 Toys to this idea? 6 MS. UHLENHUTH: Objection. Calls for 7 speculation. 8 BY THE WITNESS: 9 A We had I'm sure very in-depth discussion 10 because we're a science company so everything has 11 a safety concern. So I can't tell you exactly all 12 the things that were talked about with safety 13 concerns, but as I'm presenting ideas or grouping 14 them together, that's why you can see these are 15 grouped together in different ways, I'm sure those 16 are things that I would have brought to their 17 attention. 18 BY MR. SHNEIDMAN: 19 Q And what was the reaction of the Be 20 Amazing Toys team when you brought up the jelly 21 marble blaster idea? 22 MS. UHLENHUTH: Same objection.	83 1 Q Okay. 2 A They did not deny the idea, however, so 3 there is a process to go I don't want to use this 4 idea and to give it up. To the best of my 5 knowledge, they didn't deny the idea. They just 6 didn't move forward with the idea. 7 Q And why is there a process to deny an idea 8 from Be Amazing Toys? 9 A Because if they have first right of 10 refusal with part of our licensing agreement, 11 then -- and they don't like an idea that I'm 12 sharing with them, then I have the right to go and 13 share it with another company who might be 14 interested in it. 15 Q So the idea that you presented to Be 16 Amazing Toys was taking Spangler physical 1, 17 putting a jelly marble at the end and blowing it 18 out, correct? 19 MS. UHLENHUTH: Objection. Misstates 20 testimony. 21 BY THE WITNESS: 22 A That is what I showed them in this meeting
82 1 BY THE WITNESS: 2 A My recollection is they liked the idea. 3 BY MR. SHNEIDMAN: 4 Q And did they go forward and create a jelly 5 marble blaster? 6 A No, not to my knowledge they did not 7 create the jelly marble blaster. 8 Q Do you know why they did not create a 9 jelly marble blaster? 10 MS. UHLENHUTH: Same objection. 11 BY THE WITNESS: 12 A I don't know. My job was to present the 13 ideas to them. I have no idea where it got hung 14 up along the way or who didn't want to do it or 15 whatever, but for one reason or another they 16 didn't move forward. 17 BY MR. SHNEIDMAN: 18 Q And did you present any of the other 19 launcher ideas to Be Amazing Toys in this meeting? 20 A No. This is the idea that came out of our 21 playtime, so to speak, and so this is the one that 22 I shared with them.	84 1 was how to launch a jelly marble using the 2 Weltster 3,000. 3 BY MR. SHNEIDMAN: 4 Q And how did that differ from the product 5 idea at the bottom of Spangler 160 about shooting 6 jelly marbles? 7 A Will you show me what you're talking 8 about? 9 Q I think you have control of the -- 10 A So you're saying at the bottom -- I'm 11 sorry, here we go. You're saying at the bottom 12 here, the Gravi-goo? 13 Q Sorry, one more page, please, Spangler 14 160. Keep going up, please. 15 A Oh, I'm sorry. 160. Now I see what 16 you're saying. 17 Q What is the difference, if any, between 18 the jelly marble plaster idea on Spangler 162 and 19 the shooting of jelly marbles on Spangler 160? 20 A I don't believe anything. This was 21 probably -- being it's Page 1, this is probably 22 just an overview, 50,000-foot view of things I

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85 1 want to talk about during this meeting that we 2 had. And the – the jelly marble blaster that is 3 on 162 is probably just when – when we shared it 4 with them or how it was grouped or whatever it 5 might be. So they're the same idea. 6 Q So aside from these entries that we've 7 talked about, is there anything else on here 8 relating to the firing of jelly marbles? 9 A If you'll let me look through just real 10 quickly I can see if there's anything else, but 11 it's mentioned under product ideas, clear spheres. 12 Nope. I believe that's it. 13 Q Thank you. 14 MR. SHNEIDMAN: Andrew, you can take the 15 exhibit down, please. 16 BY MR. SHNEIDMAN: 17 Q Mr. Spangler, if you could look at 18 Spangler physical 1 and Spangler physical 4? 19 A 1 and 4, got it. 20 Q These are both tubes, correct? 21 A That's correct. 22 Q And Spangler physical 1 is made of acrylic	87 1 Q There's no magazine for ammunition 2 contained in these tubes, Spangler physical 1 or 3 Spangler physical 4? 4 MS. UHLENHUTH: Objection. Calls for a 5 legal conclusion. 6 BY THE WITNESS: 7 A No, you would hold the jelly marbles in 8 your hand as a container and put them in or, as I 9 mentioned before, they would load them in their 10 mouth and shoot them in or pour them in using a 11 cup of some kind, but there's nothing physically 12 attached to it. 13 BY MR. SHNEIDMAN: 14 Q And Spangler physical 1 and Spangler 15 physical 4 have no firing mechanism, correct? 16 MS. UHLENHUTH: Objection. Calls for a 17 legal conclusion. 18 BY THE WITNESS: 19 A Your mouth is the firing mechanism. 20 BY MR. SHNEIDMAN: 21 Q So Spangler physical 1 and Spangler 22 physical 4 themselves have no firing mechanism,
86 1 and Spangler physical 4 is made of polycarbonate, 2 correct? 3 A Yes. In the samples that I have here I 4 believe that to be true. 5 Q Okay. Is there any other differences 6 between Spangler physical 1 and Spangler physical 7 4? 8 A Yes. In looking at it, Spangler physical 9 1 is longer than physical 4, and I think that 10 that's it. I think one is just longer than the 11 other one. 12 Q And the diameters of Spangler physical 1 13 and Spangler physical 4 is what you're checking 14 there and look the same? 15 A Yes, sir. I would have to measure them to 16 be exact, but I believe it's the same. 17 Q Okay. And there's no spring in Spangler 18 physical 1 or Spangler physical 4, correct? 19 A That's correct. 20 Q And there's no battery in Spangler 21 physical 1 or Spangler physical 4, correct? 22 A That's correct.	88 1 correct? 2 MS. UHLENHUTH: Same objection. 3 BY THE WITNESS: 4 A Your mouth is used to fire the jelly 5 marble through the tube. 6 BY MR. SHNEIDMAN: 7 Q So you would agree that the tubes 8 themselves have no firing mechanism, correct? 9 MS. UHLENHUTH: Same objection. 10 BY THE WITNESS: 11 A The tube has nothing attached to it, 12 correct. 13 BY MR. SHNEIDMAN: 14 Q And sorry, just so the record is clear, 15 those don't contain a firing mechanism, correct? 16 MS. UHLENHUTH: Same objection. 17 BY THE WITNESS: 18 A As I stated before, your mouth put to the 19 very end will shoot or propel the jelly marble 20 through the tube. 21 BY MR. SHNEIDMAN: 22 Q Okay. But if I'm just asking you about

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89 1 the tubes and if I were to ask you to, you know, 2 draw a circle around the firing mechanism, there's 3 nothing there, right? 4 MS. UHLENHUTH: Same objection. 5 BY THE WITNESS: 6 A Correct. 7 BY MR. SHNEIDMAN: 8 Q Okay. And there's no feed chamber in 9 Spangler physical 1 or Spangler physical 4, right? 10 MS. UHLENHUTH: Objection. Calls for a 11 legal conclusion. 12 BY THE WITNESS: 13 A Yes. The feed chamber would be right here 14 on the end of either of them, you feed the jelly 15 marble into either one of those and so that's what 16 it would look like. That little red piece of tape 17 there, that little part is where they would feed 18 it in. 19 BY MR. SHNEIDMAN: 20 Q But there's no feed chamber for loading 21 the soft projectiles in Spangler physical 1 or 22 Spangler physical 4, right? You're putting that	9 1 position, right? 2 MS. UHLENHUTH: Objection. Calls for a 3 legal conclusion. 4 BY THE WITNESS: 5 A You have to help me. What are -- I think 6 we're asking the same question a couple of 7 different ways. 8 You take a jelly marble and you feed it 9 into the tube and that's what you do. 10 BY MR. SHNEIDMAN: 11 Q And you're using your finger to put the 12 jelly marble into the -- into the tube, correct? 13 A Or your mouth or a cup or anything that a 14 person would want to create a way that they would 15 use to feed it in there. It was, again, an 16 open-ended kind of experience. So however they 17 could fastest and best feed them in there, you 18 could feed multiples in there if you wanted to, 19 and they did. 20 Q But what you showed earlier was you taking 21 a jelly marble, putting it into the tube and 22 blowing it out the tube, right?
90 1 in with your finger, right? 2 MS. UHLENHUTH: Same objection. 3 BY THE WITNESS: 4 A Right. I would -- I would consider this 5 to be the feed chamber. I'm feeding it in. If I 6 was writing directions for this, I would tell them 7 to put the jelly marble in the feed -- feed the 8 jelly marble into the chamber. So if you're 9 asking me if there is a feed chamber, this is in 10 simplest terms a feed chamber. 11 BY MR. SHNEIDMAN: 12 Q You would agree with me, though, that 13 there's nothing in the tubes that feeds the 14 ammunition into the tubes, correct? 15 MS. UHLENHUTH: Same objection. 16 BY THE WITNESS: 17 A Your finger feeds the ammunition into the 18 tube. 19 BY MR. SHNEIDMAN: 20 Q Okay. And the tubes Spangler physical 1 21 and Spangler physical 4 are not adapted to load a 22 soft projectile from a feed chamber to a firing	92 1 A I demonstrated putting a single jelly 2 marble, but as I've told you, there were many 3 different ways that people in playing with this 4 would feed jelly marbles into the tube including 5 multiple jelly marbles that would get shot out at 6 one time. 7 Q All right. 8 MR. TAYLOR: Counsel, I'm sorry to 9 interrupt. 10 I have to drop off the deposition. I just 11 want to thank you. Thank you, Mr. Spangler, for 12 your testimony. 13 THE WITNESS: Thank you. 14 MR. CUTRI: Thank you, Todd. Are you 15 going to have -- should we plan to have you come 16 back and do further questioning or -- or should we 17 just, like, connect with you? Are you going to 18 come back on? I'm just trying to -- 19 MR. TAYLOR: If you guys are still here, 20 I'll rejoin after the DCM. 21 MR. CUTRI: Okay. 22 MR. TAYLOR: If not, just proceed without

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93 1 me. 2 MR. CUTRI: Got it. 3 MR. TAYLOR: Thank you. 4 MR. SHNEIDMAN: I think this is actually a 5 good time to take a five-minute break and then 6 we'll rejoin. 7 MR. TAYLOR: Great. 8 MR. CUTRI: Before we go off the record, I 9 think because Mr. Spangler discussed some 10 licensing arrangements and confidential matters, 11 we'll mark -- to the extent the transcript isn't 12 already marked, we'll mark it as -- I'll get the 13 exact language, highly confidential, maybe Laura 14 can -- you can look up the exact language of how 15 to designate this. 16 Mr. Spangler, what that means is your 17 testimony becomes confidential such that it can't 18 be shared with, you know, Mr. Shneidman's clients, 19 it can't be shared with the general public. It 20 becomes confidential because we're discussing 21 things that are confidential to you. 22 And then with that, we'll go off record.	95 1 shooter for jelly marbles other than what's shown 2 in Spangler physical 1 and Spangler physical 4, 5 3 and 6. And I just want to confirm with you that 4 to your knowledge there are no documents that have 5 been produced regarding any other type of shooter. 6 Is that right? 7 MS. UHLENHUTH: Objection to the extent 8 this calls for privileged information. 9 Steve, you can go ahead and answer yes or 10 no. 11 BY THE WITNESS: 12 A No, I don't see any other documents. 13 BY MR. SHNEIDMAN: 14 Q And just because my question was "is that 15 right" and the answer was "no," let me just 16 clarify. 17 There are no other documents relating to 18 any other type of shooter, correct? 19 A I do not know that. 20 Q Are you aware of any other documents 21 relating to any other kind of shooter? 22 A I don't know if Jeff Brooks and the other
94 1 THE WITNESS: Okay. Thank you. 2 THE VIDEOGRAPHER: We are going off the 3 record. The time is 11:51 a.m. 4 (A recess was had.) 5 THE VIDEOGRAPHER: We are back on the 6 record. The time is 12:03 p.m. 7 MS. UHLENHUTH: For the record, counsel 8 for SplatRBall is marking this transcript 9 containing confidential business information 10 subject to the protective order. 11 Hey, Jeff, if you're talking right now 12 you're muted. 13 MR. SHNEIDMAN: Sorry. To clarify, is it 14 counsel for SplatRBall, or is it counsel for 15 Mr. Spangler? 16 MS. UHLENHUTH: Apologies. It's counsel 17 for Mr. Spangler. 18 BY MR. SHNEIDMAN: 19 Q Mr. Spangler, I was over the break looking 20 through the documents that have been produced in 21 this case from Spangler Bates numbers. I don't 22 see any documents relating to any other type of	96 1 members of the product development team at the 2 time documented anything or had notebooks or 3 anything like that, so I don't know what they have 4 if you're asking if there's other documents with 5 all of our ideas. 6 I don't have anything in front of me that 7 is a document, but you would have to ask Jeff 8 Brooks or anybody else who was on the product 9 development team. 10 Q I just want to make sure that you don't 11 have any documents that are relating to any other 12 type of shooter, correct? 13 A I do not have any documents with me that 14 would relate to any other shooter. 15 Q What about not with you? And the reason 16 I'm asking is just I have explored the -- what's 17 been produced as Spangler exhibits and I want to 18 ask you any questions about those documents if 19 there are any, but I do not see any. So I just 20 want to make clear for the record that you have -- 21 you do not have any documents relating to other 22 types of shooters other than Spangler physical 1

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97 1 and 4 and 5, 6? 2 A I do not have any other documents with me. 3 If I were to look through photos and other things, 4 I would have to make a more accurate answer after 5 going through things and spending some time to 6 look for other things. 7 MS. UHLENHUTH: Jeff, I'm going to object 8 to this on the scope. 9 BY MR. SHNEIDMAN: 10 Q And, Mr. Spangler, you haven't to your 11 knowledge produced any such documents, right? 12 A I have not shared anything like that with 13 the team, correct. 14 Q And by "the team," who do you mean? 15 A Laura, Brian or Gianni. 16 Q How did you come across jelly marbles in 17 the first place? 18 A Jelly marbles are an iteration of -- they 19 are just another crosslink polyacrylamide 20 copolymer and turned to the lab that was producing 21 our jelly crystals for us at the time and they had 22 started to manufacture and found a process by	99 1 ask our purchasing agent at the time. 2 Q And who was the purchasing agent at the 3 time? 4 A Jeff Brooks would have been part -- he 5 would have overseen that team. I don't know -- I 6 don't know. I would ask Jeff Brooks who the 7 purchasing agent was at the time. 8 Q Is a cross-link polyacrylamide copolymer a 9 super absorbent polymer? 10 MS. UHLENHUTH: Objection. Calls for a 11 legal conclusion. 12 BY THE WITNESS: 13 A The jelly marbles that we have that absorb 14 100, 200, 300 times their weight in water, that is 15 a super absorbent polymer. 16 BY MR. SHNEIDMAN: 17 Q And what is a super absorbent polymer? 18 MS. UHLENHUTH: Objection. Calls for a 19 legal conclusion, calls for expert testimony. 20 BY THE WITNESS: 21 A As it pertains to this case, I know we're 22 talking about jelly marbles, a jelly marble is a
98 1 which they instead of using a crystal they could 2 turn it into a sphere. 3 Q And do you know the process by which they 4 could create a sphere? 5 A I don't know the process. 6 Q Did they come to you with the idea of 7 creating a sphere or was that something that you 8 requested? 9 A I can't remember. There are many 10 different shapes of cross-link polyacrylamide 11 copolymer, spikes and rods and whatever, and so I 12 don't know who and how the jelly marble itself 13 came about if we asked them or otherwise. 14 Q And what was the lab that was producing 15 the jelly crystals for you at the time? 16 A I don't know, I could go back and find the 17 documents who our supplier was and who that lab 18 was, but I don't know. There are a number of labs 19 that we use to supply all the polymers. 20 Q And did the lab that supplied the jelly 21 spheres change over time? 22 A I don't believe so but you would have to	00 1 super absorbent polymer. 2 BY MR. SHNEIDMAN: 3 Q And what is a super absorbent polymer? 4 MS. UHLENHUTH: Same objections. 5 BY THE WITNESS: 6 A A jelly marble, in this particular case, 7 this jelly marble -- it's this polymer that will 8 absorb 100, 200 -- 800 times its weight in water. 9 BY MR. SHNEIDMAN: 10 Q So the jelly marble will absorb 800 times 11 its weight in water? 12 MS. UHLENHUTH: Objection. Misstates 13 testimony. 14 BY THE WITNESS: 15 A A jelly marble will absorb a lot of 16 different amounts of water depending on lots of 17 different variables. That's why it's such a great 18 science component because it's so open-ended. 19 BY MR. SHNEIDMAN: 20 Q So you're telling me a jelly marble is a 21 super absorbent polymer, but can you tell me what 22 a super absorbent polymer is?

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0 1 MS. UHLENHUTH: Objection, calls for a 2 legal conclusion, calls for expert testimony. 3 BY THE WITNESS: 4 A I'm not a polymer chemist. I'm a general 5 chemist at best, a chemistry teacher. So I can 6 tell you as it relates to jelly marbles here or 7 the diaper material that was on the sheet, sodium 8 polyacrylate. Both of those are what I would 9 consider super absorbent polymers because they 10 absorb a great amount of water. 11 BY MR. SHNEIDMAN: 12 Q Are you providing expert testimony in this 13 case? 14 A I don't believe so. 15 Q Did you know when you came across jelly 16 marbles that they were a super absorbent polymer? 17 A Yes, because they are a crosslink -- that 18 they are just like our jelly crystals and we 19 classify a jelly crystal as a super absorbant 20 polymer. 21 Q Were they already a product somewhere that 22 you --	03 1 just say that one more time? 2 Q Sure. 3 How did you acquire the jelly marbles for 4 resale by your company? 5 A Our purchasing agent would have procured 6 it from whoever the contact was at the supplier, 7 the lab, whoever was doing it. They would have 8 gotten product samples. 9 Q And the product samples that were 10 obtained, did you happen to see those? 11 A All of the product samples that come in on 12 that type of thing are brought to me at the time 13 and they are part of a product review process. 14 Q Do you remember the product review process 15 for the jelly marbles? 16 A I don't remember specifics other than I 17 remember a variety of samples being brought to me 18 in little ziplock bags all coated with whatever 19 the item number or SKU number was so that we could 20 refer to them and say what we liked. 21 Q And what were the differences between the 22 marbles in the bags?
02 1 MS. UHLENHUTH: Objection. Vague. 2 BY THE WITNESS: 3 A I don't know. We were very close to 4 the -- if we weren't the first, we were very, very 5 close to the first. 6 BY MR. SHNEIDMAN: 7 Q To clarify, were the -- were the jelly 8 marbles already a product somewhere that you could 9 purchase? 10 MS. UHLENHUTH: Same objection. 11 BY THE WITNESS: 12 A I don't know. I don't know. What I do 13 know is that the laboratories or suppliers love to 14 bring stuff to us because we could very quickly 15 put it on the market. 16 BY MR. SHNEIDMAN: 17 Q And how was the jelly marble product 18 obtained from the laboratory? Was it as a catalog 19 item that you ordered from or how -- how did you 20 find jelly marbles for sale yourself? 21 A I'm sorry, would you say that again? 22 There was audio that stepped over that. Would you	04 1 A Size. They were very small jelly marbles. 2 There were larger jelly marbles. That's the 3 biggest difference if I remember, and there was 4 talk at the time of being able to change the color 5 of them, but at the time they were just clear. 6 Q Was there any difference in the fragility 7 of the jelly marble samples? 8 A That really is dependent upon -- with my 9 experience, dependent upon how long you soak them 10 in water. 11 Q Are you familiar with the term 12 cross-linking density? 13 MS. UHLENHUTH: Objection. 14 MR. SHNEIDMAN: What's the grounds for the 15 objection? 16 MS. UHLENHUTH: It's very broad and vague. 17 It also calls for a legal conclusion to the extent 18 you're asking about it relating to the patent. As 19 a general term, no objection. 20 BY MR. SHNEIDMAN: 21 Q Are you familiar with the term 22 cross-linking density?

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05 1 A I know that this is a term in the patent. 2 I'm familiar with cross-linking and I'm familiar 3 with density, but not those two terms being put 4 together. 5 Q And what is cross-linking? 6 A In general terms of how I would explain it 7 to elementary students it is where long chains of 8 molecules are hooked together. They are 9 cross-linked. 10 Q But you don't have an understanding of 11 cross-linking density; is that true? 12 A No. I've never used that term. I 13 understand, of course, density, but I've never 14 used the term or seen the term other than in this 15 patent, cross-linking density. 16 Q Okay. The jelly marbles that you selected 17 were based on a SKU that was provided; is that 18 true? 19 A No. Based on internal working numbers. 20 So they could marked -- very similar to how you've 21 marked exhibits, they would mark a ziplock bag or 22 a jar or something with a specific number, and we	07 1 hydrated? 2 A Oh, when hydrated, 10, 9, 10, 3 11 millimeters, probably somewhere in there. 4 Q Just to clarify the record, earlier when 5 you said 40 or 50 millimeters, was that when it 6 was not hydrated? 7 A No, that was fully hydrated. That would 8 be like a crystal ball, a little crystal ball. 9 Q I see. 10 So the size of the jelly marbles that you 11 sold were between 10 and 50 millimeters when 12 hydrated; is that correct? 13 MS. UHLENHUTH: Objection, misstates 14 testimony. 15 BY THE WITNESS: 16 A Yes, but again, now we're -- now I'm a 17 science teacher, right. I can control how big 18 they are by just how long I hydrate them. 19 So if I take a jelly marble and put it in 20 the water for ten minutes, that will be the size 21 it will be. And if I leave it in there for a day, 22 I can reach -- if that's how that polymer works,
06 1 might say we like one, two, three, more than we 2 like four, five, six. 3 Q And who is "they" when you say that they 4 would mark the different samples? 5 A The supplier or the lab who was providing 6 us with ideas. 7 Q I see. 8 And what was the size of the jelly marble 9 that you ended up selecting when hydrated? 10 A We sold a variety of them. We liked them 11 so much that we sold them in many different ways. 12 So Steve -- and I'm talking now about 13 Steve Spangler Science, Steve Spangler Science 14 sold jelly marbles that were very, very small, up 15 to jelly marbles that were -- I would have to 16 measure them so I don't want to speculate, but I 17 can tell you when they were fully hydrated they 18 might have been 40, 50 millimeters, they could 19 have been huge. So some were very small and some 20 were very big. 21 Q And when you say "very small," can you 22 help me understand what very small means when	08 1 it could reach maximum size. So I totally can 2 control the size of the jelly marble, which is 3 great. 4 Q Back in the 2008 to 2010 time frame, do 5 you know where the jelly marbles were made? 6 A Again, I would ask the purchasing agent 7 for the supplier. 8 Q And were there options of cross-linked 9 polyacrylamide copolymer that you could select 10 from that supplier? 11 A When we purchased the cross-linked 12 polyacrylamide copolymer in different -- many 13 different forms, in the crystal form that I 14 mentioned before, spherical, spikes, cubes, so 15 they would make it for us in almost anything that 16 we wanted, anything that we thought we could sell. 17 Q Has the composition of jelly marbles 18 changed since you first introduced them? 19 A I don't know. 20 Q And why don't you know? 21 A Again, not a polymer chemist so I didn't 22 have anybody come to me and say we are changing

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09 1 our formulation or any of those kinds of things, 2 but they behaved consistently through the entire 3 time that we've sold them. 4 Q Is there a target firmness for a jelly 5 marble? 6 A No. 7 Q And is there a target size for the 8 hydrated jelly marble? 9 A No. That's what makes them fun. 10 Q And is there a target size for the non 11 hydrated jelly marble? 12 A No. 13 Q And what were your jelly marble products 14 used for? 15 A All I can tell you is what we told people 16 to do with them. To list is to limit. So one of 17 the great things that happened is customers would 18 come up with other cool things to do with them. 19 So I could seed an idea and say you should 20 try this, but thanks to YouTube and the internet, 21 they were used for lots of different ideas. 22 Q Have you ever included in the jelly marble	1 your instructions? 2 A Not in written instructions, but in 3 teacher workshops or in -- where we would do this 4 live they would see this or recorded instructions 5 I'm sure that, you know, we would -- we would sell 6 copies of Science in the Rockies or people who 7 couldn't attend in person would get that, so I'm 8 sure that that was on the video. 9 Q Can you take a look at Spangler physical 10 2. 11 MR. SHNEIDMAN: Can we pull that up on the 12 screen, please? 13 (A certain document was marked Spangler 14 Deposition Exhibit 2 for identification, 15 as of 11/23/2022.) 16 AV TECH STROMBERG: Sure. Please stand 17 by. Exhibit 2 is now up. 18 BY MR. SHNEIDMAN: 19 Q Mr. Spangler, does this picture on the 20 screen accurately depict the physical exhibit 21 Spangler physical 2 that you have in front of you? 22 A Yes, it does.
0 1 instructions or documentation directions to throw 2 jelly marbles? 3 A Without reading all the documents, I 4 wouldn't know. And I wasn't the one who wrote all 5 those, so there could have been some funny little 6 thing to say you can bombard somebody or whatever, 7 but I'd have to take a look at all those 8 documents. 9 Q Jumping back briefly to Spangler physical 10 6 the potato gun launcher instruction sheet, did 11 you write the Spangler physical 6? 12 A I wrote the first version of this, but we 13 had an editor on staff that would punch things up 14 or change things or whatever, but I wrote the 15 first draft of this I'm sure. 16 Q And then did you approve this Spangler 17 physical 6 before -- 18 A No, that wouldn't have been my job. 19 Q Okay. 20 A Yep. 21 Q Did you ever include instructions to 22 launch jelly marbles using any sort of device in	2 1 Q And what is Spangler physical 2? 2 A This was one of the jelly marble products 3 that we sold in a jar, and so the jar contained 4 jelly marbles and an instruction guide. 5 Q Did you provide Spangler physical 2 to 6 counsel for use in this lawsuit? 7 A Yes, I did. 8 Q Okay. And where did you acquire Spangler 9 physical 2? 10 A From our archive of products. 11 Q Do you know when Spangler physical 2 was 12 made? 13 A All I can do is look at the outside of it 14 as you go through and I can see that it was -- it 15 says 2009, Steve Spangler, Inc. So this 16 particular jar, but this -- that could have been 17 just the production run on this -- this jar. So 18 this -- if you're asking me specifically about 19 this, I would say probably 2009. 20 Q The label is changed by Steve Spangler 21 Science whenever the production runs occur, is 22 that what you're testifying?

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3 1 A What I'm saying is I would ask Jeff Brooks 2 what the process was for updating that, but it was 3 our company policy to stay current on the labels 4 when they were -- when the product was put out. 5 It was one of our ways of being able to see 6 differences, I guess, maybe in jars or something. 7 Q Do you know for a fact when the jelly 8 marbles contained in Spangler physical 2 were 9 manufactured? 10 A I do not know for a fact. 11 Q Is it possible that they were made within 12 the last 10 years? 13 A No, not -- not this one. 14 Q But you don't know for a fact when they 15 were made, correct? 16 A What I know is it would be consistent with 17 our policy as a company to stay current on -- on 18 updating the label. We were good about that with 19 all the products. I would ask Jeff Brooks very 20 specifically about that procedure. He would be 21 able to tell you better. 22 Q Okay.	5 1 Q And is there any difference between the 2 jelly marbles in Spangler physical 3 and the jelly 3 marbles contained in Spangler physical 2? 4 A I'm looking -- just looking at them on the 5 screen it looks to be the same. 6 Q Were these sold without instructions? 7 A No, they were not. 8 Q So Spangler physical 3 is not a product 9 that you would have sold at Spangler -- Steve 10 Spangler Science, correct? 11 A It is the -- what we would consider an 12 inner container, so it is just packaging that 13 would go inside the jar that we were selling that 14 would include the activity guide. 15 Q And did you provide Spangler physical 3 to 16 counsel for use in this lawsuit? 17 A Yes, I did. 18 Q And where did you acquire Spangler 19 physical 3? 20 A From our archive, so it would have been 21 inside the jelly marble jar that you asked me to 22 take a look at which is I guess Spangler physical
4 1 MR. SHNEIDMAN: Can we pull up Spangler 2 physical 3? 3 (A certain document was marked 4 Spangler Deposition Exhibit 3 for 5 identification, as of 11/23/2022.) 6 AV TECH STROMBERG: Sure. Please stand 7 by. 8 BY MR. SHNEIDMAN: 9 Q And, Mr. Spangler, if you could take a 10 look at your physical exhibit, Spangler physical 11 3, please. 12 A Sure. 13 AV TECH STROMBERG: Exhibit 3 is now up. 14 BY MR. SHNEIDMAN: 15 Q And does this picture on the screen 16 accurately depict the physical exhibit that you 17 have as Spangler physical 3? 18 A Yes, it does. 19 Q And what is Spangler physical 3? 20 A These are jelly marbles that are contained 21 in a plastic bag to keep them from spilling all 22 over the place I guess.	6 1 2. 2 Q And at the moment is there anything in the 3 jar, Spangler physical 2, or is Spangler physical 4 3 the contents of that jar? 5 A No, that's it. 6 Q On the video we saw earlier today, 7 Spangler 167, did you hydrate the jelly marbles 8 yourself? 9 A Yes, I did. 10 Q And how did you do that? 11 A By putting them in water. 12 Q Just regular water, tap water? 13 A Yes, those were tap water. 14 Q Okay. And how big do the jelly marbles 15 get when they're fully hydrated per the 16 instructions? 17 A Well, that's -- per the instructions, we 18 suggest that they try a whole bunch of different 19 liquids, so distilled water, DI or deionized 20 water, the jelly marbles can get to be huge. 21 Rainwater they could be really big, snow, melted 22 snow, salt water can make them very small.

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7 1 So we can totally control the size of the 2 jelly marble depending on how we hydrate them and 3 what we hydrate them in. 4 Q When if you look at -- 5 A So it was good for a science experiment. 6 Q When you look at Spangler physical 2, 7 there is on the label something that says "actual 8 size," do you see that? 9 A Hold on one second. The amazing water 10 absorbing polymer. Where are you seeing "actual 11 size"? 12 Q If you turn Spangler physical 2 -- 13 A I'm not going to admit that my eyes are 14 getting bad. I don't want that on the record. 15 Q There is a large -- 16 A Oh, I see what you're saying, yeah, yeah, 17 yeah. I'm sorry, it was right in front of me. I 18 see it, yep. 19 Q And so is that the actual size of the 20 hydrated jelly marble? 21 A It could be the size of a hydrated jelly 22 marble depending upon any number of things that	9 1 So I can control the size of it so 2 that's -- this was used to just be able to show 3 customers that these can get to be big if you want 4 them to be because there's no picture of how they 5 start on this jar. 6 Q For the video that you showed earlier 7 where you put the jelly marble into the tube and 8 blew it, did you have to stop the hydration 9 process before they were fully hydrated? 10 A Yes. 11 Q Why is that? 12 A So that they would fit into the tube. 13 Q And do you know how large those jelly 14 marbles would have gotten had you let them hydrate 15 fully? 16 A Again, lots of variables, so if I was 17 using tap water I would have to experiment with it 18 because everybody's tap water is a little bit 19 different as well. So some of them could get 20 large, but again, it just -- it's not a controlled 21 experiment. 22 So if you were -- you know, if we were in
8 1 I've mentioned before that they could do to expand 2 it. You can see on that label there are a variety 3 of sizes there. If you're seeing that, that's an 4 actual photo that was used. So you can see there 5 are some very small ones in there and there are 6 some very large ones in there. 7 Q And how large approximately would you say 8 the actual size of that marble is intended to be 9 there? I don't have the physical in front of me. 10 THE REPORTER: I'm sorry, Counsel, could 11 you repeat? 12 BY MR. SHNEIDMAN: 13 Q How large would you say the actual size of 14 that marble is intended to be? I don't have the 15 physical in front of me. 16 A Oh, I'm sorry. I don't -- I will -- if 17 you'd like me to take the time to measure it, I 18 can tell you what it measured at on the -- on the 19 label, but let me point out, once again, that 20 there are a whole bunch of different sizes on 21 this -- on this label, and so it's pointing to 22 that one that's there as actual size.	20 1 a lab and you're saying using DI and -- deionized 2 water and it was at this temperature and all of 3 our samples were the same size, that's what you 4 could do, but it was never intended for that. 5 The whole idea was to allow this variety 6 for kids to be able to play with and for a teacher 7 or somebody to be able to use this as a teaching 8 tool. 9 Q Are either of the exhibits of Spangler 10 physical 2 or Spangler physical 3 the same 11 exhibits that you used 14 years ago at Science in 12 the Rockies in 2008? 13 A This actual jar and these actual jelly 14 marbles in front of me, no, I can't say that those 15 are the ones that were used. We were selling 16 jelly marbles at the time, so I don't -- you know, 17 I don't know what jelly marbles were used. 18 Q Okay. And similarly for the meeting 19 14 years ago at Be Amazing Toys, Spangler physical 20 2 and Spangler physical 3 were not the ones -- 21 were not the jelly marbles that were used at that 22 meeting, right?

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2 1 A No. You're using very broad terms. So 2 they -- it would be like saying they're not the 3 same Oreo cookies that you ate. Well, Oreo 4 cookies are Oreo cookies. 5 So these are the jelly marbles we used by 6 chemical composition, the product that we've sold 7 for years and years and years. Are they the 8 absolute exact one if that's what you're asking me 9 and I'm just -- I'm trying to be -- I don't do 10 this for a living, so I'm just trying to answer 11 your question to make sure that I'm answering 12 exactly what you want me to answer. 13 This is just -- this is an archived sample 14 of the product that we sold back at that time. 15 Q So these are not the actual samples that 16 were demonstrated back in 2008, correct? 17 A This material is not the actual material 18 that I demonstrated in 2008 to Be Amazing Toys. 19 Q And it's not the actual material that was 20 demonstrated in 2008 at Science in the Rockies, 21 right? 22 A It is the actual material, it's not from	23 1 says: "Activity guide included." 2 Do you see that? 3 A Yes. 4 Q And what does that mean? 5 A That means that there was a piece of paper 6 inside that -- or multiple pieces of paper inside 7 that would explain things that they could do with 8 the jelly marbles. 9 Q And can we pull up Spangler 000000027 and 10 mark this as exhibit for the deposition No. 9. 11 AV TECH STROMBERG: Sure. Please stand 12 by. 13 (A certain document was marked Spangler 14 Deposition Exhibit 9 for identification, 15 as of 11/23/2022.) 16 AV TECH STROMBERG: Exhibit 9 is now up. 17 BY MR. SHNEIDMAN: 18 Q Mr. Spangler, can you take a look at 19 Exhibit 9, please. 20 A Yes. Let's see if I'm getting good at 21 this. The tech person will be proud if I do it 22 correctly. Here we go, look at that, I can
22 1 this jar. I did not physically have this jar and 2 this bag marked Exhibit 2 and 3 at Science in the 3 Rockies in 2008. 4 Q It's possible that the composition from 5 the supplier has changed since 2008, correct? 6 A Based on what -- based on what I know and 7 how the product behaves, the answer is no to that. 8 The only way that the physical or the chemical 9 composition would change is if I asked for it or 10 anybody on our team asked for it to change. 11 Q Well, it's also possible that the 12 manufacturer could have changed the composition on 13 their own, correct? 14 MS. UHLENHUTH: Objection. Calls for 15 speculation. 16 BY THE WITNESS: 17 A My experience is they would not change the 18 composition unless I asked them to change the 19 composition. 20 BY MR. SHNEIDMAN: 21 Q Can we take a look at Spangler physical 2, 22 and on the front of the bottle at the bottom it	24 1 control it. 2 Yes, so I am familiar with this document. 3 Q And what is this document? 4 A This would be one of the activity guides 5 that we would have produced to go along with jelly 6 marbles. We had a number of jelly marble 7 products, so this is -- this is an activity guide 8 that would have been used and included with jelly 9 marbles with some ideas for activities. 10 Q Would this be the activity guide that's 11 referred to on Spangler physical 2? 12 A Yes. 13 Q Okay. And what's the purpose of the 14 document? 15 A To show the customer how the product works 16 and to give them some ideas to get their kind of 17 creative ideas flowing as well. 18 Q Who wrote the document? 19 A I would have authored the first draft of 20 this document, but again, we had editors at the 21 company at the time, so I can tell with certain 22 things that it's my writing and I can tell that

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25 1 there's been an editor in here who has punched it 2 up as well. 3 Q And does the document accurately describe 4 jelly marbles? 5 A It describes things to do with jelly 6 marbles, yeah, but it's by no means a treaties of 7 everything that we'd ever do with jelly marbles. 8 There are lots of different products. So this was 9 just a small little snippet of what you to could 10 do with a jelly marble. 11 Q Understood. 12 And when it's describing the jelly 13 marbles, though, is it an accurate description of 14 the jelly marbles? 15 A Where specifically are you looking where 16 we describe jelly marbles because I want to make 17 sure I'm answering your question correctly? 18 Q For example, under the "Let's Try It" 19 section and the "What Happened to My Marbles" 20 section. 21 A So again, if we -- I guess if we read 22 this, fill a plastic cup three-fourths full with	27 1 for them to do what we would consider a "wonder 2 why" or a "wonder what-i." 3 Q Can you explain the science as to why the 4 jelly marbles change shape? 5 MS. UHLENHUTH: Objection to the extent it 6 calls for expert testimony. 7 BY THE WITNESS: 8 A I would ask a polymer chemist why. It was 9 an observation more than anything else. Very cool 10 observation that they would change and then 11 ultimately turn into as close to a perfect sphere 12 as possible, but the intermediary process that 13 they went through, I don't know what was going on 14 inside -- going on inside the polymer to do that. 15 BY MR. SHNEIDMAN: 16 Q Okay. Can we look at the next page here, 17 scroll down. Actually, we can put this aside I 18 think. 19 MR. SHNEIDMAN: Can we open up Spangler 41 20 and mark this as Exhibit 10? 21 AV TECH STROMBERG: Please stand by. 22 (A certain document was marked Spangler
26 1 room temperature water, yep; measure about a 2 teaspoon of the jelly marbles into the water, 3 correct; soak the marbles for at least three hours 4 checking on them very often in the process, make 5 sure you notice the change as they grow, very 6 unique shapes along the way, they can different 7 into different shapes, and that's a part -- like 8 somebody said the Epcot, that's where I can tell 9 that an editor wrote that. Your marble should 10 teach their maximum growth in five to six hours. 11 Q Is that all correct? 12 A That is correct. We -- this is what I 13 would consider seeding, so you'll see that in the 14 "Let's Try It" I didn't say soak them for five 15 minutes and take it out, so very specifically our 16 hope is that a student, a teacher, customer of 17 some kind would go, wait, wait, what would happen 18 if I just soaked it for three minutes or 19 15 minutes or what if I left it in there for three 20 days, would they get any bigger than that? 21 So one of our techniques in writing these 22 instructions was to make sure that there was room	28 1 Deposition Exhibit 10 for identification, 2 as of 11/23/2022.) 3 AV TECH STROMBERG: Exhibit 10 is now up. 4 BY MR. SHNEIDMAN: 5 Q Mr. Spangler, this is a longer document. 6 I'm only going to ask about a few pages. Let me 7 first by start -- by asking do you recognize what 8 this document is? 9 A Yes, I do. It's our catalog. 10 Q And what year is this catalog from? 11 A At the very bottom notes it's 2009. 12 Q And what is this catalog? 13 A This is our retail catalog from -- that 14 was an accompanying piece to 15 SteveSpanglerScience.com, so this is our print 16 catalog. 17 Q And can you turn to where it's marked on 18 the bottom Spangler 44? 19 A Sure. 20 Q You may have to rotate the document 21 depending on how this is presented. 22 A I understand. All right. Let's see if I

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29 1 can go down two, three -- 2 Q There you go. 3 A -- four. And can I use the magnifying 4 glass to make it bigger? 5 Q Please do. 6 A I think that's up here. Maybe, maybe not. 7 Q Yes, please. 8 A Maybe I can just hit the plus. No, let me 9 get out of this. Yep, I think I did that right. 10 Okay. 11 Q In the upper left of Spangler 44, it has a 12 description for the clear spheres kit. 13 Do you see that? 14 A I do. 15 Q And are the 14 lines of text under the 16 words "Clear Spheres Kit" describing the clear 17 spheres that you identified earlier today as 18 Spangler physical 3? 19 A Yeah, stand by just a second. It's been 20 years since I've read this text. Water... 21 Yes, so ask your question once again. 22 Does this accurately represent...?	3 1 words "Potato Gun" accurately describe the potato 2 gun launcher that you identified today as Spangler 3 physical 4 and 5? 4 A Classic version of potato gun inspired by 5 Lee Marek. Entire potato gun is made out of clear 6 plastic. Can see where they are. Great visual 7 demonstration. Nice kicker at the end. Please 8 note this piece of potato has been clocked at 30 9 miles an hour. Will travel. This spud's for you. 10 Yes. 11 Q Okay. Sorry. My -- my realtime has 12 dropped off. 13 So -- so to be clear, the 18 lines of text 14 under the words "Potato Gun" accurately describe 15 the potato launcher gun that you described has 16 today as Spangler physical 4 and 5, correct? 17 A Yes, with some artistic license. I see 18 the kicker at the end: Please note this is not a 19 tie, pieces of potato have been clocked at 20 30 miles per hour. 21 I don't know where it -- who wrote it -- I 22 don't know. I've never clocked a potato at
30 1 Q Does this text accurately describe the 2 clear spheres or jelly marbles which are the 3 physical exhibit Spangler physical 3? 4 A Yes. 5 Q Okay. And then on the same page to the 6 left, there's a description of water jelly 7 crystals. 8 A Yes. 9 Q Are the water jelly crystals a different 10 product than the clear spheres? 11 A It is a different product but it is the 12 same physical material. 13 Q Okay. 14 A Yep. 15 Q Okay. And can we turn now another three 16 pages to Spangler 000000047. 17 A Okay. Let me just make sure I get your 18 number, 45, 46. Got it, and 47. 19 Q And in the lower left of Spangler 47 it 20 has a description of potato gun? 21 A Yes. 22 Q And did the 18 lines of text under the	32 1 30 miles an hour. I do know they'll travel 2 200 feet. 3 So I can tell that the writers are 4 conforming to something that says that we should 5 note that this is ages 12 and up, but, yeah. So 6 with a -- it's explaining what it does, Boyle's 7 law is accurate but there is some artistic license 8 with what was written there, that's for sure. 9 Q Do you agree that the entire potato gun is 10 made of clear plastic? 11 A No, it's made -- to be absolutely 12 accurate, it's made of clear plastic and the 13 rubber stopper that's at the very end. 14 Q And do you agree it's a great 15 visual demonstration of Boyle's law? 16 A Yes, I do agree with that. 17 Q And do you agree it's not a toy? 18 A I do not agree with that. 19 Q Why not? 20 A Because it is a toy. 21 Q And so this catalog inaccurate? 22 A No. I would not say it's inaccurate. I

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33 1 would say that there are probably other instances 2 if we want to read the whole document where we 3 were asked to note that things are not a toy for 4 legal purposes, but of course it's a toy. It's in 5 a toy catalog. 6 Q And so you think that this is saying "this 7 is not a toy" for legal purposes? 8 A Yes, or if you put it in the context, the 9 whole thing comes together -- this is not a toy so 10 it grabs people's attention. "These pieces of 11 potato have been clocked at 30 miles an hour and 12 will travel over 200 feet," well, that's -- that's 13 fantastic to be able to get someone -- so 14 that's -- that's like saying don't try this at 15 home and people are, like, I got to try this at 16 home. 17 So I don't know where they were going with 18 this, but that sounds kind of tongue-in-cheek fun. 19 It's something I probably would have suggested or 20 written early on. So again, I don't -- and then 21 "This spud's for you," I didn't write that. I 22 guess I should have taken credit for that, but so	35 1 Steve Spangler Science? 2 A Steve Spangler, Incorporated, the parent 3 company. 4 Q Okay. And where was that matter? 5 A That suit was filed here in the state of 6 Colorado but it was a federal suit. 7 Q And when was it? 8 A I could go back and take a look for you. 9 I don't remember when that was. It was in the 10 early 2000s. 11 Q And do you remember who the company was 12 that Steve Spangler, Incorporated was suing? 13 A Yes, it was Scientific Explorer. 14 Q Okay. Who is Ellen Peterson? 15 A Ellen Peterson is a great science teacher. 16 Q Are you friends with her? 17 A I know her from attending workshops and 18 from attending many of our events. 19 Q She attends your events you're saying? 20 A She has attended many of our events. We 21 do lots and lots of events, but over the years she 22 has attended a number of our events.
34 1 I can tell there's multiple hands in this. 2 Q Okay. Have you been deposed before? 3 A No, I haven't. 4 Q Have you ever testified at trial before? 5 A No, I haven't been part of a trial. 6 Q And you paused there a little bit. Is 7 there any reason? 8 A Yes, I was part of a federal lawsuit that 9 was settled out of court. 10 Q I see. 11 And what did the lawsuit concern? 12 MS. UHLENHUTH: I'm going to caution the 13 witness to not reveal anything privileged relating 14 to that prior case. 15 BY THE WITNESS: 16 A Okay. I think I know what I can say and 17 what I can't. I was -- we were in a lawsuit with 18 a company who had -- we had licensed ideas to 19 them, and they -- we sued them because they didn't 20 want to pay the license fees anymore. 21 BY MR. SHNEIDMAN: 22 Q And when you say "we sued them," is that	36 1 Q Is she in Littleton, Colorado, too? 2 A She is not. 3 Q Do you know where she is? 4 A She's currently in Wyoming. 5 Q Have you spoken with her in the last three 6 months? 7 A No. Oh, no, I take that back. We went to 8 Science of Iceland together, and so that was this 9 summer. Work backwards from there. We spent a 10 week together or ten days together in Iceland. 11 Q Have you spoken or written with 12 Ms. Peterson about anything related to this case? 13 A Other than a phone call, she -- she called 14 me asking why somebody had called her about jelly 15 marbles. 16 Q And can you tell me more about that 17 conversation? 18 A Yes, I told her: "I can't talk to you 19 about that. So if you want to talk to somebody 20 about jelly marbles, you're welcome to talk to 21 somebody about jelly marbles." 22 But her exact -- I think her -- what she

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37 1 said to me was: "Are you okay?" Or "Is 2 everything okay?" 3 And I said: "Yeah." 4 And she said: "Somebody is asking me 5 about jelly marbles." 6 And I simply said: "I can't talk to you 7 about that." 8 Q And did she say who it was who was talking 9 to her about jelly marbles? 10 A Yes, she did. 11 Q And who was it? 12 A It was someone from the law firm, the 13 Kirkland & Ellis law firm. 14 Q I see. 15 And when was that conversation? 16 A Again, I'd have to go back and -- I can -- 17 I could go back and look. I don't remember, a 18 couple of months ago probably. 19 Q And did she say why she'd been contacted? 20 A I shut her down. So I understood that 21 this was something I was not supposed to talk 22 about, so I shut that conversation down.	39 1 last two, three months? 2 A I have. 3 Q Do you speak with him often? 4 A Fairly often. 5 Q How much is fairly often? 6 A A couple of times a month probably. We 7 worked together closely for 22 years, so still a 8 good friend. 9 Q Is he in Colorado? 10 A He is in Colorado. 11 Q Is he in Littleton as well? 12 A He lives in Littleton. 13 Q Have you spoken or written with Mr. Brooks 14 about anything related to this case? 15 A I have not other than to the extent the 16 same thing with Ellen Peterson. I did get a call 17 saying what's going on, and I used the same line 18 as well. You want to talk to somebody about 19 this -- and, again, his question to me was: "Is 20 everything okay? Are you okay?" 21 Q Do you know why Mr. Brooks or Ms. Peterson 22 were contacted? Did you identify them as people
38 1 Other than letting her know this is not -- 2 I'm not asking you to do anything. If you want to 3 talk to somebody about jelly marbles, you can talk 4 to them about jelly marbles. 5 Q I see. 6 And you mentioned Jeff Brooks and I think 7 you said he's a former employee. 8 A Yes, he is. 9 Q When did he stop being your employee? 10 THE REPORTER: I'm sorry. You broke up a 11 second. When did he...? 12 BY MR. SHNEIDMAN. 13 Q ...stop being your employee? 14 A Because I sold Steve Spangler Science. 15 Q And do you work with him now? 16 A I do not work with him now. 17 Q Do you know what he is doing now? 18 A I do. 19 Q And what is he doing now? 20 A He's actually consulting for Steve 21 Spangler Science, and he runs a car detail shop. 22 Q And have you spoken with Mr. Brooks in the	40 1 who were knowledgeable about anything? 2 A I identified -- I identified Jeff Brooks. 3 I did not identify Ellen Peterson. 4 Q Now, were you surprised when you got the 5 call from Ms. Peterson about -- 6 A Yes, I was. 7 Q Okay. Do you have any past or current 8 connection with a company called Spin Master? 9 A I do not. I know of Spin Master. They 10 were a competitor when I owned Be Amazing Toys and 11 Steve Spangler Science. 12 Q Now, what did you think, if anything, 13 about their Orbeez product? 14 A Nothing other than I wish I would have -- 15 I wish I would have developed it to the extent 16 that they did. 17 Q And what do you mean by that? 18 A Just jealous I had the idea and I just -- 19 it was just that natural jealousy of darn it, I 20 wish I would have produced all the cool toys that 21 they had produced because I was doing the same 22 things with them.

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4 1 Q How so? 2 A What they were doing with jelly marbles. 3 And they called them Orbeez. We were doing the 4 same thing, and they didn't know some of the 5 things I was doing with them, and I probably 6 didn't know some of the things they were coming up 7 with them, but I just thought it was -- it was 8 cool how they took it to mass market so quickly. 9 Q Have you thought about why there was a 10 difference in the way that the Orbeez were old and 11 the way that the jelly marbles were sold in terms 12 of -- 13 MS. UHLENHUTH: Objection. 14 Sorry. 15 Objection, calls for speculation. 16 BY THE WITNESS: 17 A Spin Master is a -- their -- their focus 18 was different. Steve Spangler Science or Be 19 Amazing Toys were educational toy companies, and 20 Spin Master, to my knowledge, is not an 21 educational toy company. So our focus and our 22 purpose would with have been a little bit	43 1 Toys? 2 A Would you say the name again, you cut out? 3 Q Prime Time Toys is the name of the 4 company. Do you have a current connection or past 5 connection or relationship with Prime Time Toys? 6 A I don't recognize the name Prime Time 7 Toys. 8 Q Do you recognize the name Daisy 9 Manufacturing? 10 A I do recognize Daisy Manufacturing. 11 Q And do you have any past or current 12 connection or relationship with Daisy 13 Manufacturing? 14 A I do not. 15 Q Do you have any past or current connection 16 or relationship with a company called SplatRBall? 17 A I do not. 18 MR. SHNEIDMAN: And -- I think I have 19 about ten more minutes of material. We can just 20 stop and do the extended lunch now, Laura, or I 21 can just get through it. It may even be less. 22 MS. UHLENHUTH: Steve, it's your
42 1 different. 2 BY MR. SHNEIDMAN: 3 Q Do you have any current or past 4 relationship or connection with Hasbro? 5 A No, I don't. No, I don't. I don't know 6 about selling to them or anything like that, so I 7 couldn't tell you what salespeople from a long 8 time ago did or if they were interested in buying 9 our products or anything like that, but I don't 10 have any relationship with them. 11 Q You paused a little bit there thinking 12 about it. 13 Was there anything you were thinking of 14 about maybe a past connection with Hasbro? 15 A No, the pause wasn't that. The pause was 16 I've attended Toy Fair for 20-some years and so 17 surrounded in that business by anybody and 18 everybody it seemed like in the toy business, so 19 that's a big group of people. 20 Q Got it. 21 Do you have any past or current connection 22 or relationship with a company called Prime Time	44 1 preference. I m happy to do whatever. If you 2 need a break, we can do a short break and then do 3 lunch after and if it s going to be, you know, 4 just a few more questions. 5 THE WITNESS: Whatever you would like to 6 do. I m fine with whatever you d like to do. 7 MR. SHNEIDMAN: If you don t mind taking a 8 short break, we ve been going for a little while, 9 five minutes, but then to come back and then we 10 can probably clean this up before lunchtime. 11 THE WITNESS: That would be great. 12 MS. UHLENHUTH: Great. 13 THE WITNESS: Thank you. 14 MR. SHNEIDMAN: Thanks. 15 THE VIDEOGRAPHER: We are going off the 16 record. The time is 1:02 p.m. 17 (A recess was had.) 18 THE VIDEOGRAPHER: We are back on the 19 record. The time is 1:11 p.m. 20 MR. SHNEIDMAN: Mr. Spangler, thank you 21 very much for your time today. I have a few other 22 questions and then I think we ll be done if that s

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45 1 sounds good to you. 2 THE WITNESS: Sure. 3 BY MR. SHNEIDMAN: 4 Q Earlier you mentioned different prototypes 5 for filing jelly marbles like a marshmallow 6 launcher, copper pipe, glass pipe, combustion 7 system, PVC pipe. 8 Do you remember that testimony? 9 A Yes, I do. 10 Q None of those prototypes you explored 11 before 2010 used a battery, correct? 12 A None of those used a battery. 13 Q And none of those prototypes you explored 14 before 2010 used a spring, correct? 15 A That's correct. 16 Q Okay. And you've not produced any 17 pictures or videos showing that -- showing jelly 18 marbles being blown out of a tube prior to May 10, 19 2010, correct? 20 A Now, say that again. 21 Q You have not produced any pictures or 22 videos showing jelly marbles being blown out of a	47 1 product than Spangler physical 1, the Weltster 2 3,000, correct? Or a different product concept, 3 correct? 4 A That is correct. 5 Q And the Spangler physical 1, Weltster 6 3,000 to your knowledge was never commercialized 7 into a product, right? 8 A By Be Amazing Toys, Be Amazing Toys to the 9 best of my knowledge did not make a product out of 10 the Weltster 3,000. 11 Q And no one else made a product out of the 12 Weltster 3,000 to your knowledge, correct? 13 A I don't know about that. 14 Q You're not aware of anyone who did, 15 correct? 16 A There's nothing in my mind that I can 17 point to saying that somebody has created this 18 product. 19 Q Okay. And have you read the patents at 20 issue in this case? 21 A No, I've not read them. I have seen 22 pieces of them, but I have not read them.
46 1 tube prior to May 10 of 2010, correct? 2 A No, that's not correct. There are -- are 3 video of us shooting jelly marbles in 2008 at 4 Science in the Rockies. 5 Q Just a minute. You believe that there is 6 a video you produced -- 7 A No, no, I'm sorry, I'm sorry, I'm sorry. 8 Not a video, but there is -- we shot jelly marbles 9 in 2008. So but no, if you've specifically asking 10 is there a video, no. In my mind I'm just going 11 through when did we shoot the jelly marbles out. 12 No, there's no -- I haven't shared a video 13 or a picture with you. I know that there's a 14 video of us shooting potatoes, but I have not 15 shown that to you. 16 Q Great. And so to repeat my question, 17 you've not produced or are aware of any pictures 18 or videos showing jelly marbles being blown out of 19 a tube prior to May 10, 2010, right? 20 A No, I'm not. 21 Q Okay. And the potato gun launcher, 22 Spangler physical 4, 5 and 6, that's a different	48 1 Q And what pieces have you seen of them? 2 A I couldn't tell you. I don't understand 3 other than a picture on a page and some terms that 4 are being used. 5 Q And are you being -- go ahead, sorry. 6 A I didn't say anything so you're getting 7 stepped on. 8 Q Are you being compensated for your work in 9 this case? 10 A I am being compensated. 11 Q And are you being paid for your testimony 12 today? 13 A I am not. 14 Q Okay. And how many hours have you worked 15 on this matter? 16 A I don't know. I could go back and look at 17 the log or invoices, but I don't know how many 18 hours. 19 Q And have you submitted invoices in the 20 matter so far? 21 A Yes, we have, somebody in my office has 22 submitted an invoice.

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49 1 Q And do you know how much money 2 approximately you've been invoiced so far? 3 A I don't know the exact amount. 4 Q Can you give me a rough ballpark guess? 5 A Three or \$4,000 maybe. 6 Q Do you know when trial is planned in this 7 matter? 8 A Yes, I do. 9 Q And are you planning on testifying at 10 trial in this matter? 11 MR. CUTRI: Objection. Mr. Shneidman, are 12 you going to allow us to ask that question and 13 have it be answered of your witnesses? 14 MR. SHNEIDMAN: I didn't expect it to be 15 an objectionable question. 16 MR. CUTRI: Well, it's a -- you know, you 17 could take the position that that reflects 18 attorney work product and strategy, and if you do 19 I don't want to let my witness answer and then you 20 take a different position. 21 So let's -- let's get it straight now. 22 Like, whether we can ask your witnesses that	5 1 one. 2 MR. SHNEIDMAN: That s my last question. 3 MR. CUTRI: That s your last question? 4 MR. SHNEIDMAN: Yes. 5 MR. CUTRI: Okay. Well, then if you re 6 going to withdraw it, then -- then that s the end 7 of your questioning. 8 MR. SHNEIDMAN: No, it s not, Gianni. 9 I m -- 10 MR. CUTRI: Well, look, if you want to ask 11 him the question, we re not going back on the -- 12 if you want to ask him the question, you got to 13 answer my first. 14 MR. SHNEIDMAN: It s my deposition. I d 15 like to go and take a break and we ll come back in 16 about five minutes. Thanks. 17 MR. CUTRI: Okay. But you re withdrawing 18 that question, right? 19 MR. SHNEIDMAN: I am -- I think that s a 20 meaningless statement. I intend to ask another 21 question when we come back from the break, so... 22 MR. CUTRI: You said you intend to ask a
50 1 question and whether you ll allow them to answer. 2 MR. SHNEIDMAN: Well, isn t the 3 question -- isn t the question as to whether or 4 not he is planning to testify at trial -- I -- his 5 personal knowledge as to -- well... 6 If you don t mind, give me just one 7 moment, Mr. Spangler. Hold on just one moment. 8 If we can go off the record for just one moment, 9 please. 10 MR. CUTRI: Well, are you withdrawing 11 the -- I don t -- I don t like to go off the 12 record with it -- you can withdraw it just so that 13 there isn t some weird, like -- the question was 14 open. Do you want to withdraw the question? 15 MR. SHNEIDMAN: I withdraw the question 16 and would like to go off the record for just a 17 minute. 18 MR. CUTRI: Okay. I mean, we want to try 19 to get this done so... 20 MR. SHNEIDMAN: Yeah, we re there. 21 MR. CUTRI: Okay. So why don t you do 22 your other questions and we can come back to this	52 1 different question when we come back? 2 MR. SHNEIDMAN: I intend to ask another 3 question, not a different question. I intend to 4 ask a question when we come back from the break. 5 And we can go off the record. This is not a 6 federal case. 7 MR. CUTRI: Okay. 8 MR. SHNEIDMAN: We ll be right back. 9 THE VIDEOGRAPHER: We are going off the 10 record. The time is 1:18 p.m. 11 (A recess was had.) 12 THE VIDEOGRAPHER: We are back on the 13 record. The time is 1:35 p.m. 14 MR. SHNEIDMAN: Counsel for the 15 respondents, we ve agreed off the record we re not 16 going to ask the question: Are you planning to 17 testifying at trial in this matter -- to any of 18 the witnesses or a question similar to that. 19 I just want to confirm that we have 20 agreement on the record from counsel for 21 SplatRBall, Prime Time Toys and Gel Blaster. 22 MR. CUTRI: Yeah. Can you tell me the

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53 1 question again that we re not asking? 2 MR. SHNEIDMAN: The question as I recall 3 it is are you planning to testify at trial in this 4 matter -- 5 MR. CUTRI: Okay. 6 MR. SHNEIDMAN: -- you know, any similar 7 phrasing obviously. 8 MR. CUTRI: Yeah, as long as it s closely 9 similar to that, that s -- that s fine with us. 10 MR. GEORGE: That s fine with PTT. 11 MR. CUTRI: And by "us" I mean the 12 SplatRBall respondents. 13 MS. SCHENERMAN: That s also fine with the 14 Gel Blaster respondents. 15 MR. SHNEIDMAN: And I believe that 16 concludes my questions and I pass the witness. 17 MR. CUTRI: Okay. We don t have any 18 questions, so that s it for us. All right. 19 Thanks all. 20 MR. GEORGE: Thank you. 21 THE VIDEOGRAPHER: This ends the video 22 deposition of Steve Spangler. We are going off	55 1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Theresa A. Vorkapic, Certified 3 Shorthand Reporter No. 084-2589, CSR, RMR, CRR, 4 RPR, and a Notary Public in and for the County of 5 Kane, State of Illinois, the officer before whom 6 the foregoing deposition was taken, do hereby 7 certify that the foregoing transcript is a true 8 and correct record of the testimony given; that 9 said testimony was taken by me and thereafter 10 reduced to typewriting under my direction; that 11 reading and signing was not requested; and that I 12 am neither counsel for, related to, nor employed 13 by any of the parties to this case and have no 14 interest, financial or otherwise, in its outcome. 15 IN WITNESS WHEREOF, I have hereunto set my 16 hand and affixed my notarial seal this 30th day of 17 November, 2022. 18 My commission expires November 6, 2023. 19 20  21 THERESA A. VORKAPIC 22 NOTARY PUBLIC IN AND FOR ILLINOIS
54 1 the record the time is 1:36. 2 (Deposition concluded at 1:37 p.m. CST.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	

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CONFIDENTIAL BUSINESS INFORMATION

Transcript of Steve Spangler

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