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10 Attorneys for Plaintiff, LYN EULER

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF RIVERSIDE - INDIO  
14

15 LYN EULER,

16 Plaintiff,

17 vs.

18 DON ROBINSON; GUIDE DOGS OF THE  
19 DESERT; and DOES 1 through 10, Inclusive,

20 Defendants.

) CASE NO.: INC 020234

) NOTICE OF MOTION AND MOTION  
) FOR ORDER COMPELLING  
) DEFENDANT DON ROBINSON TO  
) RETURN AND PROCEED WITH  
) DEPOSITION; REQUEST FOR  
) MONETARY SANCTIONS AND  
) DECLARATION OF CLYDE E.  
) HIRSCHFLED IN SUPPORT THEREOF

) Date : September 24, 2001  
) Time : 8:30 a.m.  
) Department : 2G

21 TO DEFENDANT AND HIS ATTORNEY OF RECORD:

22 Please taken notice that on September 24, 2001, at 8:30 a.m. or soon thereafter as the  
23 matter may be heard in department 2G of the above entitled court located at 46-200 Oasis St.,  
24 Indio, California 92201, plaintiff Lyn Euler will and hereby does move this court for an order  
25 compelling defendant Don Robinson to return and continue with his deposition. Plaintiff Lyn  
26 Euler also requests that this court issue an order awarding monetary sanctions jointly against Mr.  
27 Robinson and his counsel.

28 This motion will be made on the grounds that defendant Don Robinson has failed without

1 justification to allow a properly noticed deposition to proceed. Further, defendant's actions have  
2 necessitated the filing of this motion and the incurring of expediting costs for the transcript and  
3 videotape for purpose of defending against a Protective Order Mr. Robinson's counsel asserted  
4 he would be making and the bringing of this motion.

5 Defendant has failed to seek a protective order with regard to the deposition either before  
6 or, as was stated in the deposition, after it was shut down by their actions.

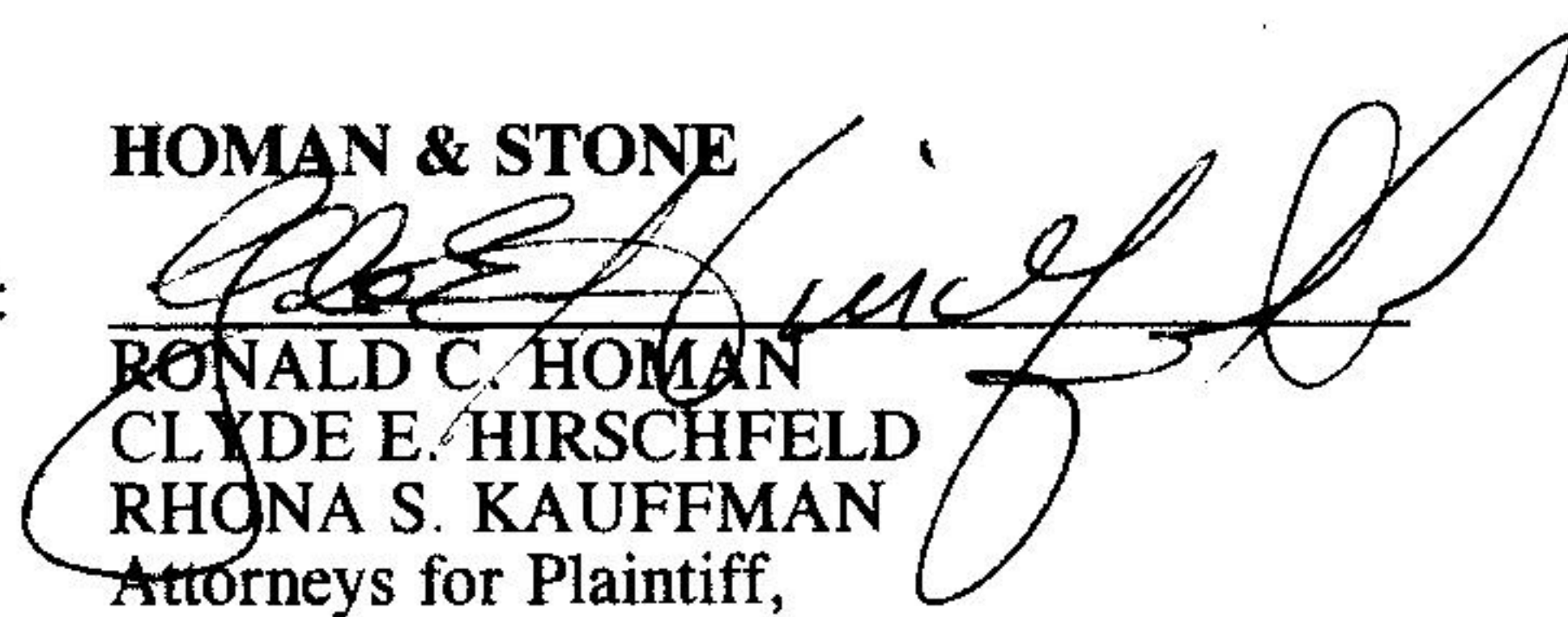
7 Such monetary sanctions are sought on the ground that there is not a substantial  
8 justification for the conduct of the defendant or his counsel of record.

9 This motion will be based upon this notice, the memorandum of points and authorities set  
10 forth below and the attached declaration of Clyde E. Hirschfeld.

11  
12 DATED: August 23, 2001

13 BY:

**HOMAN & STONE**

  
**RONALD C. HOMAN**  
**CLYDE E. HIRSCHFELD**  
**RHONA S. KAUFFMAN**  
Attorneys for Plaintiff,  
**LYN EULER**



1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 Pursuant to CCP § 2025 (o) and 2023 plaintiff Lyn Euler moves this court for an order  
4 compelling Mr. Robinson, a party to this action, to return to and proceed with his deposition. By  
5 virtue of Mr. Robinson's counsel's termination of the scheduled deposition and stated intention  
6 to seek a protective order, plaintiff Euler further requests that sanctions be issued jointly against  
7 Mr. Robinson and his counsel.

8 **I.**

9 **INTRODUCTION**

10 This issue comes before the court due to Don Robinson having stood up and walked out  
11 of his deposition less than one hour after it had begun. As can be calculated from the deposition  
12 transcript itself, a copy of which has been lodged with the court, the actual questioning time due  
13 to two cessations called for by the witness or his attorney himself, was 36 minutes.

14 During this 36 minute period counsel for Mr. Robinson accused counsel for Ms. Euler of  
15 misuse of the discovery process. At the end of this short period he ordered the court reporter to  
16 shut the deposition down and affirmatively stated that he would be moving for a protective order  
17 to prevent his client from being harassed. To date no protective order motion has been received  
18 by this office.

19 Subsequent to the shut down, counsel for Ms. Euler and Mr. Robinson meet briefly to  
20 discuss potential renewal of the deposition. When counsel for Ms. Euler refused to accept Mr.  
21 Robinson's counsel ultimatum that he limit his probe into Mr. Robinson's background, the meet  
22 and confer ended.

23 **II.**

24 **ARGUMENT**

25 Plaintiff Lyn Euler has filed a lawsuit against Don Robinson and Guide Dogs of the Desert.  
26 One of the causes of action in that lawsuit complains of sexual harassment on the part of Mr.  
27 Robinson against Ms. Euler and acceptance and ratification of those actions by Guide Dogs of the  
28 Desert.



1 As the court is aware, sexual harassment often consists of acts that are not seen or heard  
2 by anyone other than the person who is doing the harassing and the person who is being harassed.  
3 Often times the person doing the harassment denies the behavior they are accused off. It is thus  
4 incumbent on the jury or finder of fact to resolve a simple question: who is lying.

5 In the case at hand, one of the key issues in the case will be whether a sexual relation  
6 existed between Ms. Euler and Mr. Robinson. Ms. Euler has alleged that Mr. Robinson and she  
7 entered into a consensual sexual relationship shortly after Don Robinson became employed by  
8 Guide Dogs of the Desert. She alleges that this relationship continued for a number of months  
9 before it was broken off. Ms. Euler contends that after the sexual relationship was broken off  
10 their working relationship soured dramatically. Ms. Euler who was then dating another man was  
11 subjected to comments related to the quality and desirability of her current boyfriend. She alleges  
12 she was excluded from meetings which she as chief accountant normally and in the exercise of her  
13 job needed to be at. She was also subject to blond jokes. She was present when Mr. Robinson  
14 would comment on the other woman in the office, their attire and looks. These and other actions  
15 by Robinson and Guide Dogs of the Desert are denied by defendants. A key to this case is Don  
16 Robinson's steadfast denial that Lyn Euler and he ever had any sexual relationship. Further Don  
17 Robinson has denied that he ever made many of the statements asserted in the pleadings and denies  
18 generally that he was sexually harassing Ms. Euler in any manner.

19 Someone is lying. It is going to be incumbent upon the finder of fact to assess the  
20 credibility of each witness, especially Ms. Euler and Mr. Robinson. Don Robinson's counsel  
21 knows this. In fact, Ms. Euler was subjected to three days of deposition during which time Mr.  
22 Robinson's counsel constantly attacked her credibility. Counsel for Ms. Euler, although not liking  
23 the tone of those questions, allowed them to proceed as it was clear credibility and veracity were  
24 key issues in the case. In fact, several hours were spent by counsel interrogating Ms. Euler with  
25 relationship to her prior jobs and background.

26 But now, counsel for Mr. Robinson must believe that credibility is not an issue, at least  
27 with regard to his client. He seeks to prevent counsel for Ms. Euler from exploring in detail the  
28 prior background of Mr. Robinson. Obviously Ms. Euler's counsel is attempting to explore Mr.



1 Robinson's character, potential prior instances of inappropriate behavior, as well as his propensity  
2 for being honest. Plaintiff's counsel is seeking to get on the record Mr. Robinson's assertions  
3 about his background so that those pieces of information can be analyzed and verified if true. If  
4 not true than they form the basis for making a credibility decision with regard to Mr. Robinson's  
5 assertions in this case. This is discovery and no other means exist to obtain this information.

6 Counsel for Ms. Euler simply does not believe this is a legitimate question of counsel  
7 arguing over the legitimacy of the questioning. Ms. Euler and her counsel believe this is a simply  
8 another tactic to delay the deposition of Mr. Robinson. What the court is seeing here is a delay  
9 tactic not a legitimate concern regarding Mr. Robinson's inability to testify about his war  
10 experience. Any assertion that the questioning that was going on during Mr. Robinson's  
11 deposition was designed to inflame any assertion of any alleged post traumatic stress disorder is  
12 simply ludicrous. There is no questioning in the record regarding Mr. Robinson's war experience.  
13 The questioning was related to the training he had received. He was assigned to the "CB's", a  
14 construction battalion, and yet did not receive any construction training. Instead, according to  
15 him, he received guerilla and S.E.A.L. type training.

16 The questioning so far has not constituted harassment but has only reinforced counsel's  
17 desired to closely interrogate this witnesses background.

18 As is typical in any deposition, counsel for Ms. Euler went through the admonitions and  
19 then proceeded to the witnesses background. The background began with a question regarding  
20 whether the witness graduated from high school. This brought forth the first red flag. The  
21 witness testified that he did not graduate from a normal high school but rather graduated from the  
22 "continuation school." Further questioning with regard to this unusual event elicited the fact that  
23 the change to "continuation school" was based solely on poor attendance. He was unable  
24 however to recall whether he had been suspended from his previous high school. Counsel took  
25 a break with his witness and after that break the witness was unable to recall the name of the  
26 continuation high school. What did come from the witnesses lips however was that his going to  
27 the continuation school was a product of his poor family life.

28 Next in the questioning was plaintiff's early job career. According to his testimony before



1 the age of eighteen, he had entered into a business involving his ownership of nine horses. When  
2 questioned regarding what had happened to the business he testified that he had a dispute with the  
3 owner of the stables. When questioned regarding the nature of that dispute the witness was unable  
4 to recall any details. Surely, owning and running a business before the age of eighteen is a  
5 memorable event and the witnesses inability to recall why the business terminated raises another  
6 red flag.

7 Further questioning elicited the fact that Mr. Robinson then joined the Navy. According to his  
8 testimony he was attached to the CB's and assigned to an elite force which was trained to guard  
9 the Navy unit. According to the witness he received recon, reconnaissance, night fire, military  
10 weapons, guerilla warfare, and S.E.A.L. training. When asked the name of this special force or  
11 organization, Mr. Robinson, after hearing his counsel make numerous objections, could not  
12 remember. Surely it strains credibility that a person who received such training would not  
13 remember the name of the organization to which he was assigned. This presented a third red flag.

14 As shown in exhibit "A" counsel is in possession of a document which he believes is the  
15 resume that was utilized by Mr. Robinson when he applied for a job at Guide Dogs of the Desert.  
16 That document which has not yet been identified at the deposition lists Mr. Robinson's military  
17 background as being a store keeper assigned to the construction battalion.

18 Several questions have been raised regarding this witnesses spotty recollection and  
19 potentially his ability to tell the truth. His background is a fair and legitimate area for exploration  
20 and no effort has been made to harass the witness.

### 21 III.

#### 22 COUNSEL'S BEHAVIOR HAS NOTHING TO DO WITH THE HARASSMENT OF HIS 23 WITNESS BUT RATHER REFLECTS EFFORT TO DELAY THE DEPOSITION

24 This was the second time counsel has attempted to take the deposition of Mr. Robinson.  
25 It was first scheduled for April 9, 2001. On the morning of the deposition, less than one half hour  
26 before it was scheduled to begin it was canceled at the bequest of defendant's counsel. A  
27 discovery dispute regarding scheduling ensued. It was scheduled again for August 1, 2, and 3,  
28 2001. No protective orders were sought with regard to the scope of the deposition and as noted



1 above, the deposition lasted less than one hour before being terminated by Mr. Robinson's  
2 counsel.

3 The dates and the cancellation is informative. As the court will recall on Thursday July  
4 26, 2001, six days prior to the deposition, the court heard defendant Don Robinson's demurrer  
5 to plaintiff, Lyn Euler's second amended complaint. Mr. Robinson's counsel argued that his  
6 demurrer should be granted without leave to amend. The court did not do so. Counsel's decision  
7 to shut down this deposition was, we believe, in part based upon his not wanting to have counsel  
8 conduct the deposition of his client until after the third amended complaint was filed. While  
9 understandable, such a reason does not grant defendant the right to shut down a deposition.  
10 Defendant Robinson's tactics are reprehensible and seek to delay the date defendant's deposition  
11 can be taken and the truth regarding his behavior brought to light.

12 IV.


13 CONCLUSION

14 Based on the above, counsel for Ms. Euler requests a court order requested Mr. Robinson  
15 to return to his deposition, find that there has been no abusive behavior on the behalf of the  
16 counsel for Ms. Euler, direct Mr. Robinson's counsel to not interfere with the taking of the  
17 deposition and award monetary sanctions against Mr. Robinson and his counsel for their willful  
18 failure to allow the deposition to go forward.

19  
20  
21 DATED: August 23, 2001

HOMAN & STONE

22  
23 BY:

  
\_\_\_\_\_  
RONALD C. HOMAN  
CLYDE E. HIRSCHFELD  
RHONA S. KAUFFMAN  
Attorneys for Plaintiff,  
LYN EULER



DECLARATION OF CLYDE E. HIRSCHFELD

I Clyde E. Hirschfeld declare,

1. I am an attorney at law duly licensed to practice before all courts in the State of California, and I am an associate with the law firm of Homan & Stone, attorneys of record for plaintiff, LYN EULER ("plaintiff"). I am primarily responsible for the handling of this matter and I am aware of all actions, pleadings, correspondence and other matters concerning the prosecution of this action. If called upon to do so, I could and would competently testify to the following.

2. This declaration is made in support of plaintiff's Motion to compel the deposition of defendant Don Robinson.

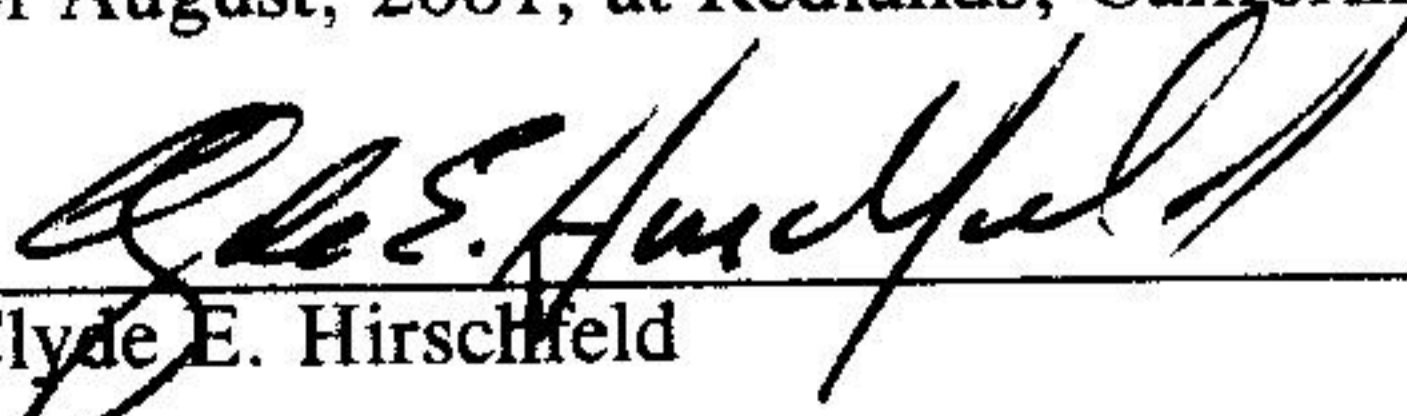
3. On August 1, 2001, I was the attorney who was questioning Don Robinson at the properly noticed deposition.

4. The date of that deposition had been agreed to by all parties to the litigation and three days had been set aside in order to conduct the deposition of Mr. Robinson.

5. I have in my possession a document which I believe to be the resume submitted by defendant Don Robinson to Guide Dogs of the Desert when he was seeking employment with that organization. That document has not yet been identified in the deposition. (A True and correct copy of the document is attached to this declaration as Exhibit "A.")

6. As a result of having to file this motion the motion my client will incur costs and attorneys fees totaling \$3,921.50. I have spent 4.1 hours in drafting and preparing this instant motion and another 1.8 hours preparing the notice of lodging, lodging, and gathering of documents. I anticipate spending another two hours traveling to and attending the hearing on this motion. My usual hourly rate is the sum of \$225.00 per hour. The filing fee for the instant motion is \$27.00. The firm also expedited the transcript and videotape in anticipation of the protective order Mr. Jackson asserted he would be filing. The cost of that was \$573.50.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 1<sup>st</sup> day of August, 2001, at Redlands, California.

  
Clyde E. Hirschfeld



**(PROOF OF SERVICE (Code Civ. Proc., §§ 1013a, 2015))**

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 2068 Orange Tree Lane, Suite 224, Redlands, California 92374.

On August 23, 2001, I served the foregoing document described as, on the other parties in this action by placing a true copy enclosed in a sealed envelope addressed as follows:

James T. Jackson, Esq.  
Stafford & Jackson, L.L.P.  
1851 E. First St., Ste. 1010  
Santa Ana, CA 92705  
714/835-0132  
Fax: 714/835-3041  
(Attorneys for Defendant, DON ROBINSON)

Richard R. Clouse, Esq.  
Cihigoyenette, Grossberg & Clouse  
3602 Inland Empire Blvd., Ste. C-315  
Ontario, CA 91764  
Telephone: 909/483-1850  
(Attorneys for Defendant GUIDE DOGS OF THE DESERT)

Daniel Hough, Esq  
30021 Tomas Street, Suite 300  
Rancho Santa Margarita, Ca 92688  
Fax : 949/589-4399

BY MAIL:

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Redlands, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on August 23, 2001, at Redlands, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Katie McGinn

Katie McGinn  
Signature



Resume of Experience  
for  
Donald (Don) R. Robinson

**Employment:**

Possess a complete understanding of management, business, work assignments, political interfacing to meet the required task, using a team approach to management to achieve the desired goal.

This approach has been used successfully in my own construction company, building and remodeling numerous houses in the San Bernardino Mountains. Leaving key people in charge of various phases while rotating to several ongoing projects and a high level of activity in non-profit projects to include District Governor 4L5.

1987 to current date

Own and Operate Don Robinson Construction

1984 to 1987

Senior Manager Hood Communications, Inc.

1979 to 1984

Communicom/Six Star Nielson  
Vice President of Construction  
Vice President of Franchising  
Exec Asst to Senior Vice President  
District Manager

1977 to 1979

Liberty Communications, Inc.  
Systems Manager  
Supervisor 7 systems

1969 to 1977

Teleprompter of Seattle  
System Design/Right of Way Engineer  
Technician / Installation Departments

Expanded Version

I have attached an expanded version to summarize my work experience. I have references from each one of the jobs I have listed here, plus past employees, mayors, city councilmen, public relations companies, radio and television associates and letters of commendation upon request.

Continued

EXHIBIT A



**Resume of Experience  
for  
Donald (Don) R. Robinson**

I have used my communicative and analytical skills, both written and oral, to explain and or demonstrate complex theories, policies, procedures and technical data to others in the past to meet the goals of the following companies. My 20 years in cable television and fiber optic cable installation qualified me as a pioneer of many technical approaches to the engineering, construction, management of cable television and fiber optic systems. My love of the mountains and my community caused me to start my own company and stop traveling all over the world and enjoy my family.

**Don Robinson Construction**

Using only hand picked crew members has enabled my company to become one of the most respected full service construction companies serving the mountain communities from Big Bear to Crestline. My hands on, team approach has allowed us to construct 5 log homes and remodel, repair or maintain countless homes.

**Hood Communications, Inc.**

As Senior Manager of Hood, I had the opportunity to have my special projects division bid on projects for US Telecom(Sprint), AT&T, Bell Operating Companies, MCI and several large cable companies. I developed a computerized bid program and used it to put together the winning \$14 million bid for Sprint to bury and splice a fiber optic cable from Colorado to the West side of Nevada(900 miles) Our team administered the contract and oversaw the construction from an office in Salt Lake City. We not only completed our section on time, linking the West and East Coast, but assisted other contractors along their sections of the project. My division was responsible for \$20 million in work that 2 year period. I was away from home 18 months on this project. My next project was to reconcile an AT&T project in Northern Nevada. After 10 weeks of not being home I decided to open my own business and stop traveling.

**Comunicom/Six Star Nielson**

Vice President of Construction. I was responsible for the construction of a cable television system in the most difficult area in the United States, which included downtown Los Angeles. Manager of the construction department and insure that all construction

**Continued**



**Resume of Experience  
for  
Donald (Don) R. Robinson**

deadlines were met. Responsible for capital (\$75 million), budget preparations, negotiations of contracts, set-up review procedures for payments and manage three warehouses. Met all governmental, DWP and Telephone company commitments on time, resulting in one of the largest state of the art cable systems in the world.

Vice President of Franchising. Oversaw field ascertainment and prepared franchise bid proposals which included graphics and printing. Handled all data gathering, documentation, and demographic data in all areas of the United States. Investigated new areas of cable services, product development, and worked closely with community groups. Built a model Financial Proforma and engineering package for a computer to expedite proposal analysis and preparation. Managed the budget and was a Senior Management Staff member.

Executive Assistant to Senior Vice President. Gathered data from all satellite offices which included New York, Chicago, Sacramento, Miami and Portland, Oregon. Assembled a video production group to establish community visibility and prepared capabilities pieces. Wrote most of the program, financial and technical sections of the franchise proposals.

**Liberty Communications, Inc.**

Manager. Responsible for hiring, training, supervising and evaluating employees. Handled preliminary cost analysis, engineering and income evaluation for capital projects. Submitted operational and capital budgets with the maximizing of profits and minimizing of expenses. Oversaw the construction of a remote areas microwave transmit site and two receive sites.

Supervisor. Duties included the supervision of over 7 central Oregon Cable television systems to include hiring, training and personnel evaluation. Handled inventory control which included inventory procedures, purchasing, receiving and distribution from the central warehouse. Oversaw system operations, engineering and construction of new systems. Took care of truck purchasing, outfitting, maintenance and established operational and capital budgets.

**Continued**



**Resume of Experience  
for  
Donald (Don) R. Robinson**

**Teleprompter of Seattle**

**Service Technician/Field Engineer/System Design Engineer/ Right of Way Engineer. Involved in the design of and right of way procurement for 1000 miles of system construction. Engineered 2 crossings underneath the Ship's Canal. Designed Seattle's first two-way system and became the first member of the American Right of Way Association from the cable industry in the Northwest. Served as safety supervisor for a 25 man crew, reducing accidents and causing lower insurance rates for the company. Was a member of the King County Utility Coordinating Council helping to establish the one-call system.**

**Storekeeper 2nd Class, U.S. Navy**

**Assigned to Seabees and then to fleet operations where I was assigned to the USS Marshall. Received an honorable discharge with a rank of E5.**

**I look forward to discussing your use of my business administration talents with the hope of discussion on how to best structure this job also utilizing my abilities to promote and raise funds for non-profits.**

**Continued**



**Resume of Experience  
for  
Donald (Don) R. Robinson**

**Personal History:**

**Married to wife Helen**

**Four Children, five grandchildren  
Honorable Discharge U.S. Navy**

**Residence: 22378 Mojave River Rd.  
Cedarpines Park, Ca. 92322**

**Education: Highline College, 3yrs**

**Associations:**

**Council Chairman Multiple District 4 Lions Clubs, chairman for  
the council of 16 governors of California and Nevada.**

**District Governor 4L5 Lions 1997/1998**

**Permanent Director Crestline Lions Club**

**Past President, Vice President (2nd and 1st) Crestline Lions Club**

**Member Crestline Lioness Club**

**Masonic Lodge Free and Accepted Masons, Member 26 years**

**Engineer Paid Calif Firefighter Crest Forest Fire Dept., 9 years (ret.)**

**Past President, Vice President, Board Member C.F. Firefighter Assoc.**

**Immediate Past Chairman of the Board Crest Forest Community  
Services 3 year position.**

**Board Member Crest Forest Community Services.**

**Past elected official to County Welfare Board**

**Campaign Committee member for Mayor Tom Bradley, Supervisor  
Pete Schabauram and Councilman Art Snyder.**

**Continued**