

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 2018-CA-002317 (AO)

WALTER E. SAHM and
CHARLES REVARD, as Guardian of the Ward, PATRICIA A. SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC,
et al.

Defendants.

/

**PLAINTIFF, CHARLES REVARD, AS GUARDIAN OF THE PERSON AND
PROPERTY OF PATRICIA SAHM,’S NOTICE OF FILING TRIAL TRANSCRIPTS**

PLEASE TAKE NOTICE that the Plaintiff, CHARLES REVARD, as Guardian of the Ward, Patricia Sahm, by and through her undersigned counsel, hereby gives notice of filing the attached Trial Transcripts taken on August 12, 2024 and January 28, 2025.

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By: /s/ Robert A. Sweetapple
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Florida Bar No. 0296988

Sahm v. Bernstein Family Realty, LLC, *et al.*
Case No. 50-2018-CA-002317-XXXX-MB; Palm Beach County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the E-Filing Portal to all parties listed on the Service List on the portal via email on this 13th day of February, 2024.

By: /s/ Robert A. Sweetapple
ROBERT A. SWEETAPPLE, ESQ.
Florida Bar No. 0296988

ORIGINAL

1 IN THE CIRCUIT COURT OF THE 15TH
2 JUDICIAL CIRCUIT IN AND FOR
3 PALM BEACH COUNTY, FLORIDA
4 CASE NO.: 50-2018-CA-002317-XXXX-MB
5 DIVISION AO

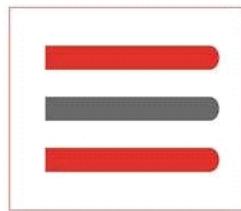
6 WALTER E. SAHM AND
7 PATRICIA SAHM,
8 Plaintiffs,

9 V.

10 BERNSTEIN FAMILY REALTY, LLC,
11 BRIAN O'CONNELL, AS SUCCESSOR
12 PERSONAL REPRESENTATIVE OF
13 THE ESTATE OF SIMON L. BERNSTEIN;
14 ALEXANDRA BERNSTEIN, ERIC BERNSTEIN,
15 MICHAEL BERNSTEIN, MOLLY SIMON,
16 PAMELA B. SIMON, JILL IANTONI,
17 MAX FRIEDSTEIN, LISA FRIEDSTEIN,
18 INDIVIDUALLY AND TRUSTEES OF
19 THE SIMON L. BERNSTEIN REVOCABLE
20 TRUST AGREEMENT DATED MAY 20, 2008,
21 AS AMENDED AND RESTATED;
22 ELLIOT BERNSTEIN, AND CANDICE
23 BERNSTEIN, INDIVIDUALLY AND AS
24 NATURAL GUARDIANS OF MINOR
25 CHILDREN JO., JA. AND D. BERNSTEIN;
Defendants.

HEARING

WITNESSES: JOANNA SAHM
DATE: AUGUST 12, 2024
REPORTER: MARK SILVER



1 APPEARANCES
2

3 ON BEHALF OF THE PLAINTIFFS, WALTER AND PATRICIA SAHM:

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12 ON BEHALF OF THE DEFENDANTS, BERNSTEIN FAMILY REALTY,

13 LLC, ET AL.:

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15 Garcia Legal Group

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17 Suite 25-43

18 Loxahatchee, Florida 33470

19 Telephone No.: (954) 394-7461

20 E-mail: attorney@ingergarcia.com

22 Also Present: John J. Parnofielo, Judge; Cynthia

23 Miller, Associate with Plaintiffs; Shane English, Clerk;

24 Charles Revard, Guardian; Elliot Bernstein, Defendant

25

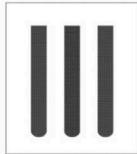
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1 STIPULATION
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3

3 The hearing was taken at 205 NORTH DIXIE HIGHWAY, WEST
4 PALM BEACH, FLORIDA 33401 on MONDAY the 12th day of
5 AUGUST 2024 at approximately 1:34 p.m. (ET); said
6 hearing was taken pursuant to the FLORIDA Rules of Civil
7 Procedure.

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1 PROCEEDINGS

2 THE BAILIFF: -- John Parnofielo presiding.

3 THE COURT: Good afternoon, everybody. You-all
4 can be seated.

5 MR. SWEETAPPLE: Good afternoon, Your Honor.

6 THE COURT: Bring everybody in the waiting room
7 into the main room. All right. We're here on
8 case 2018CA2317. May I have the appearances of
9 the parties, please?

10 MR. SWEETAPPLE: Good afternoon, Your Honor.

11 Robert Sweetapple and Cynthia Miller on behalf of
12 the substituted guardian, Charles Revard, who is
13 before the Court.

14 THE COURT: Good afternoon.

15 MS. GARCIA: Good afternoon, Your Honor. Inger
16 Garcia on behalf of Defendants, Bernstein Family
17 Realty, the -- Candice Bernstein, Elliot
18 Bernstein, and the three boys.

19 THE COURT: Good afternoon, ma'am.

20 MR. SWEETAPPLE: Your Honor, I think she meant
21 Defendants.

22 MS. GARCIA: Defendants.

23 THE COURT: Okay. I read the pleadings. I know
24 it's a very long action.

25 MS. LEWIS: And good afternoon, Your Honor.



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1 Kathryn Lewis. I represent the guardian, Charlie
2 Revard, in the guardianship matter.

3 THE COURT: Good afternoon, Ms. Lewis. I see we
4 have a court reporter on Zoom and we have a court
5 reporter in person. Practically speaking, the
6 court reporter in the courtroom is probably going
7 to be in a better spot to record the proceeding,
8 but I'll leave that up to you all to address
9 before we move forward.

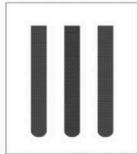
10 MR. SWEETAPPLE: We'll stipulate to that, Your
11 Honor. We did order the court reporter who's
12 here.

13 MS. GARCIA: If I can leave her at least through
14 the motion to continue, Your Honor, then we
15 can --

16 THE COURT: Then you're going to need to make
17 sure you speak in the microphone --

18 MS. GARCIA: Okay.

19 THE COURT: -- because that -- that's the issue
20 with the hybrid hearing. All right. So I have
21 before me today a couple matters. I have
22 received the plaintiff's notebook for the
23 evidentiary hearing on Mr. Revard's motion to
24 strike the settlement agreement, and for
25 sanctions brought to the Court, as well as Ms.



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1 Garcia's motion for relief from judgment pursuant
2 to Florida Rule of Civil Procedure 1.540. And
3 then it's not been noticed, but on Friday,
4 approximately 4:00, I know Ms. Garcia filed an
5 emergency motion to continue. So are you in a
6 position to address that emergency motion to
7 continue at this time?

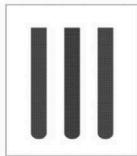
8 MR. SWEETAPPLE: Yes, Your Honor. I don't think
9 it's an emergency. And to the extent it would
10 need to be signed by the defendants, something
11 was blank as to Mr. Bernstein, but no one else
12 had signed it. I'm happy to deal with the
13 alleged merits of that motion.

14 THE COURT: Then let me turn it to Ms. Garcia.

15 MS. GARCIA: Your Honor, have you had a chance to
16 read it?

17 THE COURT: I have.

18 MS. GARCIA: I guess I'll stand on my motion as
19 it is for now and just rebut if needed. But the
20 bottom line, Your Honor, is that he noticed, at
21 the last minute, the second motion, first of all,
22 the 1.540. The judge at the status conference
23 said, and that we have the transcript, Your
24 Honor, attached to the ex parte motion for the
25 scheduling conference.



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1 THE COURT: Hang on one second. Your court
2 reporter on Zoom is not able to hear you.

3 MS. GARCIA: Okay. But I mean, I guess if she's
4 not going to hear, she can go.

5 THE COURT: All right. Also it says, "no one on
6 Zoom" -- is anyone on Zoom able to hear us? This
7 one?

8 THE REPORTER: I see someone on a phone call,
9 5617156.

10 THE COURT: Are you able to hear now, Madam Court
11 Reporter?

12 THE REPORTER: Yes.

13 THE COURT: Yes. All right. It's okay.

14 MS. SAHM: That's me. I'm Patty Sahm, Jr. That's
15 who (561) 715-6848 are -- is.

16 THE REPORTER: Okay, Patty Sahm.

17 MS. SAHM: Yes, ma'am.

18 THE REPORTER: Okay.

19 MS. SAHM: Hi, Mr. Stansbury.

20 THE COURT: All right. So --

21 MR. STANSBURY: Hi there.

22 THE COURT: Let me put everybody that's not --

23 MS. SAHM: How are you?

24 THE COURT: -- on mute for right now.

25 MR. STANSBURY: Good. How are you?



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1 THE COURT: We're in court.

2 MS. SAHM: Good.

3 THE COURT: Okay. I see there's a gentleman
4 trying to signal the Court's --

5 UNIDENTIFIED SPEAKER: We can't hear you.

6 THE COURT: You can't hear me?

7 MR. SWEETAPPLE: Or the parties very well. I
8 don't --

9 THE COURT: Can anyone hear me now?

10 MR. SWEETAPPLE: Yeah, much better.

11 THE REPORTER: I hear you now, Judge.

12 THE COURT: Okay, great. Hang on.

13 THE REPORTER: I just need to -- everyone to
14 state their appearances so I know who's there.

15 THE COURT: All right. Why don't you-all restate
16 your appearances just for the record?

17 MR. SWEETAPPLE: Yes, Your Honor. Thank you.

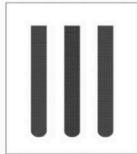
18 Good afternoon. Robert Sweetapple and Cynthia
19 Miller.

20 MR. STANSBURY: My name is William Stansbury.

21 THE COURT: Okay. Hang on.

22 THE REPORTER: (Inaudible.)

23 THE COURT: The attorneys. All -- I only need
24 the attorneys that are going to be arguing the
25 motion to enter an appearance right now.



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1 MR. SWEETAPPLE: Thank you. Robert Sweetapple
2 and Cynthia Miller on behalf of the substituted
3 plaintiff guardian, Charles Revard.

4 THE REPORTER: I'm not hearing.

5 THE COURT: Okay. Can we use the court reporter
6 that's in court? Because this is not working.

7 MS. GARCIA: Yes, Your Honor, but I guess it's a
8 problem if the other witnesses can't hear.

9 THE COURT: Well it's because when we speak -- if
10 there's going to be somebody on Zoom, you need to
11 speak directly into the microphone, okay?

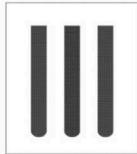
12 MS. GARCIA: Yes.

13 THE COURT: All right. Madam Court Reporter, we
14 have two court reporters here, and I think the
15 parties are going to use the court reporter
16 that's in the courtroom, just so that it keeps
17 the record clean, okay? Thank you.

18 All right. So Ms. Garcia, you were saying?

19 MS. GARCIA: I was saying, Your Honor,
20 specifically as to the ex parte motion schedule
21 and conference, Judge Oftedal had at the
22 conference, and I'm not sure if you had a chance
23 to read the transcript attached to their motion.

24 MR. SWEETAPPLE: I have a copy, Your Honor, if
25 you'd like for me to approach.



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1 THE COURT: I can access it.

2 MS. GARCIA: I'm not sure of the DE number. It
3 was filed July 22, 2024. And in the -- in that,
4 Judge Oftedal recognized that hearing my
5 protective order on the deposition and attorney-
6 client privilege and work product is the most
7 important item to be heard first. Right now, you
8 set that for a status on the 19th for us to set
9 the motions. So then if you determine that I
10 need to turn over any information, I can turn it
11 to you on camera, you can review it, and
12 determine if privilege is waived or not, and then
13 I can address it at that point. I don't feel
14 comfortable moving forward without having a
15 ruling on that issue because that's the most
16 important issue as an attorney you have for your
17 clients is to protect privilege and work product.
18 So that, to me, would cause this hearing to have
19 to be held in abeyance until you make those
20 rulings. And then if you determine depositions
21 can be taken, then we would finish our discovery.

22 THE COURT: Okay.

23 MS. GARCIA: This -- that -- this settlement has
24 been out there for almost a year-and-a-half.

25 THE COURT: And this motion has been set for a



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1 while. How is it that this three-hour
2 evidentiary motion was scheduled? Was it
3 scheduled by me or was it scheduled before --
4 MS. GARCIA: Judge Oftedal scheduled it, but at
5 the time I had told him also that [REDACTED],
6 who was the former attorney for Patricia Sahm,
7 Sr., and who also filed an appearance in this
8 case, who is also having to have her deposition
9 taken and deal with defending this settlement,
10 she can't be here today. And I had
11 informed --

12 THE COURT: I just -- the question was how was it
13 set today.

14 MS. GARCIA: Oh, by Judge Oftedal, Your Honor, at
15 the status.

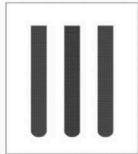
16 THE COURT: Was -- on -- was it on your request
17 or was it on Mr. Sweetapple's request? Was it a
18 joint request?

19 MR. SWEETAPPLE: Your Honor, it was on our
20 request.

21 THE COURT: You're going to have to speak in the
22 microphone or they're not going to hear you.

23 MR. SWEETAPPLE: I'm sorry.

24 THE COURT: That's okay. If you -- if it's
25 easier to do the podium and the podium microphone



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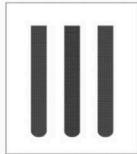
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1 if it's more natural if you're comfortable
2 standing and speaking.

3 MR. SWEETAPPLE: Your Honor, this was on our
4 request. I don't know if the Court had a chance
5 to review our notebook --

6 THE COURT: I reviewed --

7 MR. SWEETAPPLE: -- to see the -- to see the
8 history of the delays in this case. And this
9 date was cleared for this purpose. I attempted,
10 because I expect that I would have to impeach Ms.
11 Patwell or Ms. Garcia, because from what I've
12 seen of records, that Bernstein just showed up at
13 the ward's house and had her sign this when there
14 was an ongoing guardianship case and already
15 determinations by the committee that she should
16 be determined to be incompetent. So Judge
17 Oftedal made it clear that they were to make
18 themselves available to me for depo, which they
19 refused to do. So we have decided to -- and you
20 were unable to hear that until after this
21 hearing, so we are going forward with the hearing
22 without that discovery. Ms. Garcia has had nine
23 weeks to subpoena any witness that she wanted to
24 depose to preserve testimony. Ms. Patwell lives
25 outside the jurisdictional limits for subpoena.



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1 She's an attorney on the West Coast. She has not
2 subpoenaed one witness. She has not subpoenaed
3 one person to be at this hearing. It is not a
4 Jewish holiday today. It is after sunset. And
5 the grounds in her motion are without any merit.
6 There's no emergency shown. And we urge the
7 Court -- this final judgment was entered over two
8 years ago, and there's been two bad faith
9 bankruptcies filed. There have been sanctions
10 entered. And we -- as a matter of law, I can
11 show the Court that this settlement is void or
12 voidable, just based on the taking judicial
13 notice of the guardianship file.

14 THE COURT: All right. So Ms. Garcia, you said
15 you would like to have rebuttal? You can either
16 stay there if you want to be by the microphone or
17 what -- however you're comfortable. Ms. Garcia?

18 MS. GARCIA: Your Honor, what they're calling
19 into question is the integrity and the ethics of
20 Ms. Patwell, who is their client's former
21 attorney, and myself. They're asking for
22 testimony and potential to impeach, and they're
23 asking for attorney-client privileged --

24 MR. SWEETAPPLE: I'm not calling Ms. Patwell.

25 MS. GARCIA: -- communications and work product,



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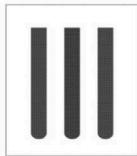
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1 because that's the only way to defend a case like
2 this. In the meanwhile, what they've done is
3 Judge Oftedal said that hearing for the
4 protective order, needs to be first, then the
5 settlement. Then if we have time, we can set the
6 1.540, which they short set without even asking.
7 And then on top of that, for this hearing, Your
8 Honor, your rules do say five business days prior
9 to the hearing is supposed to provide
10 information, and they provided three business
11 days prior. And all this -- and top of that,
12 they've got -- they've been pounding us. And
13 this is another major issue. They've been
14 pounding us with a new petition to determine the
15 ward or incompetent and take away her last
16 powers, accusing me and Patty, Jr., of
17 improprieties and criminal behavior. And I plan
18 on hiring an attorney to deal with that issue
19 with the guardianship court.

20 THE COURT: All right. I read your motion.

21 MS. GARCIA: Yeah, the ward does not have an
22 attorney right now. She's not present. She does
23 -- I don't even know if she knows what's going
24 on. And it's just unfair for this to move
25 forward today, subjecting me and Amber and Patty,



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1 Jr., to serious issues based on their
2 allegations. And as far as him saying that you
3 could just take judicial notice and do that, Your
4 Honor, it's not true. You can't use hearsay and
5 make decisions without proper cross-examination.
6 And it is a Jewish holiday at nighttime, and Dr.
7 Sugar (phonetic) cannot drive from Hollywood to
8 Palm Beach and be there. Plus, he's at the
9 synagogue, helping them all day. And this is one
10 of his most important holidays that exist. And
11 he is a very important witness also.

12 THE COURT: And this wasn't known when this was
13 set three months ago?

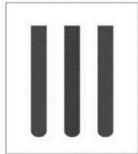
14 MS. GARCIA: Did not -- I did not realize it was
15 a Jewish holiday, and I don't think he did,
16 either.

17 THE COURT: All right.

18 MS. GARCIA: And the bottom line, Your Honor --

19 THE COURT: Who set Ms. Garcia's motion? Was
20 that set at the same time that the motion to set
21 aside the settlement was?

22 MR. SWEETAPPLE: No, the judge -- if you read the
23 transcript, you'll see Judge Oftedal said at the
24 same time we'll first hear the settlement, the
25 proposed settlement, whether or not that's void



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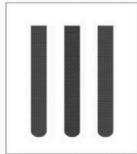
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1 or voidable, and after that, we can hear the 154,
2 we'll preserve three hours. And so -- and also
3 the discussion about this other activity, that's
4 in the guardianship case. It's not relevant to
5 this. And I'm going to be able to show the Court
6 that Ms. Patwell, the guardian's attorney,
7 stipulated to her incompetency, withdrew her
8 objections to the very reports I'm going to ask
9 the Court to make judicial notice. All the Court
10 has to do as a matter of law is look at the
11 guardianship file, and I will be calling my
12 client just to show the Court -- my -- the
13 client's daughter to show -- to show the Court
14 that her condition had not changed at all during
15 the guardianship in the 15 days between the
16 guardian report and the -- and the signing of
17 this purported settlement agreement. And on its
18 face, Your Honor, the settlement agreement has no
19 closing date, no date to make any payments. It's
20 been well over a year. There's been no attempt
21 to enforce it. The guardian hasn't even been
22 notified regarding it. It's merely a ploy to try
23 to delay the resetting for the third time of this
24 2018 case.

25 THE COURT: Are you in a position to move forward



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1 with your 1.540 motion?

2 MS. GARCIA: No, Your Honor.

3 THE COURT: Okay. So then what we're going to do

4 is I will -- you can schedule your 1.540 motion,

5 but we're going to move forward on the motion to

6 strike the settlement agreement. I don't find

7 that any of the issues that were raised in the

8 reported emergency motion filed Friday afternoon

9 at 4:00 are of an emergency nature, or such that

10 the Court couldn't have been made aware in

11 advance of this hearing today. The Court has set

12 aside a significant amount of time, and we're

13 going to take the evidence that we can take. And

14 if there's additional evidence that's needed, we

15 can address by appropriating the proceedings at

16 that appropriate time. But rather than waste

17 additional time talking about whether or not

18 we're going to take evidence, I don't find that

19 there's a basis that can articulate to continue

20 all matters in entirety, so --

21 MS. GARCIA: Your Honor, may I ask a question as

22 far as the procedure? Given the fact that the

23 defense requires the disclosure for attorney-

24 client privilege and work product and the

25 communications between the parties and the



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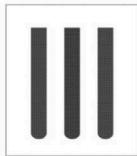
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1 Counsel, how are we going to handle those
2 privileges as they come? And how am I supposed
3 to sit here as an attorney and waive privilege
4 knowingly forced to have to defend ourselves, our
5 reputations, and our careers based on these
6 allegations while in the other court, they're
7 pounding us again with allegation after
8 allegation about the ward having -- now have no
9 competency.

10 THE COURT: I can't tell you -- I can't give you
11 legal advice on how to address your case. I
12 could tell you that it seems like that's
13 something that should have been addressed ahead
14 of time, not on the day of the hearing. So we'll
15 take it as it comes, but I -- I'm not going to
16 tell you what to do or what not to do. It may or
17 may not be something that is even brought out in
18 the motion. That -- I hear what you're saying,
19 but I read the motion to strike the settlement
20 agreement, and it seems like you-all are talking
21 about related things, but they're not necessarily
22 the same thing. So I'll leave it to you to make
23 the appropriate objection or bring it to my
24 attention at the appropriate time. With that
25 being said, I have reviewed most of the pleadings



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1 in the Court file. I've reviewed the motion to
2 strike as well as the attached exhibits. I've
3 also reviewed the memorandum in support of the
4 motion to strike. I've reviewed the motion for
5 relief for judgment as well as Mr. Revard's
6 response to the motion for relief for judgment.
7 All of those were contained in the packet.
8 They're all contained in the file. Other than
9 the motion to continue, did anything get filed
10 recently that I should have reviewed for anyone
11 in this hearing?

12 MS. GARCIA: Your Honor, I would just -- I would
13 just object to the fact that he filed his memo in
14 support to strike the settlement agreement on
15 August 7, 2024, at 1:12 p.m., which is after the
16 deadline to allow me to prepare for this. So I'm
17 again just requesting on the record a continuance
18 or for you to strike his memo because it's
19 untimely.

20 THE COURT: Okay. I -- I'm not going to strike
21 this memorandum. He filed a 24-page motion to
22 continue. You did file a response, so you would
23 have had time, if you wanted to -- to respond to
24 it. I'm not going to continue the matter, but
25 like I said, we'll see how much evidence we're



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1 able to take today.

2 MS. GARCIA: Thank you, Your Honor.

3 THE COURT: Yes, ma'am. Let me turn --

4 MR. SWEETAPPLE: Your Honor, to the extent -- I
5 intend to rest quickly, but to the extent that
6 you do bifurcate and she intends to call any of
7 the witnesses that I tried to depose previously
8 for impeachment purposes, I would be seeking the
9 Court's assistance in actually having some
10 cooperation in that regard. Your Honor, thank
11 you very much for reviewing this voluminous
12 material. I'm not going to go through the
13 history of this case. I don't need to since
14 you've read and you're familiar now with what has
15 occurred. I'm going to hone in on what I believe
16 is dispositive as a matter of law. And I have --
17 we've asked the Court to take judicial notice of
18 the guardianship file and the mental health file.
19 And obviously, I haven't printed out those files
20 for the Court. I put some of the isolated,
21 important documents, the reports, and Judge
22 Burton's order, in the notebook. I have a couple
23 other things that I think I wanted to call your
24 attention to, especially the -- I'm going to ask
25 to approach to show you when I get to them.



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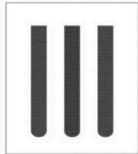
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1 But --

2 THE COURT: Do you know, just for the record, the
3 -- I know it's written. I think it's 23GA245 is
4 the guardianship order -- or the guardian --
5 MR. SWEETAPPLE: Yes, the guardianship is
6 2300245, and the mental health is 23 Mental
7 Health 001072.

8 THE COURT: With respect to the request of the
9 judicial notice, I know, Ms. Garcia, you alluded
10 to it, but what is your position with respect to
11 the motion to take judicial notice, just for the
12 record?

13 MS. GARCIA: For the record, my position is that
14 it wasn't timely filed. I haven't been served
15 when he plans on having judicial notice taken up.
16 It contains hearsay. It contains hearsay within
17 hearsay. So it's completely objectionable for you
18 to stipulate to hearsay documents in another case
19 without him having the expert witnesses here for
20 me to cross-examine, because the ward's state at
21 the time is relevant to whether or not she was
22 led into the settlement agreement and whether it
23 was voluntary or not. It's a key issue. And
24 that's where Dr. Sugar also did a report that
25 said the Court was competent. And the other



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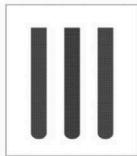
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1 three reports, I have a right to cross-examine
2 those witnesses, and I object to the hearsay and
3 hearsay within hearsay and an improperly noticed
4 judicial notice.

5 THE COURT: Mr. Sweetapple, with respect to the
6 hearsay issue --

7 MR. SWEETAPPLE: Yeah. I'm not going to ask the
8 Court to indulge into hearsay, but to the extent
9 there are findings, there are filings, in fact,
10 the central evidence I'm going to provide the
11 Court, ironically, is that the alleged ward's
12 attorney, Ms. Patwell, who is alleged legal
13 attorney with regard to this settlement, objected
14 to the committee reports. And then you're going
15 to see she withdrew her objection and stipulated
16 to the incompetency. So the ward's own attorney
17 -- and the reason I wanted to take Ms. Patwell is
18 to show that after there -- she had been provided
19 with the reports. She filed an objection,
20 allegedly participated in this, quote,
21 "settlement agreement," although she wasn't
22 there. The Bernsteins, if we had an evidentiary
23 hearing, you learn just showed up in the car at
24 her house. So I -- as to hearsay, to answer your
25 question, I would ask the Court to disregard



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1 anything that would be hearsay.

2 THE COURT: But you're asking me to take judicial
3 notice of the expert's reports?

4 MR. SWEETAPPLE: The expert reports, Judge
5 Burton's ruling, the filings by attorney for the
6 incompetent.

7 THE COURT: So the orders of the Court and the
8 prior findings of the Court would be matters that
9 I'd be required to take judicial notice of. But
10 the things filed in the Court file that are
11 hearsay, doesn't there need to be an exception
12 for me to consider that? Just in other words,
13 it's not admissible just because it's been filed
14 in a Court file.

15 MR. SWEETAPPLE: No, I'm not -- I'm not -- I'm
16 offering to the Court just -- the order finds
17 that it was by consent. There's not -- that's
18 the proof of that, the order establishes that.

19 What I'm going to show you is that even the
20 ward's attorney had the reports in her hand. Her
21 filing shows that she objected to those reports.

22 And I'm not going to ask you to find those
23 objections are valid or not, but the Court file
24 shows that Ms. Patwell, on the 17th of May -- or
25 I'll get you the correct date, but she objected



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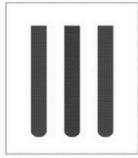
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1 to the reports. And then before the case was
2 adjudicated, the file shows they were withdrawn
3 and she consented, which the order shows. So I'm
4 really doing it to show you the timing of the
5 fact that the incompetency was before the
6 settlement agreement, the guardianship
7 proceeding. My notice to everyone in this file,
8 that there was a guardianship pending, was
9 before. The reports are on the 5th of May. Then
10 Ms. Patwell, on behalf of the alleged
11 incompetent, objects, then she withdraws her --
12 then there's an alleged settlement. Then she
13 withdraws her objection. Then Judge Burton rules
14 and says, based on consent, the ward is
15 incompetent. Incompetent to contract,
16 incompetent to litigate. So I would be offering
17 the filings by the ward's attorneys just to show
18 the sequence of events, not for the proof -- not
19 for the matter asserted. Judge Burton's order
20 establishes it was by consent.

21 THE COURT: Based on that offer of proof, I will
22 take judicial notice of that which I'm required
23 to take judicial notice, though. So Judge
24 Burton's findings and the various docket entries.
25 I do think Ms. Garcia's objection as to the



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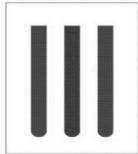
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1 substance of certain docket entries being hearsay
2 is well taken. So I'll note it and if there's
3 any argument with respect to the substance of any
4 those entries, I'll turn to you for further
5 argument.

6 MS. GARCIA: Right, Your Honor. Because he did
7 not meet the hearsay exemption of statement of
8 mental or physical state. He hasn't presented a
9 proper foundation. But that is a key issue. If
10 he's asking you to determine her state of mind
11 then, when you have conflicting reports saying
12 that she can enter the contracts with attorneys
13 and that she has a report that says she's not
14 incompetent. We don't have the witnesses here --
15 THE COURT: So he's indicated to me that he's not
16 offering it for that. If he does offer it for
17 that purpose, then I'll turn back to you for
18 further argument. But he's indicated that -- I
19 think your argument is correct. He's saying he's
20 not offering it for that. If it gets to be where
21 it seems like he's offering for that, then I'll
22 turn to you for further argument, okay? But I
23 will take judicial notice of the documents. Do
24 you have the docket entries?

25 MR. SWEETAPPLE: We can get you those, but that



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1 would be the reports of the examining members,

2 Judge Burton's order --

3 THE COURT: Well but the reports -- now we're
4 back to where we were. You were -- you had just
5 said that you were asking me to take judicial
6 notice of the fact that the reports were issued.

7 MR. SWEETAPPLE: No. What I wanted judicial
8 notice of with regard to -- with regard to
9 filings by Counsel, by Ms. Patwell, showing that
10 she objected to the finding of the -- of the --
11 of the committee members.

12 THE COURT: Right. But the --

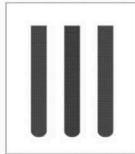
13 MR. SWEETAPPLE: And then she withdrew them.

14 THE COURT: But the findings are hearsay unless
15 there's an exception.

16 MR. SWEETAPPLE: Right. I can -- I can -- I can
17 just travel on Judge Burton's order. That is a
18 judicially established fact. And have -- and
19 have the daughter testify as to the fact that her
20 condition had not changed during the
21 guardianship.

22 THE COURT: Do you have the docket entry just for
23 the record, or a copy for the clerk?

24 MR. SWEETAPPLE: Can you give me the docket entry
25 for the --



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1 MS. MILLER: Yes.

2 MR. SWEETAPPLE: -- for the order and the
3 petition? And Your Honor, I would ask you to
4 take notice in this case, which is a different
5 standard, I believe, of my filing on October 18,
6 where I requested judicial notice and put all
7 parties on notice of the mental health
8 guardianship cases. And I would -- I believe you
9 could take judicial notice of the petitions,
10 correct? The filed petitions.

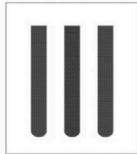
11 THE COURT: So judicial notice is -- the document
12 is authentic, but it still needs to be
13 admissible. So I take judicial notice that on
14 that date, you filed a request for judicial
15 notice. That's a fact that can be noticed. But
16 the substance or the complaint, the allegations
17 are hearsay unless there's an exception.

18 MR. SWEETAPPLE: So --

19 THE COURT: If you want me to take judicial
20 notice of a document that you filed for the
21 purpose of proving that you filed it on that
22 date, I can do that. Do you want me to take
23 judicial notice of the substance of a complaint?

24 Ms. Garcia's objection to hearsay is --

25 MR. SWEETAPPLE: I'm not trying to -- I'm trying



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1 to save some time because obviously, I have the
2 guardian file. I have my associate who can lay a
3 foundation for all that. If Counsel's going to
4 require that, you know, I'll do that.

5 THE COURT: There's an objection to hearsay. My
6 job is not to --

7 MR. SWEETAPPLE: I understand.

8 THE COURT: -- sustain her objection, so --

9 MR. SWEETAPPLE: All right. And I will -- I'll
10 see if -- I'll see if that's where we go as I
11 make my argument, which I'm going to present as a
12 proffer as well. So that if there's no
13 objection, I won't call those witnesses. If
14 there is, then I will. So I'm proffering to the
15 Court, Your Honor --

16 MS. GARCIA: Objection to a proper hearsay
17 evidence in a way to get around the ruling, Your
18 Honor.

19 MR. SWEETAPPLE: Right. Then I'll make an open
20 argument and then I'll call the witnesses, Judge.

21 THE COURT: Okay.

22 MR. SWEETAPPLE: All right. And I'll put the
23 records in through the guardian and also through
24 my --

25 THE COURT: You have set aside the time.



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1 MR. SWEETAPPLE: Thank you. May it please the
2 Court, Your Honor. In this case, you're going to
3 see assorted history of delay that the Court file
4 itself outlines. And you can look at the Court
5 file as part of this proceeding, obviously, so
6 I'm not going to recount that extensive four or
7 five-year history of delay in every court, state
8 and federal, available to the defendants. I will
9 tell the Court that I will show that on April 17,
10 2023, Patricia Sahm, based on her conduct, which
11 is the youngest daughter, caused her older
12 sister, Joanna Sahm, who was at all times the
13 power of attorney for her mother, who was
14 incapacitated --

15 MS. GARCIA: Objection, Your Honor. Is this an
16 opening statement?

17 THE COURT: Yes.

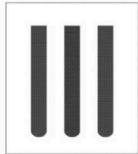
18 MS. GARCIA: Okay. As long as it's an opening
19 statement.

20 THE COURT: He said he's going to show me.

21 MS. GARCIA: Thank you, Your Honor.

22 THE COURT: Yes, ma'am.

23 MR. SWEETAPPLE: Colluded with the Bernsteins.
24 And she learned that there was a revocation of
25 her power of attorney, and she spoke with her



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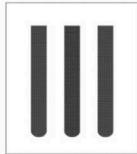
1 mother about it. And she had no understanding,
2 nor had her mother had any understanding of this
3 litigation for years.

4 MS. GARCIA: Objection to hearsay.

5 MR. SWEETAPPLE: And --

6 THE COURT: Overruled. His opening statement.

7 MR. SWEETAPPLE: -- as a result, the guardian
8 filed a petition, which I'll be asking the Court
9 to take into evidence, in the 15th Judicial
10 Circuit. And in that proceeding, you will -- I
11 intend to introduce, through her and through the
12 guardian, reports that were provided to them from
13 the Court, based on examinations that took place
14 on May 5, 2023. And after those examinations
15 were had, Ms. Patwell, Amber Patwell, who
16 purported to be the attorney for this alleged
17 incompetent woman, objected and provided
18 objections to Mr. Revard and to the petitioner,
19 alleging that -- a number of objections to these
20 findings, these recommendations. And after --
21 after she filed that, a settlement -- a purported
22 settlement agreement that has never been
23 authenticated by any -- by Ms. -- Ms. Sahm, Sr.,
24 never been authenticated, was allegedly signed by
25 her, and my -- the guardian learned that the



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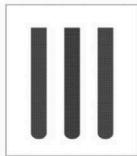
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1 Bernsteins came to the house where her mother
2 was, and no one else was there other than her
3 sister, and got her to sign this document.
4 That's what she understands happened. She was not
5 there. Thereafter, I'm going to put into
6 evidence the withdrawal that was served on the
7 petitioner, Joanna Sahm, wherein on behalf of the
8 alleged incapacitated person, Ms. Patwell
9 indicated that she no longer had any objection to
10 the findings and consented to the final order of
11 Judge Burton. And we're providing you with the
12 docket number for that. In November -- in
13 November, and I will -- I will send something and
14 put in this position. I will contact -- I will
15 call Ms. Garcia. In November, without any motion
16 to enforce or stay the case, there was a filing
17 where the settlement agreement was just included
18 with other documents, just put into the file.
19 And I would note that with regard to that
20 situation where this document was signed on the
21 22nd of May, allegedly, because we still have no
22 proof, and I don't believe that Ms. Patricia
23 Sahm, Sr., would be competent to even testify
24 that she signed it. So I'm not -- even though
25 it's part of my motion, it's not -- I'm not



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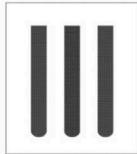
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1 putting it into evidence. I'm not authenticating
2 it because I don't believe it -- I don't know if
3 it was signed by her or not, but she wasn't
4 competent at the time. So what happens, Ms.
5 Patwell, that evening, and my associate will
6 establish that we were served with a Notice of
7 Appearance, where Ms. Patwell is purporting to
8 represent Patricia Sahm, Sr., who I am
9 representing through a power of attorney because
10 she is not competent. No substitution of
11 Counsel. Never has contacted me. Never called
12 me. And so we investigated and filed the motion
13 that is before you. And I believe you're going
14 to see when you hear the evidence, that -- from
15 the petitioner, Joanna Sahm, that her mother's
16 condition -- she was incapacitated before the
17 guardianship was filed. Her condition never
18 changed throughout the guardianship. And that her
19 mother's condition is still the same. And the
20 litigation that's ongoing to try to attempt to
21 relocate the ward and other things that are still
22 going on, you know, really aren't relevant to
23 this proceeding. I think the Court needs to just
24 focus in on the period of time before and after
25 this alleged settlement agreement was signed.



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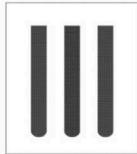
1 And as a matter of law, not only is the Court's
2 finding that she was incompetent, I believe,
3 compelling on the Court. The fact that the
4 ward's own attorney ended up stipulating and
5 withdrawing her argument that the -- that the
6 committee reports were invalid is even more
7 compelling. So if I could, Your Honor, at this
8 time, I'm going to call Cynthia Miller, my
9 associate, and we're going to go through the
10 docket entries.

11 THE COURT: I'm going to let Ms. Garcia, if she
12 would -- you can make an opening statement. You
13 can stand if you want, or you can sit at your
14 table, as long as you're by a microphone.

15 MS. GARCIA: Okay, Your Honor. Thank you for
16 allowing me to sit. I appreciate that.

17 THE COURT: Sure.

18 MS. GARCIA: Okay. I guess we should begin at an
19 earlier timeframe that led to this settlement and
20 the guardianship, so the Court understands. The
21 plaintiff in this case, Walter Sahm and Patricia
22 Sahm, the former plaintiffs, because now,
23 obviously, Charles Revard is substituted in.
24 Simon Bernstein, who is the father of Elliot
25 Bernstein, who's sitting to my right, was an



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1 insurance agent and he was in business with
2 Plaintiff Walter Sahm. Patricia Sahm, Sr., his
3 long-term wife and the mother of Joanna Sahm, who
4 I believe is present, and Patty Sahm, Jr., who is
5 on Zoom, two sisters, don't see eye to eye.

6 Anyway, what happened is, in this -- so you
7 understand the history, is that this home was
8 owned by the Sahm family. Mr. Walter Sahm, prior
9 to his death, and we have, you know, certified
10 copies of it --

11 THE COURT: Ms. Garcia, I just -- I know that
12 this case has been going on for a long time.

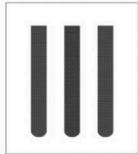
13 MS. GARCIA: Right.

14 THE COURT: I know that we have a decent amount
15 of time set. But it's 2:12 now, so --

16 MS. GARCIA: I understand.

17 THE COURT: I -- if you're going to do an
18 opening, I'd like to limit it to what you believe
19 the evidence is going to show in this hearing.
20 Otherwise, we're not going to have any evidence
21 because you're going to just tell me what we're
22 going to hear later in the hearing.

23 MS. GARCIA: Okay. Basically, the
24 representations that were made in the opening,
25 the evidence is going to show that on April 4,



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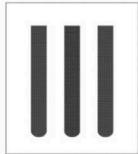
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1 2023, when there was a bankruptcy hearing filed
2 by Elliot Bernstein, I disclosed to the Court
3 about the fact that Patricia Sahm, Sr., -- this
4 is prior to the guardianship being filed, which
5 was filed on April 17th of 2023, that I disclosed
6 to the Court about the fact that Patricia Sahm,
7 Sr., revoked her daughter's prior attorney in
8 March -- March 15th was the first revoking of her
9 daughter Joanna's power of attorney. Ms.
10 Patricia Sahm, Sr., found out that her daughter
11 was misusing the power of attorney and was --
12 MR. SWEETAPPLE: I'm objecting --
13 MS. GARCIA: -- defending this lawsuit,
14 filing --
15 MR. SWEETAPPLE: -- Your Honor, objection to
16 hearsay testimony as to what --
17 THE COURT: It's not testimony. Same ruling on
18 her objection to your opening. She's telling me
19 what she believes the evidence is going to show.
20 MR. SWEETAPPLE: But is she going to call
21 the --
22 THE COURT: I don't know what either of you are
23 going to do. You-all are telling me what you're
24 going to do right now.
25 MS. GARCIA: So the power of attorney entered on



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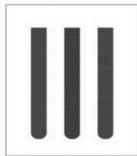
1 March 15th to revoke -- to revoke the power of
2 attorney, I'm sorry, of Joanna Sahm. Patty Sahm
3 will testify to her and her mother having no
4 knowledge of all the financial actions taken by
5 Joanna Sahm, and of the fact that they weren't
6 even aware of numerous attorneys had not filed
7 any retainers, and did not know that they were
8 continuing on this foreclosure, and that they
9 were filing defenses for the estate of Walter
10 Sahm, who died in 2021, without her knowledge.
11 And she had no idea of her net worth. Because
12 Joanna Sahm and her father had managed all the
13 money. So basically, once the mother found out
14 what was really going on, she was not happy. Now
15 just so you know the history, and the evidence is
16 going to show, back from 2019, like, October 11,
17 2019, there were letters talking about settling
18 this case for \$200,000. So this settlement
19 negotiation has been going on for a long time.

20 MR. SWEETAPPLE: Object to any --

21 MS. GARCIA: It didn't just happen --

22 MR. SWEETAPPLE: -- object to any settlement
23 negotiations, especially if it was from 2019.

24 THE COURT: It's his argument. I'm not
25 addressing whether or not -- it's not exactly as



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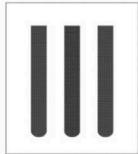
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1 stated.

2 MS. GARCIA: So basically, the plaintiffs and the
3 defendants independently of their own attorneys
4 were having their own communications. Now so
5 what happened on April 11, 2023, Patricia Sahm,
6 Sr., hired Morgan Weinstein. Signed a retainer
7 with him which specifically addresses the issues
8 of this settlement and about the compromise.
9 Because Patricia Sahm, Sr., decided she wanted to
10 settle the case. She was saddened by this fight
11 that she wasn't aware of and about the fact that
12 she did not know that this power of attorney was
13 being used the way it was being used. So on
14 April 13th, there was an e-mail to Mr. Sweetapple
15 from Morgan Weinstein talking about the
16 stipulation in this case, because Ms. Patty Sahm,
17 Sr., hired Morgan Weinstein first. Now what
18 happened when we had the hearing, the bankruptcy
19 hearing, there was a call made, and Patty Sahm,
20 Jr., will testify to this, the sister called
21 Morgan Weinstein and fired him for the mom from
22 her phone. So Morgan Weinstein left. He decided
23 that he did not want to be involved in what was
24 going on here. So what the mother did at that
25 point -- so we had the hearing, the bankruptcy



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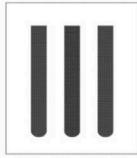
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1 hearing. It was on April 14th of 2023. And
2 that's when I disclosed to the Court about the
3 mother revoking the power of attorney. Brett
4 Schrabber (phonetic) was the attorney at that
5 hearing. I was not a -- an attorney in the
6 bankruptcy. I was there testifying to Mr.
7 Bernstein as the -- as his attorney for the
8 foreclosure. And, basically, I told him and the
9 Court that the power of attorney was revoked, and
10 the mother had hired Morgan Weinstein, and she
11 was going to resolve the case. Now at that point
12 Brad Schrabber was making -- complaining about a
13 suggestion of bankruptcy that was filed. So at
14 that point -- and I had the transcripts and I
15 have the tape, that the judge in the bankruptcy
16 court realized that I had filed a suggestion of
17 bankruptcy as a courtesy, but Mr. Bernstein and
18 his wife had gone to the -- Court and filed a
19 suggestion of bankruptcy and cancel the case
20 appropriately. And that's because the Final
21 Judgment -- and if you look at the Final
22 Judgment, whether it's going to take judicial
23 notice of the Final Judgment, that it's a
24 judgment against all the defendants. It doesn't
25 specifically say who is responsible for the



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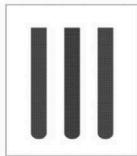
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1 finances. It's a sloppy, terrible Final Judgment
2 that basically affects the estate of Mr.
3 Bernstein, it affects the estate of all the
4 children. Because it's a judgment for 335
5 against everybody, with rights to terminate the
6 tenants and remove them without notice.

7 THE COURT: Okay.

8 MS. GARCIA: And that's part of the final -- the
9 foreclosure. But they're alleging that, because
10 the bad behavior in the past by me or my clients,
11 that therefore we're lying here, and we're
12 manipulating the Court. We took advantage of the
13 -- of Ms. -- Ms. Sahm. Okay. So then, basically,
14 on 4-17, Joanna Sahm told her mother she was
15 taking her breakfast. And what she really did
16 was she took her over to Eileen O'Malley's
17 office, who's also part of the law firm, John
18 Raymond, who is the estate attorney in the estate
19 of Walter Sahm. Because once he died in 2021,
20 they filed an estate, and I have, you know, the
21 documents in 2022. Now all the assets traveled
22 straight to a trust. And I have a copy of the
23 trust if needed. And the bottom line is that the
24 estate never really had any rights. But prior to
25 April, back from March 13th to March 30th -- and



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1 I have all the e-mails between me and John
2 Raymond trying to negotiate this settlement, that
3 the claim popped up all of a sudden -- after she
4 was incapacitated. I drafted this. It took me
5 almost 20 hours to draft it. I went back and
6 forth with Mr. Raymond and Joanna Sahm under the
7 impression that the estate had rights because the
8 estate had filed a claim in the bankruptcy court
9 claiming that they had rights. And then the
10 estate also -- that's where Patricia -- that's
11 where Joanna Sahm for the first time testified in
12 the bankruptcy court in the federal -- in the
13 Palm Beach Bankruptcy Court, that she was
14 traveling under a preme guardianship power of
15 attorney.

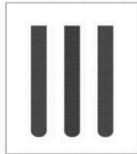
16 THE COURT: Okay. I gave Mr. Sweetapple about
17 ten minutes for an opening. You've had about ten
18 minutes for an opening. We're at 2:20 now, so --

19 MS. GARCIA: Okay. I'll try --

20 THE COURT: The rest of the evidence, I guess,
21 will come out as it comes since none of it is
22 evidence until I actually can make a rule on it.

23 MS. GARCIA: Can I just -- one more minute? I'll
24 wind up really quickly, Your Honor.

25 THE COURT: One more minute.



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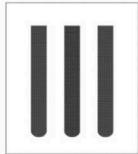
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1 MS. GARCIA: Okay. So basically at the time of
2 4:17, we believe that they put her into a
3 guardianship solely to stop the settlement, and
4 basically because they were up -- because Joanna
5 was upset that she was losing control. Now at
6 that point, Amber then came in. Amber was hired
7 on April 1st. Amber reviewed the settlement with
8 her client. Signed the settlement on 5-22.
9 Filed her appearance in this case. And she was
10 the attorney for the guardianship case. They
11 were well aware of those facts. Basically, the
12 funds to pay the settlement, Your Honor, have
13 been sitting by Court order. It was in Judge
14 Laura Johnson's file, with 225 to pay the
15 settlement, was sitting there. I filed motions
16 to release the funds to Amber's trust. But
17 Attorney Rose at that point said, no way. Let's
18 just, you know, see what's going on. In the
19 meanwhile, here they come a year later to set
20 aside a settlement. So we believe it's a valid
21 settlement. Amber Patwell and I did nothing
22 wrong. Nobody took advantage of this -- of Pat
23 or Senior. She knowingly, voluntarily signed the
24 settlement for more than 100 percent of the
25 original debt which was 110,000. So basically,



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1 Your Honor, the evidence is going to show through
2 e-mails, communications, letters, and pleadings
3 that this guardianship was only filed to try to
4 stop the settlement because at the hearing Joanna
5 testified that she wanted the house, it was worth
6 \$850. And I have the transcript. And Judge
7 Burton basically informed them that this is a
8 foreclosure. You don't get equity. But one
9 thing that was said in the opening that's not
10 true, when Joanna saw him --

11 THE COURT: I'll let you -- I'll let you all will
12 do your closing arguments, but I need to start
13 getting the evidence. So let me -- let me --
14 you'll have a chance to respond to all of the
15 arguments from this once we're in closing.

16 MS. GARCIA: Okay.

17 THE COURT: Okay? So then Mr. Sweetapple, call
18 your first witness, or produce your first item of
19 evidence. You can call your first witness or
20 produce your first item into evidence.

21 MR. SWEETAPPLE: Your Honor, I'm going to call at
22 this time Joanna Sahm, please.

23 THE COURT: Joanna Sahm. Face the clerk. Raise
24 your right hand. She'll swear you in.

25 THE CLERK: Do you solemnly swear or affirm that



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1 the evidence you're about to give will be the
2 truth, the whole truth, and nothing but the
3 truth?

4 THE WITNESS: Yes.

5 THE COURT: Step on up. Be careful when you
6 stepping up there, to the --

7 THE WITNESS: Thank you.

8 THE COURT: -- chair can be slippery. Make sure
9 you're speaking directly in the microphone.

10 THE WITNESS: Okay.

11 THE COURT: Sometimes they're a little touchy.

12 Mr. Sweetapple, whenever you and your witness
13 are ready you may go ahead.

14 TESTIMONY OF JOANNA SAHM

15 DIRECT EXAMINATION

16 BY MR. SWEETAPPLE:

17 Q. Good afternoon.

18 A. Hi.

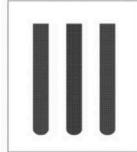
19 Q. How are you?

20 A. Good. How are you doing?

21 Q. Good. I know I told you before that I was
22 hoping to just put records in, but --

23 A. Okay.

24 Q. -- as a result of, what I believe is a correct
25 ruling, I'm going to have to go through in more detail



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1 with you then than I anticipated. So bear with me
2 please.

3 A. Okay.

4 Q. First of all, what is your relationship to
5 Walter and Patricia Sahm, Senior?

6 A. I'm their youngest daughter.

7 Q. Okay. And do you have any siblings?

8 A. I have one older sister.

9 Q. Okay. How old was your father when he died?

10 A. Seventy-eight.

11 Q. All right. And how old is your mother now?

12 A. She just turned 83.

13 Q. All right. And have you been named as a
14 trustee in the past by your father and mother with
15 regard to your family assets?

16 A. Yes.

17 Q. And how long have you been the trustee of your
18 family's assets?

19 A. Once my father passed away, I became the -- I
20 think, six months later I became the trustee.

21 Q. All right. The documents provided for that?

22 A. Yes.

23 Q. All right. And tell us about your mother.
24 Did you -- did she in her later years, like, the last
25 five years, would you see her regularly?



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1 A. Oh, yes.

2 Q. How often did you see her?

3 A. The last two -- last three years I've seen her
4 almost every -- almost every week. I worked in North
5 Carolina for a year, so I would be commuting back and
6 forth to North Carolina after my father died. So I
7 would see her three weeks out of every month, every day.
8 And the one week that I was gone to North Carolina, I
9 did not see her. But I see her -- even now I see her
10 two or three times a week.

11 Q. And your father died in 2021, correct?

12 A. January of 2021.

13 Q. All right. And when he died, did you, based
14 on a proper attorney, take over handling of this
15 litigation that my firm had brought?

16 A. Yes.

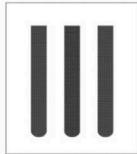
17 Q. Prior to that, had your father handled it?

18 A. Yes. Both, yes.

19 Q. And how would you describe your mother's
20 mental condition? Or how does your mother behave in
21 2021? Was she normal with her faculties?

22 MS. GARCIA: Objection. Leading. And calls for
23 professional expert opinion on medical condition.
24 She's not qualified.

25 THE COURT: Overrules -- you can answer.



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1 THE WITNESS: She -- I mean, when she -- my
2 father passed away, she was always very active.
3 She's still active. She played tennis back then
4 and she was walking every day. She just was
5 starting to show the signs of -- like things my
6 dad would call and talk to me about with, she'd
7 lose her keys. I mean, little things at the
8 beginning you think are just things that we all
9 do. You lose your keys. You lose your
10 sunglasses. Whatever it is. And -- but -- oh,
11 through time, there was a concern that she was
12 starting to repeat herself in little things. So
13 my dad had taken her to be -- to be evaluated and
14 the neurologist back then --

15 MS. GARCIA: Objection. Hearsay.

16 THE COURT: Sustained.

17 BY MR. SWEETAPPLE:

18 Q. With -- without telling us the condition, was
19 your mother diagnosed with a condition?

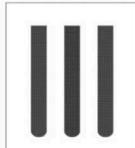
20 A. Yes. She was diagnosed with Alzheimer's
21 disease.

22 Q. Okay. Oh --

23 A. Oh, without. Sorry. I --

24 Q. Okay. I was trying to work our way to that.

25 A. Oh.



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1 Q. So --

2 THE COURT: Is there any -- is there any --

3 MS. GARCIA: Objection of foundation. Object
4 again. Medical opinion.

5 THE COURT: Sustained again.

6 MS. GARCIA: Hearsay.

7 BY MR. SWEETAPPLE:

8 Q. So when was your mother -- did she go under
9 doctor's care?

10 A. She did.

11 Q. And that was before your father died?

12 A. Correct.

13 Q. And when he died, did she have any involvement
14 in handling this litigation? This foreclosure
15 litigation?

16 A. No. She knew of it. She knew about it
17 because of my father and the discussions he would have
18 with her about it. Because that's what they shared with
19 me. But I -- as far as the involvement, she asked me to
20 handle it because my dad would --

21 MS. GARCIA: Objection. Hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: My dad would talk to me about it.
24 And he had shared information and the -- I -- he
25 would just talk to me about the case. And when



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1 he passed away, it became my responsibility to
2 handle it.

3 BY MR. SWEETAPPLE:

4 Q. All right. And you were you aware that the
5 note was held by Walter and Patricia --

6 A. Yes.

7 Q. -- his wife?

8 A. Yes.

9 Q. So you -- were you aware that it was a joint
10 asset?

11 A. Yes.

12 Q. And that upon his death, it was her claim
13 alone?

14 A. Correct.

15 Q. And not a trust asset or an estate asset?

16 A. No. Correct.

17 Q. Are you also the personal representative of
18 your father's estate?

19 A. I am.

20 Q. Now did you ever attempt to talk to your
21 mother about the details of this foreclosure case?

22 A. Yes.

23 Q. And was she able to understand?

24 A. No.

25 Q. Okay.



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1 A. No.

2 Q. Did she -- did you ever ask her --

3 MS. GARCIA: Objection. Calls for speculation.

4 BY MR. SWEETAPPLE:

5 Q. Did you ever ask her --

6 MS. GARCIA: Calls for speculation.

7 BY MR. SWEETAPPLE:

8 Q. Are you aware how much -- did you ever ask her
9 or are you aware about how much money is involved in
10 this case?

11 THE COURT: Hang on one second, sir. There's an
12 objection. It's speculation. The objection is
13 sustained. Perhaps, phrase based on the
14 question, but I think you're asking a follow-up.
15 So why don't you re- ask your question.

16 MR. SWEETAPPLE: Yes, I'm rephrasing it. I'm
17 sorry. I should have been clear.

18 BY MR. SWEETAPPLE:

19 Q. Let me rephrase that. Did you ever attempt to
20 discuss the specifics of how much money was owed?

21 A. Yes.

22 Q. All right. Did -- was -- did she ever reply
23 to you indicating she understood the case in any way?

24 A. No.

25 MS. GARCIA: Objection. Again speculation.



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1 Mental condition. Hearsay.

2 THE COURT: Overruled. I will sustain objection
3 without --

4 BY MR. SWEETAPPLE:

5 Q. And did you ever -- did you try to inform her
6 -- keep her informed about the case or was that a waste
7 of your time?

8 MS. GARCIA: Objection. Calls again for --

9 compounds.

10 THE COURT: Overruled.

11 THE WITNESS: My mother always shared with me
12 that my father didn't tell her things. So I felt
13 as though, after my father died, that it was
14 important to share everything with her because
15 she felt that way. So when things came up, I
16 would bring them over and to discuss them with
17 her to try to explain to her the merits of the
18 case. To try to explain to her what had gone on
19 and what was continuing to go on. And try to
20 make her understand the situation.

21 BY MR. SWEETAPPLE:

22 Q. And when you did that, did you have success?

23 A. No.

24 Q. And did there come a time when you learned
25 that your power of attorney for your mother had



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1 allegedly been revoked?

2 A. I did not learn of that until 5:20 p.m. on
3 April 13th, which was the day of the bankruptcy hearing,
4 the second bankruptcy hearing. I was not aware of that
5 until that time. The bankruptcy attorney for my family
6 called and said, are you -- he -- he -- he sent it to me
7 on e-mail. And he said, "Please pull up your e-mail.
8 Are you aware of this?" I was not aware of that. And
9 when I hung up the phone with him, I immediately
10 contacted your office and John Raymond's office, who is
11 the estate attorney for my family.

12 Q. And did you talk to your mother?

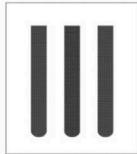
13 A. I talked to my mother about that. I called
14 her and she had no idea what I was talking about. And
15 then I saw my mother the next day. And at that -- by
16 that time, like I said, I had -- had a copy of the -- of
17 the document. So I had printed the document and handed
18 it to my mom and I asked her about it and -- to find out
19 what she had to say about what it was, and if she
20 understood what the paper was.

21 Q. What -- did she show any understanding of the
22 paper?

23 A. No. She didn't even remember signing it.

24 Q. All right at that time did you --

25 MS. GARCIA: Objection. Calls for speculation.



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1 BY MR. SWEETAPPLE:

2 Q. At that time, did you retain --

3 THE COURT: Overruled.

4 BY MR. SWEETAPPLE:

5 Q. -- Counsel?

6 A. That was on Friday the 14th. When the
7 Bernstein family followed me with my mother to go to
8 breakfast, they followed me in the car and during the
9 parking lot. But that next Monday was the day of -- I
10 -- began the proceedings for the guardianship, because I
11 realized that day that my mother was very vulnerable.
12 The big picture -- it's not really about the
13 foreclosure. It's about the big picture of my mother's
14 vulnerability. And pursuant to my parents' paperwork
15 for their estate, there was a vulnerability for my
16 mother, and I was following the protocol what my dad had
17 shared with me to do if something like this happened. So
18 I began the proceedings for the guardianship because I
19 could see that my mother was vulnerable at this point.

20 Q. Right. And you said the Bernsteins -- had you
21 -- did you know who the Bernsteins were at that point?

22 A. I knew them just by listening to them on the
23 Court stuff. But I never had met them until the day
24 they followed me.

25 Q. Who followed you?



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1 A. Candace and Elliot Bernstein.

2 Q. All right. And did they say anything to you?

3 A. I was speaking to a police officer who I -- I

4 became frightened because these people were following

5 me. Not -- at first my cousin's wife was following me.

6 And she left to go get them because they are a friendly

7 now, I guess. And she went -- and they live in the same

8 neighborhood. So my cousin's wife went to get them. And

9 I had gone -- I carried the paperwork. I had the

10 revocation of the power of attorney with me and all the

11 paperwork from the case. I carry it in my car because I

12 had a restraining order -- I mean, a restraining order

13 against my sister also.

14 Q. And why do you have -- why do you have a

15 restraining order -- you're talking about Patricia Sahm,

16 Jr.?

17 A. My -- the -- junior.

18 Q. And why do you have a restraining order

19 against her?

20 A. She pulled a gun and threatened to kill me in

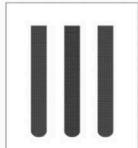
21 January of 2023. So at that time a restraining order

22 was issued for my protection. So I carried my

23 restraining order with me and all the paperwork for the

24 case.

25 Q. I saw a representation from Ms. Garcia as to



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1 why your sister couldn't be in Court today. Did you
2 happen to read that?

3 A. I did.

4 Q. Isn't your sister on house arrest in North
5 Carolina?

6 A. She's on house arrest for the --

7 MS. GARCIA: Objection. Relevance.

8 BY MR. SWEETAPPLE:

9 Q. So the representation -- Ms. Garcia made about
10 her inability to travel --

11 A. Is because she's on house arrest and she's not
12 allowed to travel.

13 THE COURT: Hang on. When there is an objection,
14 I have to rule on the objection. There's an
15 objection. And I will let you ask this question,
16 but we're starting to get far afield from the
17 point of this hearing. So that objection's
18 overruled for now. She's on house arrest in
19 South Carolina?

20 THE WITNESS: North Carolina.

21 THE COURT: North Carolina.

22 BY MR. SWEETAPPLE:

23 Q. And has your sister been communicating with
24 the Bernsteins, to your knowledge?

25 A. I don't know.



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1 MR. SWEETAPPLE: Okay. And let me show you what
2 I'm marking as Plaintiff's proposed Exhibit 1 --
3 THE COURT: Show it to me.

4 BY MR. SWEETAPPLE:

5 Q. -- which is a Petition for Appointment of
6 Plenary Guardian dated April 17, 2023.

7 MS. GARCIA: Counsel?

8 BY MR. SWEETAPPLE:

9 Q. And I'm sorry, I don't have the docket entry
10 number.

11 MS. MILLER: Two.

12 MR. SWEETAPPLE: Two.

13 MS. GARCIA: May I see, please?

14 MR. SWEETAPPLE: Sure. I'm going to move this
15 into evidence, Your Honor.

16 MS. GARCIA: I object. First of all, Your Honor,
17 it's not a certified copy. He's laid no
18 foundation. It's --

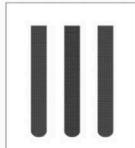
19 THE COURT: He has to approach, please. Approach
20 it.

21 BY MR. SWEETAPPLE:

22 Q. Do you recognize this document, Ms. Sahm?

23 A. Yes -- yes. That's the document to begin the
24 proceedings for the guardianship.

25 MR. SWEETAPPLE: Move it into evidence, Your



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1 Honor.

2 THE COURT: Same objection?

3 MS. GARCIA: Same objection, Your Honor.

4 THE COURT: Received into evidence over objection
5 as Plaintiff's Exhibit number 1.

6 (EXHIBIT 1 RECEIVED INTO EVIDENCE)

7 BY MR. SWEETAPPLE:

8 Q. And did you authorize me at that point to let
9 the Court and all of the parties know that in the
10 foreclosure case that -- that guardianship had been
11 commenced?

12 A. Yes.

13 Q. And did you ever see that the next day I filed
14 a Request for Judicial Notice?

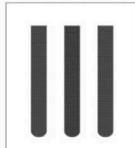
15 A. Yes.

16 Q. And were you provided with reports of the
17 examining committee members in Case 23MH001072 as the
18 petitioner?

19 A. Yes.

20 MR. SWEETAPPLE: All right. Let me show you a
21 composite I'm going to mark as two. And we'll
22 substitute it, Your Honor, without my highlights.
23 I'm using my notebook as opposed to the evidence
24 notebook.

25 THE COURT: Okay.



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1 MR. SWEETAPPLE: I'm going to ask if you
2 recognize --

3 THE COURT: Show it to Ms. Garcia -- Ms. Garcia
4 first.

5 MS. GARCIA: Are we looking for identification
6 first and then marking into evidence or?

7 MR. SWEETAPPLE: These are curt --

8 MS. GARCIA: Not marking? I don't know.

9 THE COURT: He's marking for identification
10 purposes for 30 seconds before he approaches and
11 asks to offer into evidence. So yes, it's marked
12 for identification purposes as Exhibit number 2.

13 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

14 BY MR. SWEETAPPLE:

15 Q. And was Ms. Garcia, did she appear as an
16 interested person --

17 THE COURT: Let Ms. Garcia review that and then
18 -- because I know you want to --

19 MS. GARCIA: Counsel?

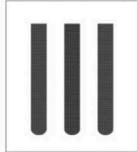
20 MR. SWEETAPPLE: Ms. Garcia.

21 MS. GARCIA: Oh, thank you.

22 MR. SWEETAPPLE: I'm marking this as Composite
23 Exhibit for --

24 THE COURT: Okay. Would you --

25 BY MR. SWEETAPPLE:



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1 Q. Do you recognize that composite of the reports
2 of the committee members from the guardianship
3 proceedings?

4 A. Yes.

5 Q. Were you provided those by the Court?

6 A. Yes.

7 MR. SWEETAPPLE: Move these into evidence, Your
8 Honor. However, I would substitute without the
9 orange highlighting.

10 MS. GARCIA: Okay. Objection. Hearsay. Hearsay
11 within hearsay. No proper authentication.

12 THE COURT: Mr. Sweetapple, what's your position
13 to the hearsay objection?

14 MR. SWEETAPPLE: As to hearsay?

15 THE COURT: Yes, sir.

16 MR. SWEETAPPLE: Well this is an official Court
17 record, government record.

18 THE COURT: But that's not an exception to
19 hearsay. That's judicial notice. It's not
20 authenticated.

21 MR. SWEETAPPLE: I know.

22 THE COURT: But the substance, it still needs to
23 have an exception to hearsay.

24 MR. SWEETAPPLE: Well am I offering it for the
25 truth of the matter asserted on right now?



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1 THE COURT: I don't know. That's why I'm asking.

2 MR. SWEETAPPLE: I'm putting it in just to show
3 that she was provided the piece. And I'll follow
4 up with some questions about it after.

5 THE COURT: So then can I see that? May I see
6 Composite Exhibit number 2?

7 MS. GARCIA: I'm sorry, Your Honor. What did you
8 just say?

9 THE COURT: I need to see it.

10 MS. GARCIA: Got you.

11 THE COURT: To rule on it.

12 MR. SWEETAPPLE: These are not out of Court
13 statements. These are -- statements were made in
14 Court.

15 THE COURT: These are statements that were made
16 in a written report.

17 MR. SWEETAPPLE: Filed in a Court.

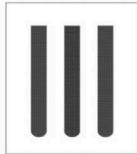
18 THE COURT: Not this Court, today.

19 MR. SWEETAPPLE: True.

20 THE COURT: So out of Court. And you want me to
21 accept them as being true?

22 MR. SWEETAPPLE: Well right now I just want you
23 to accept them as --

24 THE COURT: For what non-hearsay purpose, I
25 guess, is what I'm asking for? Because I -- what



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1 I'm looking at is to see if --

2 MR. SWEETAPPLE: To show she was examined on that
3 date. That she was examined in the guardianship
4 before Judge Burton ruled. When were they
5 examined? To show it was before the date of the
6 settlement. You don't have to accept the truth
7 of those. I'm not offering them for the truth.
8 This -- at this time.

9 THE COURT: Don't I have to accept the date on
10 that as being true?

11 MR. SWEETAPPLE: Pardon?

12 THE COURT: Don't I have to accept the date on
13 this as being true? This means the date that the
14 report was offered.

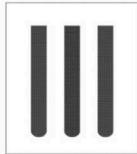
15 MR. SWEETAPPLE: Not when I asked her, when did
16 you get them? And I'll do that if you'd like.
17 I'll ask her when these were provided to her. On
18 or about May --

19 BY MR. SWEETAPPLE:

20 Q. Were those provided to you on or about May
21 5th, when they were written?

22 MS. GARCIA: Again, Your Honor, have we ruled in
23 the prior objection? You haven't, Your Honor?

24 THE COURT: I haven't yet because I'm not done
25 reviewing Composite Exhibit 2. Why don't you ask



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1 your follow-up question? Because at this point I
2 would admit them since they're filed the Court
3 file, if they have a filing date, but they don't,
4 so they are hearsay at this point in time.

5 MR. SWEETAPPLE: All right. So I'll get you the
6 filing date on -- can I get the copies of the
7 filing dates?

8 MS. MILLER: So the Notice of Filing was on March
9 27th, '24, it's docket entry 228.

10 MR. SWEETAPPLE: These were filed --

11 MS. MILLER: Correct.

12 MR. SWEETAPPLE: And so here's the copy of it.

13 THE COURT: What was the date again?

14 MS. MILLER: March 27, 2024.

15 MR. SWEETAPPLE: So we filed these under suit,
16 Your Honor. So we told the Court that as well so
17 we protect that.

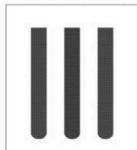
18 THE COURT: All right.

19 MR. SWEETAPPLE: So I'm giving the Court the
20 Notice of Filing that we filed.

21 THE COURT: Okay. Is this part of the Composite
22 Exhibit number 2?

23 MR. SWEETAPPLE: Yes. Let me show that to
24 Counsel.

25 THE COURT: Making that part of the composite so



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1 you can see that it was filed as --

2 MS. GARCIA: All right. Your Honor --

3 THE COURT: My ruling -- my ruling is she's
4 testified that she's received those documents on
5 or around, I believe --

6 MR. SWEETAPPLE: The date's shown on the
7 documents.

8 THE COURT: The May 5th. The substance of -- is
9 it May 5, 2023?

10 MR. SWEETAPPLE: Yes.

11 THE COURT: They were docketed in the
12 guardianship case on March 27, 2024. I'm
13 receiving them into evidence for the limited
14 purpose that she received those documents. But
15 the substance is hearsay. I have not heard an
16 exception to it yet, so I'm not --

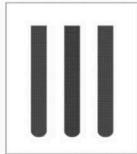
17 MR. SWEETAPPLE: And be correct that the -- we
18 filed it with the Court March 27th, under seal at
19 this Court.

20 THE COURT: I understand. I understand. They're
21 not filed under guardianship.

22 MR. SWEETAPPLE: They're under sealed.

23 THE COURT: Do you have the date of filing in the
24 guardianship?

25 MS. MILLER: One moment. It's going to give him



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1 the 12th.

2 MS. GARCIA: Your Honor, since I didn't see what
3 he handed you, the March 27, 2024 date, where was
4 that filed?

5 THE COURT: That was the jury Notice of Filing in
6 this court file.

7 MS. GARCIA: In this case?

8 THE COURT: Which there's -- I thought it was --
9 it is -- it's the same document except it's got
10 the Notice of Filing in this case with the E-
11 filing.

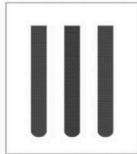
12 MR. SWEETAPPLE: That's correct, Your Honor.

13 THE COURT: Okay. Are you -- did you --

14 MR. SWEETAPPLE: Your Honor -- Your Honor --

15 THE COURT: You can continue with direct
16 examination. The question I have is just before
17 we continue, I'm happy to address every
18 evidentiary question as it comes. A lot of the
19 questions to hearsay are things that the
20 defendant mentioned in their own opening
21 statement. So we want to -- we want to test the
22 Court's knowledge of Chapter 90, we can. That's
23 fine. But we are using time.

24 MR. SWEETAPPLE: Right now I'm trying to get you
25 what you asked for, which was that the actual



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1 docket entry from the guardianship case. And
2 I'll continue, if you don't mind, until she finds
3 that at the same time. Thank you, Your Honor.

4 MS. MILLER: I have that. I apologize. There
5 were two filings in the mental health case. One
6 was on May 15, 2023, and Docket Entry 12, and
7 then also on May 26, '23, at Docket Entry 23.

8 THE COURT: Okay.

9 BY MR. SWEETAPPLE:

10 Q. All right. And so you received those reports
11 at or about the time?

12 A. Yes.

13 Q. All right. When you read those reports, did
14 they surprise you?

15 A. No.

16 Q. Did you have opinions about your mother's
17 behavior in and/or about May 5 of 2023?

18 A. Opinions meaning how --

19 Q. About her mental behavior, her conduct?

20 MS. GARCIA: Objection.

21 BY MR. SWEETAPPLE:

22 Q. Her mental abilities. Did she -- at or about
23 the time those reports came, were you surprised at all
24 by that?

25 A. No, I wasn't. It's consistent with how she'd



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1 been acting with just in general.

2 Q. All right. Did she know who the president or
3 vice president was?

4 A. I don't know.

5 MS. GARCIA: Objection. Calls for hearsay
6 responses.

7 THE WITNESS: I don't know.

8 THE COURT: She said she didn't know.

9 BY MR. SWEETAPPLE:

10 Q. Did --

11 THE COURT: The witness --

12 BY MR. SWEETAPPLE:

13 Q. When you spoke to her, did she understand her
14 -- what her assets were?

15 A. She never really understood what her assets
16 were. My father didn't share much of that information,
17 nor did she want to learn about those things even after
18 he passed. As I said before, I shared a lot of things
19 with her because I always felt like she deserved to
20 know. So I would try to share things with her, but she
21 didn't have any interest in -- in any of that.

22 Q. Were you managing all of her money and her
23 financial affairs before the guardianship was filed?

24 A. Not at -- not at that time. Prior to the
25 guardianship being filed, there was a time when she had



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1 her own money coming in from her pensions and her own
2 Social Security. When my dad died, that changed, and it
3 became -- his Social Security became hers. You know how
4 it goes with the --

5 Q. Right.

6 A. -- how that works. So I handled all of the
7 trust assets and managed the trust assets for her and
8 paid all of her bills at -- she had her money that she
9 used for the different things that she used it for, but
10 as time went on and she continued to decline, there were
11 times when people would be -- those scams you see. The
12 grandmother scams and the phone scams. When I would
13 come over to the house, I started to see these scams
14 that were happening, and the Medicare scams and all
15 these phone things. So I took over the management of
16 that once her -- one -- there was one particular time
17 that one of her bank accounts was compromised and they
18 had taken all the money out of it, and I had to file a
19 fraud claim on behalf of her with Wells Fargo. So after
20 that time is when I took over the handling of all of her
21 assets.

22 Q. And that was before --

23 MS. GARCIA: -- speculation.

24 BY MR. SWEETAPPLE:

25 Q. -- the guardianship was filed?



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1 A. I'm sorry?

2 Q. That was before the guardianship.

3 A. That was before the guardianship.

4 Q. Okay. And even before the guardianship file -
5 - filed, even before you took over those accounts, did
6 you, as trustee, pay for all the housing expenses --

7 A. Yes.

8 Q. -- and the taxes and all of -- all of her
9 financial affairs?

10 A. Yes, for both of the homes. For the home --

11 Q. So other than spending money for her Social
12 Security, you managed all of the --

13 A. That is correct.

14 Q. -- financial affairs?

15 A. That's correct.

16 Q. And prior to this guardianship being
17 instituted, how many times had she been scammed?

18 A. Three that I know of.

19 MS. GARCIA: Objection to relevance of the scams.

20 BY MR. SWEETAPPLE:

21 Q. Okay. Can you tell the Court what --

22 THE COURT: Overruled.

23 BY MR. SWEETAPPLE:

24 Q. -- what were these scams that she had been a
25 victim of?



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1 THE COURT: I didn't hear the answer. I
2 apologize.

3 THE WITNESS: I'm sorry?

4 THE COURT: I was ruling on her objection, so I
5 didn't hear what your answer was. I said you
6 could answer the question, but I didn't hear what
7 you said.

8 THE WITNESS: Had -- had -- what question?

9 BY MR. SWEETAPPLE:

10 Q. Had she been scammed?

11 A. Yes.

12 Q. Say that loudly.

13 A. Yes, I'm sorry.

14 THE COURT: How many times?

15 THE WITNESS: Three.

16 BY MR. SWEETAPPLE:

17 Q. Can you explain to the Court the nature of
18 these scams that you discovered before you filed the
19 guardianship and took over --

20 MS. GARCIA: Objection to relevance.

21 BY MR. SWEETAPPLE:

22 Q. -- and took over her finances?

23 THE COURT: I'm going to sustain the objections
24 to the relevance.

25 MR. SWEETAPPLE: And, Your Honor, you've already



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1 -- you already indicated you're taking judicial
2 notice of Judge Burton's order.

3 THE COURT: Make -- just make sure that Ms.
4 Garcia has --

5 MR. SWEETAPPLE: Pardon?

6 THE COURT: Just make sure that Ms. Garcia sees
7 it and then I'll look at it and I'll -- 1

8 MS. GARCIA: I'm just going to object because the
9 judicial notices were not filed properly, served
0 properly, copies were not provided.

11 MR. SWEETAPPLE: So I'll put this into
12 evidence --

13 MS. GARCIA: Fair.

14 MR. SWEETAPPLE: -- as well. I'll move this into
15 evidence as well, Your Honor after I lay a
16 foundation.

17 MS. GARCIA: Again, it's not a certified copy.

18 MR. SWEETAPPLE: Let me show you what I'm marking
19 as Exhibit 3 for identification.

20 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

21 BY MR. SWEETAPPLE:

22 Q. It is a -- it bears -- shows it's filed in
23 Palm Beach County, June 27, 2023. And it's an order
24 determining limited capacity.

25 A. I'm familiar with it.



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1 Q. All right. Were you provided this by the
2 Court?

3 A. Yeah. Yes.

4 Q. All right. And did you -- did you understand
5 that the Court had found that your mother was not
6 capable of contracting --

7 A. Yes.

8 Q. -- or suing or defending lawsuits?

9 A. Yes.

10 MS. GARCIA: Objection. Leading.

11 THE COURT: Is that a docket entry from a Court
12 case? And if so, which Court case is the docket
13 entry?

14 MR. SWEETAPPLE: The docket entry -- is it on
15 here --

16 MS. MILLER: So that was Docket Entry 27.

17 MR. SWEETAPPLE: And that's in MH1072, Your
18 Honor.

19 MS. GARCIA: Okay. Same objection as far as the
20 judicial notice.

21 THE COURT: I will receive into evidence over
22 objection.

23 (EXHIBIT 3 RECEIVED INTO EVIDENCE)

24 MR. SWEETAPPLE: And we'll substitute that with
25 an un-highlighted also.



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1 THE COURT: That's Plaintiff's Exhibit number 3.

2 BY MR. SWEETAPPLE:

3 Q. And before in guardianship, was your mother
4 capable of contracting, in your opinion?

5 A. No.

6 Q. And were you allowing her to contract before
7 the guardianship?

8 A. No.

9 Q. And was she able to sue or defend a lawsuit
10 before the guardianship?

11 A. No.

12 Q. And did you notice any improvement in her
13 condition from the time that you filed the guardianship?

14 A. No.

15 MS. GARCIA: Objection. No foundation. Medical
16 report -- requesting a medical condition.

17 THE COURT: Overrule the objection on the basis
18 of medical opinion. I will ask you to provide a
19 predicate as to her basis of knowledge.

20 So I overruled the objection as to expert
21 opinion, but I did sustain it with respect to an
22 insufficiently developed basis of her knowledge
23 to that question.

24 MR. SWEETAPPLE: Of this -- of the witness?

25 THE COURT: So far. I don't know if you have



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1 additional questions to establish.

2 BY MR. SWEETAPPLE:

3 Q. Did you -- did you allow your mother to enter
4 into contracts before the guardianship was filed?

5 MS. GARCIA: Objection to relevance.

6 THE COURT: Overruled.

7 THE WITNESS: Contracts --

8 BY MR. SWEETAPPLE:

9 Q. Like to purchase -- to buy a house, buy a car,
10 to negotiate business deals by herself?

11 A. The purchase of her home in Boca, she -- I --
12 I -- she didn't really go into it by herself. She had
13 representation for that for the purchase of her home in
14 terms of the attorney reviewing the contract, and I was
15 a part of it, too, to help her as far as the -- as the
16 trustee of the estate. It's in the trust. And so I --

17 Q. The house is in the trust?

18 A. It is. The one she lives in currently. So
19 that's one of -- I handled the -- so I guess she was
20 aware of it, if that's what you mean do I allow her to
21 contract.

22 Q. I'm talking about her ability to contract.

23 A. No, she --

24 Q. Did you let her go out and buy -- make
25 purchases, large purchases by herself?



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1 A. No, I had to prevent a couple of things that
2 happened that she was taken advantage of with that as
3 well.

4 Q. Okay.

5 A. But no, she was not allowed to contract.

6 Q. And did you -- did you believe that she had
7 the ability mentally to manage this litigation even
8 before you filed the guardianship?

9 A. No.

10 Q. And were you -- did you receive a copy of --
11 were you aware that Ms. Amber Patwell purported to
12 represent your mother in the guardianship case?

13 A. Yes, I was aware.

14 Q. And did you become aware that she withdrew any
15 objections to the examining committee member reports in
16 that proceeding?

17 A. Yes.

18 Q. Let me show you --

19 MS. GARCIA: Objection. It calls for a legal
20 conclusion, this negotiation between attorneys on
21 certain limited terms.

22 | THE COURT: Overruled.

23 MR. SWEETAPPLE: I'm showing you what I'm
24 treating as Exhibit 4 for identification.

25 (EXHIBIT 4 MARKED FOR IDENTIFICATION)



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1 BY MR. SWEETAPPLE:

2 Q. It's a Notice of Withdrawal of Objections to
3 Examining Committee Members Report filed by Amber
4 Patwell on June 21, 2023. Did you receive this from the
5 Court?

6 A. Yes.

7 MR. SWEETAPPLE: Move this into evidence, Your
8 Honor.

9 MS. GARCIA: The objection to foundation.
10 Judicial notice --

11 MR. SWEETAPPLE: Docket 26. Docket Entry 26,
12 Your Honor.

13 THE COURT: I'm going to receive into evidence,
14 over objection, as Plaintiff's exhibit -- you
15 said, "Docket number 26?"

16 MR. SWEETAPPLE: Yes, sir.

17 THE COURT: Receive it into evidence over
18 objection as Plaintiff's Exhibit number 4.

19 (EXHIBIT 4 RECEIVED INTO EVIDENCE)

20 BY MR. SWEETAPPLE:

21 Q. Were you ever provided with a revocation of
22 power of attorney by your mother?

23 A. No.

24 Q. And were you ever provided, while you -- were
25 you ever provided -- did you believe -- do you believe



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1 you've been the power of attorney all along by the
2 guardianship?

3 A. Until April 13th of 2023, when that was
4 provided to me by Attorney Brad Schraber.

5 Q. And so did you believe that was filed by your
6 mother in a competent capacity?

7 A. No.

8 MS. GARCIA: Objection. Calls for a legal
9 conclusion.

10 THE COURT: Sustained.

11 BY MR. SWEETAPPLE:

12 Q. Did you continue to believe you were the power
13 of attorney at that time despite that document?

14 A. Yes. I mean, up until I found out about the
15 document, I was not aware of the document.

16 Q. And while the guardianship was pending, were
17 you made aware of any attempts by the Bernsteins to get
18 a settlement agreement signed?

19 A. No, not until later did I learn what actually
20 transpired on May 22nd.

21 Q. And when did you learn what transpired?

22 A. I learned about that in June of 2023.

23 Q. And what transpired?

24 MS. GARCIA: Objection. Foundation.

25 THE COURT: I need to hear an answer before I



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1 rule.

2 BY MR. SWEETAPPLE:

3 Q. Did you investigate to find out what happened?

4 A. I did. I did. I reached out to the property

5 manager of my mom's community. She lives in a gated

6 community, and I reached out to the property manager and

7 asked for the gate logs of everybody that had entered.

8 Because there was very specific -- she has a gate entry

9 list of people that are allowed to come in, and if not,

10 everybody else has to be called and logged in. And I

11 requested the --

12 Q. Without saying what you saw --

13 A. Yeah. Just that --

14 Q. -- or anything you were told, did you -- did

15 you believe that you learned that someone had come to

16 the house on that day?

17 MS. GARCIA: Objection. Again, speculation.

18 Foundation.

19 THE COURT: Is her -- is this based on --

20 MS. GARCIA: Compound.

21 MR. SWEETAPPLE: This is --

22 THE COURT: -- anything you observed, or is this

23 based off of what you told him when you found out

24 by reading things?

25 THE WITNESS: Just on research.



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1 THE COURT: By reading things?

2 THE WITNESS: I beg your pardon?

3 THE COURT: By reading things?

4 THE WITNESS: Yes.

5 THE COURT: Or talking to people?

6 THE WITNESS: By -- I had to reach out to the
7 property manager.

8 THE COURT: I'm going to sustain the objection.

9 MR. SWEETAPPLE: And I'm just laying a predicate
10 for the next question --

11 THE COURT: I understand. The next question --

12 MR. SWEETAPPLE: -- which is: Based on --

13 THE COURT: The next question is: Based on your
14 research, what happened --

15 BY MR. SWEETAPPLE:

16 Q. Based on your research, did you ask your
17 mother if she had visitors or signed a settlement
18 agreement?

19 A. Yes, I did.

20 Q. And what did -- and were you -- after you
21 talked to her, did she have any idea -- did you conclude
22 whether or not she had an idea of what you were talking
23 about?

24 MS. GARCIA: Objection. Again, calls for
25 speculation. No foundation.



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1 BY MR. SWEETAPPLE:

2 Q. Was your mother able to answer that question?

3 A. No.

4 MS. GARCIA: Same objection.

5 BY MR. SWEETAPPLE:

6 Q. Did she have any recollection of --

7 THE COURT: Overruled.

8 BY MR. SWEETAPPLE:

9 Q. -- having -- of anyone having come to her
10 house on the 22nd of May?

11 A. No.

12 MS. GARCIA: Objection. Speculation.

13 BY MR. SWEETAPPLE:

14 Q. Did you --

15 THE COURT: Overruled.

16 BY MR. SWEETAPPLE:

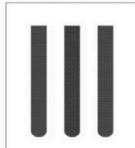
17 Q. Did -- were you able to obtain a copy of any
18 document that she signed on that -- when you talked to
19 her?

20 A. I -- I was aware that it existed. I did not
21 see that until a filing of yours in November of 2023.

22 Q. Okay. So your mother never had it to give to
23 you?

24 A. No.

25 Q. And the first time you saw it was when I



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1 provided it?

2 A. That is correct.

3 Q. Now have you seen the filings that Ms. Garcia
4 now claims that she's representing your sister,
5 Patricia, Jr.?

6 A. I did see that.

7 Q. So she's representing the Bernsteins and your
8 sister?

9 A. That is correct.

10 MS. GARCIA: Objection to relevance.

11 THE COURT: I'm going to sustain the objection
12 for the purpose of this hearing.

13 BY MR. SWEETAPPLE:

14 Q. Did you see her motion where she said she
15 might need to withdraw because of some reason or
16 another? A motion she filed Friday night?

17 A. Yes.

18 MS. GARCIA: Objection to relevance.

19 THE COURT: Sustained.

20 MR. SWEETAPPLE: Could I have one moment?

21 THE COURT: Sure.

22 MR. SWEETAPPLE: No further questions. Your
23 Honor, at this time, I'm going to call Inger
24 Garcia.

25 THE COURT: Ms. Garcia gets to cross-examine the



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1 witness.

2 MR. SWEETAPPLE: Pardon?

3 THE COURT: Ms. Garcia gets to cross-examine the
4 witness.

5 MR. SWEETAPPLE: Yes -- yes.

6 THE COURT: So --

7 MR. SWEETAPPLE: Obviously.

8 THE COURT: -- cross-examination?

9 MS. GARCIA: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. GARCIA:

12 Q. Good afternoon, Ms. Sahm.

13 A. Hi.

14 Q. How are you today?

15 A. Good. How are you doing?

16 Q. In the opening, your attorney proffered that
17 the guardian filed a petition for guardianship. Was he
18 referring you or to the guardian who was actually
19 appointed?

20 A. I think he was referring to me as the
21 petitioner, but not to Charlie.

22 Q. And didn't the Court deny your petition for
23 you to become a guardian?

24 A. No -- no.

25 Q. And the Court entered an order having Charlie



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1 Reward the guardian?

2 A. We agreed to Charlie as the guardian, yes.

3 Q. But you were never the guardian in this case,
4 correct, in the guardianship case they were referring
5 to --

6 A. No, I filed the petition for the guardianship,
7 and it was a -- in my parents' -- pursuant to my
8 parents' paperwork for the pre-need guardianship. It
9 was me and then Charlie. So Charlie was appointed the
10 guardian. Because the big picture here was the
11 protection of my mother, and I just wanted my mother
12 protected, and I wasn't going to put my mom through a
13 huge court battle for the protection of her.

14 MS. GARCIA: Objection as nonresponsive.

15 THE COURT: Overruled.

16 BY MS. GARCIA:

17 Q. As far as the mental health case, did you
18 file --

19 MS. GARCIA: Your Honor, may I see the petition
20 that's in evidence?

21 THE COURT: You may approach.

22 MS. GARCIA: May I approach?

23 THE COURT: Sure.

24 MS. GARCIA: Thank you.

25 BY MS. GARCIA:



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1 Q. So Ms. Sahm, on 4-17-23, you purportedly swore
2 under oath to a petition to appoint a plenary guardian?

3 A. I filed --

4 Q. Under the penalties of perjury?

5 A. I filed the petition for guardianship on 4-17
6 of '23.

7 Q. Right. And this is under the penalties of
8 perjury, correct?

9 A. Does it?

10 Q. Yes. Do you know what that means?

11 A. I do know what that means.

12 Q. So is this -- is that your signature on the
13 document that your attorney moved into evidence? Do you
14 need to see it or --

15 A. I'm sure --

16 Q. -- you can verify your signature?

17 A. That's my signature.

18 Q. At the time that you entered -- or you
19 prepared this signature, who helped you prepare it? I
20 mean this petition. Who helped you prepare it?

21 A. The estate attorneys for my family.

22 Q. Is that -- who was that specifically? Is that
23 John Raymond or is that Eileen --

24 A. Eileen O'Malley.

25 Q. -- O'Malley? Is that -- is Eileen O'Malley in



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1 the same law firm as John Raymond?

2 A. She is.

3 Q. And John Raymond is the attorney for the
4 estate, correct?

5 A. His firm handled my parents' documents, yes.

6 But it's not the filling out of my parents' estate
7 documents.

8 Q. But isn't he the attorney of record in the
9 estate of Walter Sahm?

10 A. Yes, I guess.

11 Q. So is he your attorney for the estate as the
12 PR for the estate?

13 MR. SWEETAPPLE: Objection. Calls for legal
14 conclusion. Best evidence.

15 THE COURT: Do you --

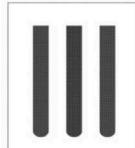
16 THE WITNESS: He filed the paperwork.

17 THE COURT: Do you know the answer?

18 THE WITNESS: He filed the paperwork for the
19 personal representation of my father's estate
20 that I'm his personal representative, if that's
21 what you're asking.

22 BY MS. GARCIA:

23 Q. Right. He's your attorney, correct, for the
24 estate? He's the one that gives you the advice for the
25 estate and you work with him --



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1 A. And his firm.

2 Q. -- in the estate filings, correct?

3 A. And the people in his firm, yes, that is
4 correct.

5 Q. Okay. Does Eileen O'Malley also work on the
6 estate, or only on the petition for guardianship?

7 A. She works on everything, the estate and the
8 petition for guardianship.

9 Q. So she's aware of the estate filings and the
10 estate documents?

11 A. Yes.

12 Q. And --

13 MR. SWEETAPPLE: Objection.

14 BY MS. GARCIA:

15 Q. And --

16 MR. SWEETAPPLE: It calls for speculation.

17 THE COURT: It does call for speculation.

18 MS. GARCIA: I'll withdraw that question.

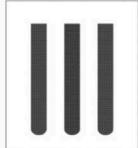
19 BY MS. GARCIA:

20 Q. What relationship with Eileen O'Malley has she
21 done any work for you in regard to you being a PR?

22 A. No.

23 Q. Does Eileen O'Malley do any work for you in
24 your regard -- regarding to you being a trustee?

25 A. Yes.



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1 Q. And Eileen O'Malley also assisted you to
2 prepare this petition for appointment of a guardian,
3 correct?

4 A. That is correct.

5 Q. And was this your idea to file this
6 guardianship?

7 A. Yes.

8 Q. Now do you recall being in the federal
9 bankruptcy court in Palm Beach when BFR had filed an
10 involuntary bankruptcy?

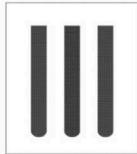
11 A. Yes.

12 Q. And testifying? And you retained Brad
13 Schraber, correct? Is that his name?

14 A. My mother and I have retained him, yes. My --
15 well at the time, my mother, yes. We both did. I mean,
16 he was -- he was referred to me by our foreclosure
17 attorney. So when Mr. Sweetapple's office gave me the -
18 - the recommendation for him, my mom and I spoke with
19 Brad Schraber on the phone.

20 Q. And did your mother sign the retainer, or did
21 you sign the retainer for her with Mr. Schraber?

22 A. I didn't see her sign the retainer. She was
23 playing tennis that day, and I left the contract at her
24 house with a self-addressed stamped envelope for his
25 office.



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1 Q. So you did not sign your mother's signature on
2 that retainer through the power of attorney?

3 A. No, I did not.

4 Q. So for that particular case then, you were
5 acting as the PR for the estate of Walter Sahm, correct?

6 A. Yes.

7 Q. And then your mother was acting directly with
8 Mr. Schrabber as her Counsel, correct?

9 A. Correct.

10 Q. Why would you file a claim of lien in the
11 bankruptcy court for an estate that Walter Sahm has no
12 rights to this asset?

13 A. I didn't file that. I don't know -- I didn't
14 personally file it, so I don't know what you're speaking
15 of. I'm not an attorney, so I don't have a capability
16 of filing documents.

17 Q. You are aware that you're the person that
18 hired an attorney and filed a claim in a bankruptcy case
19 and objected to this day as the estate's PR when the
20 estate never had any rights to this asset?

21 MR. SWEETAPPLE: Objection, Your Honor. Calls
22 for a legal conclusion, what rights the estate
23 had or not had, and it's irrelevant to this
24 specific --

25 THE COURT: It's also been asked and answered.



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1 She said she didn't file anything.

2 THE WITNESS: I'm sorry, I didn't hear what he
3 said.

4 THE COURT: I said it's been asked -- you've
5 already answered the question. You said -- you
6 stated you didn't file anything in the bankruptcy
7 case; is that correct?

8 THE WITNESS: Correct.

9 THE COURT: Next question.

10 MS. GARCIA: Were documents filed on behalf of
11 the estate of Walter Sahm in the bankruptcy case
12 at your direction?

13 THE WITNESS: I don't know.

14 MS. GARCIA: Are you aware of the fact that the
15 estate of Walter Sahm, of which you're the PR,
16 filed objections in the bankruptcy court?

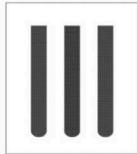
17 MR. SWEETAPPLE: Objection. Asked and answered.

18 She said she --

19 THE COURT: Sustained.

20 MS. GARCIA: As you sit here today, in your
21 opinion, does the estate of Walter Sahm have any
22 rights to this particular asset and to this
23 judgment?

24 MR. SWEETAPPLE: Objection. Calls for a legal
25 conclusion.



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1 THE COURT: Sustained.

2 MS. GARCIA: Why wasn't Walter Sahm's estate
3 substituted in as a plaintiff in this foreclosure
4 case?

5 MR. SWEETAPPLE: Objection. It calls for a legal
6 conclusion and it shouldn't have happened.

7 THE COURT: Isn't it beyond the scope of her
8 knowledge?

9 MS. GARCIA: Your Honor, she's the PR. She has
10 worked with the estate attorney. She's -- she's
11 caused pleadings to be filed in two bankruptcy
12 courts for a -- an estate that has no rights.

13 THE COURT: I'm going to sustain the objection.

14 BY MS. GARCIA:

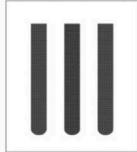
15 Q. Had -- were you aware of, since March 13 of
16 2023, through March 30th of 2023, that I was negotiating
17 with your attorney, John Raymond, to settle this
18 particular case with the estate?

19 MR. SWEETAPPLE: Object to settlement
20 negotiations and hearsay, and her proffering
21 testimony as an attorney.

22 THE COURT: Overruled. You can answer if you
23 were aware.

24 THE WITNESS: I was aware.

25 BY MS. GARCIA:



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1 Q. And were you -- did you review the settlement
2 agreement that I had drafted and given to your attorney
3 to settle this case?

4 MR. SWEETAPPLE: Object to the form. Predicate.

5 THE COURT: Overruled.

6 THE WITNESS: Did he say "overruled?"

7 MR. SWEETAPPLE: Yes.

8 THE COURT: Yes. I'm sorry.

9 THE WITNESS: I'm sorry. I'm sorry --

10 THE COURT: I don't why --

11 THE WITNESS: -- I can't -- I can't hear you. I
12 apologize.

13 THE COURT: It's okay. I speak quietly.

14 THE WITNESS: That's okay. I'm sorry. Say that
15 one more time?

16 BY MS. GARCIA:

17 Q. Were you aware that from March 13th through
18 March 30th, that your attorney, John Raymond, and I --

19 A. Yes.

20 Q. -- with you being the deciding factor, were
21 attempting to resolve this particular foreclosure
22 lawsuit?

23 A. Yes.

24 Q. And did you read the language of that
25 settlement agreement that had been drafted back and



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1 forth between me and Mr. Raymond?

2 A. No.

3 Q. You never read the agreement?

4 A. I was only provided with e-mails of exchanges
5 between you. I was never given the agreement, no.

6 Q. So isn't it true then that the estate of
7 Walter Sahm and you, using your mother's private
8 attorney, were negotiating a settlement of this case in
9 March of 2023?

10 MR. SWEETAPPLE: Object to the relevance, and
11 privileged.

12 MS. GARCIA: It's relevant because they're
13 alleging they didn't know about any settlement
14 attempts until May, and the Court needs to
15 understand the true history of this matter, that
16 there were settlement negotiations, language
17 exchanged, and she was the party that was
18 involved.

19 THE COURT: I think the question that I'm being
20 asked today is whether or not the settlement
21 agreement that has been attached to this exhibit
22 is a valid settlement agreement, not that there
23 were other settlement agreements. So what is the
24 relevance of a settlement agreement that this
25 witness purportedly was negotiating on behalf of



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1 the estate to the Court's resolution of that
2 question?

3 MS. GARCIA: It's the same settlement agreement
4 except for the number. It's the same exact
5 language that was negotiated between her attorney
6 and I, and she was a party to it. And they're
7 claiming now they haven't seen the settlement
8 agreement as of May 22nd, 20 -- 22.

9 THE COURT: But her testimony is that she didn't
10 read the agreement, so I'm going to sustain the
11 objection.

12 BY MS. GARCIA:

13 Q. Are you aware that your mother hired Morgan
14 Weinstein on April 11, 2023?

15 MR. SWEETAPPLE: Object to the form. Speculation.
16 Legal conclusion.

17 THE COURT: Overruled.

18 THE WITNESS: I received a text message from one
19 of my sister's friends that stated --

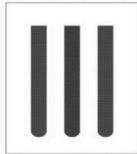
20 MS. GARCIA: Can -- I'm sorry, Your Honor.

21 BY MS. GARCIA:

22 Q. Can you answer yes or no first, and then you
23 can explain?

24 A. I'm --

25 Q. Were you aware that your mother signed a



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1 retainer agreement on April 11th --

2 A. No.

3 Q. -- 2023, with Morgan Weinstein?

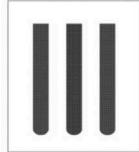
4 A. No, I was not.

5 Q. Did you come to find out that your mother had
6 signed an agreement with Morgan Weinstein?

7 A. No. Well I received a text message from a
8 friend of my sister's on the morning of -- I -- I -- I'm
9 trying to think what the date was now. In any event,
10 because of the restraining order, I had to go through my
11 sister's friend. It was agreed upon with the Court to
12 go through my sister's friend to be able to see my
13 mother, because my sister was residing with my mother at
14 the time, and I couldn't just go to my mother's house
15 because of the restraining order. So her friend had
16 agreed to, shall we say, coordinate the visitation of
17 going to my mother's house to see her and pick her up.
18 And I was not aware of that until I reached out to my
19 sister's friend to see my mother and wanted to go pick
20 her up to go to dinner, and she said, "You need to
21 contact Morgan Weinstein." And that's the first I've
22 heard of his name was that text message when she would
23 not let me see my mother.

24 Q. Who is she?

25 A. A woman by the name of Julia Jones.



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1 Q. Did you call Mr. Weinstein's office from your
2 cell phone and terminate him for your mother?

3 A. No, I did not. My mother did call and
4 terminate him, but I did not.

5 Q. It wasn't you calling him from your phone?

6 A. I called him on a three-way call for my mother
7 because she did not know how to call his office.

8 Q. So you were on that phone call?

9 A. I listened to the phone call, yes.

10 Q. It wasn't you that fired Mr. Morgan Weinstein?

11 A. No.

12 Q. Did you encourage your mother to fire Mr.
13 Morgan Weinstein?

14 A. No, I never even heard the man's name.

15 Q. Have you ever seen his retainer agreement?

16 A. I never have.

17 Q. Are you aware that at that point in time your
18 mother had already hired Mr. Weinstein because she had
19 settled the case?

20 A. No, I was not aware.

21 MR. SWEETAPPLE: Object to form. Object. No
22 predicate.

23 THE COURT: Okay. Her question -- she's allowed
24 to ask leading questions. I'm not taking her
25 questions as evidence. Take the witness's



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1 answer. The witness has testified that she's not
2 aware of anything like that.

3 BY MS. GARCIA:

4 Q. How long, in your opinion, has your mother
5 been incapacitated and not able to handle her own legal
6 matters?

7 A. Two-and-a-half years.

8 Q. So in the bankruptcy court hearing when you
9 filed the claim, or you -- or your attorney filed a
10 claim on behalf of the estate, do you recall testifying
11 that you were there on behalf of your mother under pre-
12 need guardianship because your mother had some minor
13 cognitive issues?

14 A. She did have minor cognitive issues. At the
15 time, I didn't understand what a pre-need guardian
16 paperwork was. These are just documents that were
17 handed to me after my father passed away. So these are
18 just things that I was aware my name was on, but I
19 didn't know what they were at the time.

20 Q. And are you aware or were you ever informed
21 that once you use a pre-need guardianship in court, by
22 law you have to record it within 20 days?

23 A. I did not know that, no.

24 Q. So you continued to travel under this pre-need
25 guardianship until your mother revoked the guardianship?



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1 A. I never had a guardianship. I just had power
2 of attorney.

3 Q. Okay. I'm sorry. Let me rephrase that. I'm
4 going to say you -- you continued to represent your
5 mother under that pre-need power of attorney, correct?

6 A. In -- in what? I'm sorry, I'm not following
7 what you're asking me.

8 Q. In anything. You said that you did all your
9 mother's contracts, and you supervised your mother, and
10 you made her decisions, and you controlled the
11 litigations. So were you doing that under the pre-need
12 power of attorney?

13 MR. SWEETAPPLE: Object -- objection, Your Honor.

14 Asked and answered from the standpoint that she
15 talked about her other role for managing money.

16 THE COURT: I'll overrule the objection. The
17 witness indicated she wanted clarification. So
18 you can answer the question if you understand the
19 question.

20 THE WITNESS: I don't understand the question
21 exactly. I'm trying to.

22 BY MS. GARCIA:

23 Q. Right. You've been making decisions for your
24 mother under the power of attorney, correct?

25 A. Yes.



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1 Q. And you've been hiring attorneys, correct?

2 A. I've been talking to attorneys that have been
3 recommended to me for things that we had to respond to.

4 The bankruptcy we had to respond to -- to move along the
5 case, and that's what I was -- Counsel shared with me I
6 needed to retain an attorney on behalf of my mother, and
7 that's when we both got on the phone with Brad Schrabber.

8 Q. And did you ever question the fact that the
9 estate had no rights and it was filing documents --

10 MR. SWEETAPPLE: Object --

11 BY MS. GARCIA:

12 Q. -- on your behalf in bankruptcy court?

13 MR. SWEETAPPLE: It's now argumentative, Your
14 Honor.

15 MS. GARCIA: I --

16 THE COURT: It is at this point argumentative.

17 MS. GARCIA: Okay.

18 THE WITNESS: I'm not an attorney signing --

19 THE COURT: I -- you don't have to answer the
20 question.

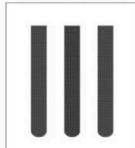
21 BY MS. GARCIA:

22 Q. At what point were you aware of Ms. Patwell?

23 A. May -- May 1st, maybe, of 2023.

24 Q. What day did you take your mom to Eileen

25 O'Malley's office to have her -- I guess for her to meet



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1 the lawyer to determine if a guardianship should be
2 filed?

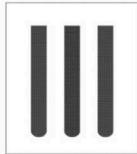
3 A. That's a misrepresentation of what happened
4 that day, actually. That day, I had the pre -- I had
5 the guardianship paperwork packet that was provided to
6 me, and I had to get fingerprints done, and I had to get
7 a lot of documents together for that, so I had the
8 packet for the guardianship. If you -- which none of
9 you know my mother, but if you knew my mother, my mother
10 likes to ride in the car and go on trips and go places
11 and do things, so I took my mother with me to get my
12 fingerprints done at the sheriff's office. And I took
13 her to West Palm Beach, to Eileen O'Malley's office to
14 drop off the packet. We were there ten minutes. I
15 dropped the packet off and we went to lunch, and then we
16 went home, because she had to be home because the air
17 conditioning man was coming to the house at 4:30.

18 Q. So you had a preconceived plan to enter your
19 mom into a guardianship without her knowledge on that
20 day?

21 A. She knew about it. We talked about it, but --

22 Q. Your mother knew you were putting into a
23 guardianship?

24 A. She knew we were filing for the guardianship.
25 I explained to her what that meant. Now what's been



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1 presented to her since then, of what was going to happen
2 to her has frightened her, but at the time, the
3 discussion, I explained to her why that had to happen,
4 because she said to me -- well, I can't say that,
5 because it's -- I guess she was -- I can't say what she
6 said, so forget it. She was concerned. She was
7 concerned. She was concerned because she couldn't
8 remember the things that she had been doing, so that's
9 why I explained to her what a guardianship was when we
10 were driving up to Eileen's office to drop the packet
11 off.

12 Q. So it's your testimony today that once you
13 discovered at the bankruptcy hearing that your power of
14 attorney was revoked, that --

15 A. I didn't find out about that until 5:20 p.m.
16 on the day of the bankruptcy hearing.

17 Q. Right. And then you went and filed by April
18 17th the guardianship?

19 A. I called the estate attorney, and Mr.
20 Sweetapple, to explain to them that I had just learned
21 of the revocation of a power of attorney, and I didn't
22 know what that meant for either case at that time. And
23 he said to me, John Raymond's exact -- I can't say what
24 he said, but I -- obviously, but he shared with me that
25 I had a decision to make and my choices. He gave me my



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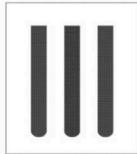
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1 choices and told me I had a decision to make, and for
2 the overall picture, because I could see where this was
3 going, and my father could see where this was going,
4 which is why he designed and put into our estate pre-
5 need guardian paperwork, because he could foresee that
6 something was going to happen. So because of that, for
7 the protection of my mother overall, and the fact that I
8 didn't want her to be taken advantage of, I talked to
9 John Raymond about it, and the guardianship was the only
10 way to protect my mother from being taken advantage of.

11 Q. Did you ever discuss with [REDACTED] the fact
12 that your mother did not need a guardian?

13 A. He shared with me with revocation of the power
14 of attorney my options, because I didn't understand what
15 that was when that happened, and I learned of it. I
16 called them right away, Mr. Sweetapple and John Raymond
17 that evening and they -- he shared -- they both shared
18 with me what that meant in Mr. Sweetapple's case, and in
19 -- what it meant for the estate. And when I saw the big
20 picture of what could happen to my mother, that's the
21 only reason I filed the guardianship. I did not want to
22 file a guardianship and do this to my mother. This has
23 not been fun for my family at all, and it's very
24 unfortunate, but it needed to happen for the protection,
25 which is why it's very easy that my cousin is now the



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1 guardian, because I knew he would protect my mother.

2 Q. And has your cousin made any efforts to speak
3 to Patty Sahm, Jr., or your mom to find out her wishes,
4 or is he just --

5 THE WITNESS: I'm not aware of what happened, how
6 he got appointed. I was shared -- from my
7 attorney, I was given information that my mom and
8 my sister, I guess, wanted Charlie to be the
9 guardian, and Eileen O'Malley forwarded that
10 information to me, and I knew from my parents'
11 estate paperwork that my father had chosen me
12 first, if there was going to be a guardianship,
13 and the second choice was going to be my cousin
14 Charlie, and this was not about control or power.
15 It was about protecting my mother, so when I was
16 told that -- from Amber Patwell shared with
17 Eileen O'Malley that my mom and my sister wanted
18 Charlie as the guardian, I was completely in
19 agreement with that.

20 BY MS. GARCIA:

21 Q. Are you aware of March 13, 2023, your attorney
22 John Raymond informed me that your mother did not need a
23 guardianship?

24 A. I'm not aware of that.

25 MR. SWEETAPPLE: Objection. Hearsay -- hearsay.



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1 THE COURT: Sustained.

2 MR. SWEETAPPLE: Move to strike the question.

3 THE COURT: Yeah. Strike the question.

4 BY MS. GARCIA:

5 Q. Have you ever seen the e-mail between me and
6 your attorney?

7 A. Who? What attorney? I have --

8 Q. John Raymond on March 13, 2023?

9 A. No.

10 Q. Have you seen the current settlement that does
11 exist?

12 MR. SWEETAPPLE: I'm sorry. The current --

13 BY MS. GARCIA:

14 Q. The current settlement that your attorney's
15 contesting its validity today, have you seen the --

16 A. The one that was signed on 5-22 of '23?

17 Q. Yes.

18 A. Yes.

19 Q. And did you ask your mother if she signed it?

20 A. I did.

21 Q. Did -- I'll strike that. Did you ever speak
22 to Ms. Patwell?

23 A. No.

24 Q. So you don't know any conversations between
25 your mother and Ms. Patwell then, correct?



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1 A. No, I do not.

2 Q. So you don't know what Ms. Patwell relied on
3 to determine if your mother was competent enough to
4 enter into a contract at time?

5 MR. SWEETAPPLE: Objection to predicate.

6 Speculation.

7 THE COURT: You -- to answer, partner rule. You
8 can answer if you are able to.

9 THE WITNESS: I was not a part of any of those
10 conversations, so no, I do not know.

11 THE COURT: I'm going to allow that answer if she
12 doesn't know. Okay?

13 MR. SWEETAPPLE: I'll withdraw the objection.

14 BY MS. GARCIA:

15 Q. So you're not -- oh, you were not involved
16 with your mother's relationship with her attorney,
17 correct?

18 A. No, I was not. I was not allowed to speak to
19 her during that time about these issues.

20 Q. Who didn't let you, Ms. Patwell?

21 A. My sister took my mom's phone away so she
22 could not speak to me.

23 Q. Your sister took your mother's phone. When
24 did she take your mother's phone?

25 A. When did she take it?



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1 Q. Yes. You're saying she took her phone so you
2 couldn't speak to your mother, so tell me when, dates,
3 times.

4 A. Most of the month of May of 2023, and I don't
5 know who did this, because I wasn't there when it
6 happened, but my phone number was blocked in my mother's
7 phone, and I had to take it -- I didn't even know how to
8 unblock it. My mom has one of those old flip phones. I
9 had to take it to AT&T, so I'm not saying that my sister
10 did that, but somebody who was surrounding my mother
11 blocked my phone number in her phone.

12 Q. How long have you been making the legal
13 decisions for your mother under power of attorney?

14 A. Making legal decisions? My mom's been a part
15 of the decisions until she couldn't be a part of them.
16 She doesn't recall that, but there were everything that
17 was decided we discussed, and that was since my father
18 passed away, so I -- so you're asking me specifically?
19 January 5th of 2021.

20 Q. Now isn't it true that you admitted that your
21 mother has been incapacitated for a while, therefore you
22 have been the one dealing with all the attorneys for all
23 the litigations?

24 A. Yes.

25 Q. So how is it then your mother could fight to



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1 sign an affidavit for summary judgment if she was
2 incapacitated?

3 A. I don't understand.

4 Q. Did you sign the affidavit in support of the
5 motion for summary judgment in this case, or did your
6 mother sign it?

7 A. I don't understand what that is.

8 Q. Did you sign any documents in this case with
9 your mother's signature so your attorney could get a
10 final judgment?

11 A. I've never signed my mother's signature on
12 anything.

13 Q. So how did you use a power of attorney?

14 A. I've always understood a power of attorney to
15 sign your own name and put POA after it. I don't know.

16 Q. So your testimony, sitting here today, that
17 you did not sign the affidavit in support of motion for
18 summary judgment in this case?

19 A. I don't understand.

20 MR. SWEETAPPLE: Do you want to show it to her?

21 How about '19, '20, '21?

22 BY MS. GARCIA:

23 Q. Well she said you didn't sign any legal
24 documents.

25 A. '19, '20 -- '20.



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1 MR. SWEETAPPLE: '20, or '20, '21.

2 BY MS. GARCIA:

3 Q. You never signed your mother's name in any
4 papers in this case, correct? That's what you're
5 telling me?

6 A. I never signed my mother's name. I signed my
7 own name. I've never signed my mother's name to
8 anything. I'm not -- I don't forge anything, if that's
9 what you're asking me.

10 THE COURT: She's asked and answered --

11 MS. GARCIA: Okay.

12 THE COURT: -- asked and answer that
13 question --

14 MS. GARCIA: Got you.

15 THE COURT: -- six times now.

16 THE WITNESS: I'm not, I just don't understand.

17 MS. GARCIA: Hold on.

18 MR. SWEETAPPLE: She's not --

19 BY MS. GARCIA:

20 Q. You testified your mom had Alzheimer's,
21 correct?

22 A. My mom currently has Alzheimer's, yes.

23 Q. Did she have Alzheimer's in May of 2023?

24 A. Yes, she did.

25 Q. She did?



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1 A. I'm not a doctor, but her attending physician
2 and her treating physician diagnosed her in September of
3 2022 with Alzheimer's disease.

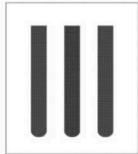
4 Q. So why did you testify in Court then in 2023,
5 that your mother only had mild cognitive condition, and
6 now you testified that your mother's had Alzheimer's
7 since 2022?

8 A. The doctor in -- her treating doctor in The
9 Villages diagnosed her with Alzheimer's disease with a
10 mild cognitive impairment is what the medical records
11 read.

12 Q. And isn't that what you just did recently, so
13 you could take away your mother's right to decide where
14 she lives and have a social life?

15 A. I'm not doing any of that. I don't understand
16 what you're asking me about. That's not me that's doing
17 that, number one, and number two, the doctor, she --
18 when we moved to Boca, she had to have a treating
19 physician, so she has a new neurologist that did her
20 testing this year and opined that she has Alzheimer's
21 disease.

22 Q. Are you aware, because your attorney moved
23 into evidence, not for the truth of the matter, but just
24 for the fact they exist. Are you aware of a Dr. Sugar
25 who also did a report?



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1 A. I've heard his name.

2 Q. Have you seen his report?

3 A. I have.

4 Q. You have?

5 A. Yes, I have.

6 Q. So if Amber Patwell, her attorney -- Amber
7 Patwell was your mother's attorney, correct?

8 A. That's what I'm told.

9 Q. And she was your attorney in this matter also,
10 correct?

11 A. I -- I'm -- in my attorney. She was not my
12 attorney, no.

13 Q. Well she was your mother's attorney in this
14 matter, correct?

15 MR. SWEETAPPLE: In this case here?

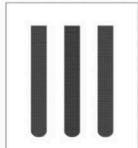
16 MS. GARCIA: Yes.

17 THE WITNESS: No.

18 MR. SWEETAPPLE: Objection.

19 THE WITNESS: She's never been my mother's
20 attorney in the foreclosure case

21 MR. SWEETAPPLE: And note my objection be
22 extended. Calls for a legal conclusion. Notice
23 of appearance was, as I proffered to the Court
24 from the record, filed while I was Counsel of
25 record.



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1 THE COURT: She's -- the witness has answered it.

2 The question is as to her knowledge.

3 MS. GARCIA: Right. That's all I can do is ask
4 her knowledge, not yours.

5 THE COURT: She's answered.

6 MS. GARCIA: Yeah. Okay.

7 BY MS. GARCIA:

8 Q. So is -- so you've never seen Amber Patwell's
9 notice of appearance filed in this case?

10 A. No.

11 Q. Have you -- have you seen her notice of
12 appearance in the guardianship case?

13 A. Yes, I have.

14 Q. And you've seen Dr. Sugar's report, correct?

15 A. Yes, I have.

16 Q. So Dr. Sugar said your mother was competent
17 and Amber relied on that, and entered to a settlement
18 agreement. You wouldn't have any knowledge of that?

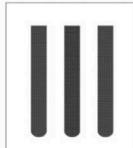
19 MR. SWEETAPPLE: I object. Objection.

20 Speculation.

21 THE COURT: It is speculation.

22 MR. SWEETAPPLE: Move to strike. The question
23 shows it's speculation.

24 THE COURT: She has -- there's no answering, so
25 there's no jury -- the jury will disregard the



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1 last question.

2 MS. GARCIA: Excuse me, jury.

3 MR. SWEETAPPLE: Well I forgot we even had cross-
4 examination, so I've got to get some of the rust
5 off the --

6 THE COURT: You're okay.

7 BY MS. GARCIA:

8 Q. So you have seen Dr. Sugar's report, correct?

9 A. Yes.

10 Q. And you read the report, correct?

11 A. Yes, I did.

12 Q. You -- we were discussing your mom's pension
13 and Social Security, that it changed. She ended up
14 getting your dad's Social Security, correct?

15 A. That's correct.

16 Q. Why did you take away your mom's control of
17 her pension and her Social Security?

18 A. I did not take away her control of that.

19 Q. Did you file a -- in the guardianship case,
20 did you file a petition for an injunction against your
21 sister, Patty Sahm?

22 A. I did not file anything in the guardianship
23 case.

24 Q. Did you sign an affidavit that was used by
25 Charlie Revard about your sister's actions, so an



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1 injunction was secured in that case against your sister?

2 A. Yes.

3 Q. And when you signed an affidavit, was it true
4 and correct?

5 A. Yes.

6 Q. And were all the exhibits attached to that
7 affidavit true and correct?

8 A. I suppose. I don't recall that now, but yes.

9 Q. Do you recall making an allegation that your
10 sister attempted to log into the pension plan using her
11 e-mail patty_sahm@gmail.com?

12 A. Yes.

13 MR. SWEETAPPLE: Objection to the relevance, Your
14 Honor.

15 THE COURT: What is the relevance to the issue in
16 this hearing, as to whether or not the settlement
17 was entered, was --

18 MS. GARCIA: It's -- it --

19 THE COURT: -- should be set aside?

20 MS. GARCIA: It's relevant, Your Honor, because
21 the way that the allegations are alleged, they're
22 using this injunction as a bad-man inference to
23 show where there's smoke, there's fire, and it is
24 relevant because it's --

25 THE COURT: Ma'am, you're the first person to



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1 mention the injunction.

2 MR. SWEETAPPLE: Your Honor --

3 MS. GARCIA: It's in his pleadings, this.

4 MR. SWEETAPPLE: Your Honor, I can respond. I

5 did -- I purposely did not put the injunction in.

6 It was entered in September.

7 THE COURT: I'm going to sustain the objection. I
8 would note that we're -- we -- we've been
9 questioning this witness for quite a while. Go
10 ahead.

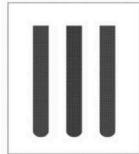
11 BY MS. GARCIA:

12 Q. Okay. Last question on that issue, is Exhibit
13 I to your affidavit. You made it appear that your
14 sister was trying to access your mother's pension plan
15 funds. Isn't it true that you created that e-mail to
16 set your sister up?

17 A. Created -- created her e-mail?

18 Q. You created a photo of a attempted login to
19 the Florida Pension Plan with an e-mail address,
20 patty_sahm@gmail.com. Isn't it true you created that
21 evidence, fabricated that evidence for that injunction?

22 A. No, it's the Florida Retirement Systems, and I
23 have a login for my mom for her pension. Not anymore,
24 now Charlie's in charge of it, but at the time I was
25 handling that for her, and I was surprised myself, when



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1 I went to log into it, to see my sister's e-mail on
2 there, and that's what was -- made me take notice of
3 that, because I thought, oh, she's trying to log into my
4 mother's pension now, and I made Charlie and his
5 attorneys aware of that, because obviously she was
6 trying to log into my mother's pension program.

7 Q. Are you aware that's not really your sister's
8 e-mail address?

9 A. I don't know my sister's e-mail address.

10 Q. How did that populate on your computer screen
11 at home, this e-mail address that doesn't belong to your
12 sister?

13 A. When you log in to Florida Retirement Systems
14 and you click to the username and how to log in, there's
15 a little arrow that drops down, and when I went to log
16 in, my sister's e-mail was there.

17 Q. Was that on your home computer?

18 A. Yes.

19 Q. So it had your IP address, correct?

20 A. I don't -- I guess. I don't know what that
21 is, yes.

22 Q. Neither you or Olga Eversteen [sic] created
23 that e-mail address to make it appear your sister was a
24 danger to your mother?

25 A. I don't even -- I don't even know what you're



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1 asking me. No. Of course not.

2 MR. SWEETAPPLE: It's totally collateral.

3 THE WITNESS: Like this is --

4 MR. SWEETAPPLE: This is totally collateral.

5 THE WITNESS: Absolutely not.

6 MR. SWEETAPPLE: I ask you to please --

7 THE WITNESS: Absolutely not.

8 MR. SWEETAPPLE: -- move on.

9 THE WITNESS: And please don't discuss Olga
10 Estersen in this court.

11 THE COURT: And hang on, you just got to -- we
12 got to go question and answer.

13 MS. GARCIA: Okay.

14 BY MS. GARCIA:

15 Q. You're still the trustee, correct?

16 A. Yes.

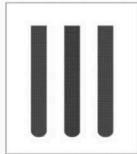
17 Q. And is the trust being handled through the
18 guardianship or completely separate?

19 A. It's completely separate.

20 Q. And is the trust paying all the attorney's
21 fees to the guardian attorneys and to your attorneys?

22 MR. SWEETAPPLE: Objection, Your Honor. That's
23 confidential information to the trust. It's not
24 relevant to this case at all.

25 THE COURT: Overruled.



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1 THE WITNESS: Is the trust being used to pay
2 attorney fees?

3 BY MS. GARCIA:

4 Q. Is it currently paying the attorney's fees for
5 the guardian's attorney and for Mr. Sweetapple?

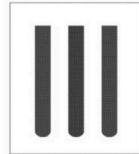
6 A. Yes.

7 Q. And is it also paying Eileen O'Malley? Or was
8 that a credit card you charged on your mother's card for
9 \$5,000?

10 A. My mother's credit card is used at the time --
11 Charlie's now in charge of all of that as well, but at
12 the time it was discussed with the financial advisor to
13 use the credit card to pay the attorney fees to get the
14 cash back points for my mother, because there's really
15 not a lot of benefit that's coming back from that, so
16 the only way to get it was to put it on her card. And
17 then the trust -- trust money is used to pay off her
18 card, so it was really to get her cash back points on
19 her card.

20 Q. Have you filed any -- or not filed, but have
21 you or your attorneys applied to the guardianship court
22 for any of these payments, or are you just paying them
23 from the trust?

24 MR. SWEETAPPLE: Object to the relevance, Your
25 Honor.



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1 THE COURT: What is the relevance at this point?

2 MS. GARCIA: The relevance is that they're
3 claiming that Ms. Patwell and I have taken
4 advantage of the mother, and they filed, and made
5 allegations against me and Amber personally about
6 these actions. And the relevance is that I want
7 to find out and have it in the record of what's
8 really going on so we can properly present to
9 this Court, whether --

10 THE COURT: It's cross-examination. This is not
11 a discovery deposition. I'm going to sustain the
12 objection.

13 BY MS. GARCIA:

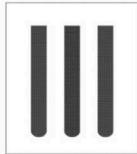
14 Q. So when it comes to the settlement that's at
15 issue, you really don't know what the conversations were
16 with your mom and Ms. Patwell, correct?

17 A. I've already stated I was not there for those
18 conversations.

19 Q. So you can't sit here today and say that your
20 mother did not want to settle this case, can you?

21 A. I can say that my mother doesn't understand
22 the merits of the case.

23 Q. When you say, "the merits of the case," do you
24 understand what that means, if you don't understand how
25 the law works or filings?



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1 A. I don't understand attorney filings because
2 I'm not an attorney. When I use the merits of the case,
3 that just means the -- the -- all the facts in the case,
4 and then when I say that, I mean the facts of the case
5 and what has happened over the course of the last six
6 years.

7 Q. So over the course of the last -- the last six
8 years, the final judgment was entered into, correct?

9 A. Yes.

10 Q. The 335,000?

11 A. 355,072.

12 Q. Okay. And you realize that that's being
13 contested as we sit here today, correct?

14 A. Yes.

15 Q. And if your mother decides she wants to settle
16 the case, your mother has a right to do that, doesn't
17 she?

18 MR. SWEETAPPLE: Object, Your Honor. This calls
19 for belief, conclusion, it's argumentative as the
20 central issue in the case before the Court.

21 THE COURT: Sustained.

22 BY MS. GARCIA:

23 Q. Upon your review of the different reports --
24 you did read them, correct?

25 A. What reports are you referring to?



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1 Q. The committee reports that your attorney
2 booked into evidence?

3 A. Yes.

4 Q. You did read them, correct?

5 A. Yes, ma'am.

6 Q. And if your mother entered to a contract with
7 the approval of an attorney, what would be the problem
8 with that?

9 MR. SWEETAPPLE: Objection. Calls for legal
10 conclusion.

11 THE COURT: Sustained.

12 BY MS. GARCIA:

13 Q. So you don't know if your mother did enter to
14 this contract with attorney assistance or not, did you?

15 A. I was not there for those conversations.

16 MR. SWEETAPPLE: Objection.

17 BY MS. GARCIA:

18 Q. So you don't know why your mother made the
19 decision, correct?

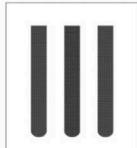
20 MR. SWEETAPPLE: Objection. No predicate she
21 even did.

22 THE COURT: I'm going to sustain the objection.

23 This has been asked and answered several times.

24 BY MS. GARCIA:

25 Q. Was the original mortgage 110,000?



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1 A. I don't know.

2 Q. Have you ever looked at the mortgage?

3 A. Not all the paperwork, no.

4 Q. Are you aware that your parents, back in 2019,
5 agreed to resolve this matter for 200,000?

6 MR. SWEETAPPLE: Object to the relevance. Object
7 to settlement negotiations.

8 THE COURT: That's sustained as to relevance.

9 BY MS. GARCIA:

10 Q. Are you aware that your parents had been
11 attempting to settle this case with the Bernsteins for a
12 while?

13 A. For a very long time.

14 Q. And you're aware that there's money sitting in
15 the Court registry to pay the judgment?

16 MR. SWEETAPPLE: Objection.

17 BY MS. GARCIA:

18 Q. Or to pay the settlement?

19 MR. SWEETAPPLE: Speculation.

20 THE COURT: Sustained as to relevance.

21 BY MS. GARCIA:

22 Q. Are you aware of any legal or technical issues
23 in this matter that could affect the judgment?

24 MR. SWEETAPPLE: Relevance and legal opinion.

25 THE COURT: Do you have any basis to suspect that



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1 this witness has that knowledge?

2 MS. GARCIA: Yes.

3 THE COURT: You can answer the question if you
4 have that information.

5 THE WITNESS: I don't understand the question.

6 MS. GARCIA: I forgot the question now.

7 THE COURT: Does she have any basis to set aside
8 the judgment, but --

9 MR. SWEETAPPLE: If you can recall knowledge of
10 the deficiency.

11 THE COURT: She said she doesn't understand what
12 that means.

13 THE WITNESS: I don't understand what that means.

14 THE COURT: Presumably, because she's not aware.

15 MR. SWEETAPPLE: Okay.

16 THE WITNESS: That is correct.

17 BY MS. GARCIA:

18 Q. Did your dad die on -- did your dad pass away
19 on January 12, 2021?

20 A. January 5th of 2021.

21 Q. Do you know why your attorneys kept fighting
22 pleadings in his name until this year?

23 MR. SWEETAPPLE: Object. Calls for legal
24 conclusion. It's --

25 THE COURT: I know that that's an argument that



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1 you have raised in your motion, which we're not
2 hearing today, and in your motion to continue,
3 which I deny, because it's not relevant to the
4 issue that I'm hearing.

5 BY MS. GARCIA:

6 Q. As a PR of the Walter Sahm estate, do you know
7 if it listed this mortgage and note as an asset of the
8 estate ever?

9 A. I don't know.

10 Q. Did you -- are you the person that signed the
11 different documents in the estate for the attorneys, as
12 the personal representative?

13 A. Like, what kind of documents?

14 Q. Like the statement regarding creditors, where
15 you have to disclose to the Court who the creditors are.

16 A. I don't know what that is.

17 Q. Do you understand what the PR'S
18 responsibilities are?

19 A. Apparently not completely.

20 Q. Do you know a William Stansbury?

21 A. I know his name.

22 Q. Who is he, if you know him at all?

23 A. He's a name that my parents have brought up
24 over the years, but I don't know how he's associated
25 with my parents.



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1 Q. Do you know if he was a life insurance agent
2 also?

3 A. I don't know anything about him except his
4 name.

5 Q. Have you ever seen his affidavit that was
6 filed in court? That was filed in the bankruptcy court?

7 A. No.

8 Q. So you've never seen an affidavit by Mr.
9 Stansbury ever?

10 A. No, I have not.

11 MS. GARCIA: I'm going to return this, just so it
12 doesn't get lost.

13 MR. SWEETAPPLE: Sure.

14 MS. GARCIA: Thank you.

15 BY MS. GARCIA:

16 Q. Do you know why the estate and you, as a PR,
17 would've been negotiating a settlement with the
18 Bernsteins in March of 2023?

19 MR. SWEETAPPLE: Object to predicate.

20 THE COURT: Sustained.

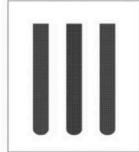
21 MR. SWEETAPPLE: Asked and answered.

22 THE COURT: Sustained.

23 MR. SWEETAPPLE: Relevance.

24 BY MS. GARCIA:

25 Q. Do you know why Eileen O'Malley would file a



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1 guardianship on your behalf while John Raymond, the
2 attorney for the PR, you and the estate, didn't believe
3 that Ms. Sahm needed a guardian?

4 MR. SWEETAPPLE: Form, no predicate.

5 THE COURT: It just calls for speculation.

6 BY MS. GARCIA:

7 Q. Did you get conflicting opinions from the
8 attorneys, between O'Malley and -- and John Raymond?
9 Without telling me what they said, to make your decision
10 to file a guardianship?

11 A. No.

12 Q. They were both united?

13 A. I wasn't in their office to know if they were
14 speaking to each other.

15 Q. When it came to -- so you said it -- about
16 April 17, 2023, do you believe your mother was
17 incapacitated?

18 A. Yes.

19 Q. So how did your mother hire Brian Schriver
20 [sic] to file on her behalf in a bankruptcy case if she
21 was incapacitated and there was no guardianship?

22 A. She wasn't -- did she -- what do you mean?

23 Did she hire Brad Schraber? What do you mean?

24 Q. Did she hire Brad Schraber to represent
25 herself in the -- in the -- in the Fort Lauderdale --



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1 A. In the first guardianship? Yes.

2 Q. Okay. So in the Fort Lauderdale second
3 guardianship to Elliot Bern -- Elliot Bernstein,
4 guardian -- sorry, bankruptcy?

5 A. Uh-huh.

6 Q. You hired him, correct, Mr. Schraber?

7 A. The second time?

8 Q. Yes.

9 A. That is correct.

10 Q. And then you signed that retainer, correct?

11 A. Yes.

12 Q. And did you sign it Joanna --

13 THE WITNESS: Actually, I don't -- actually, I
14 don't believe any retainer was signed on that
15 one. Just for the record. No -- no. The first
16 one, my mom signed, the second one, it all
17 happened so fast. I don't -- I don't -- I never
18 saw a signed retainer.

19 BY MS. GARCIA:

20 Q. So you didn't sign your mom's name on his
21 retainer for the Elliot Bernstein bankruptcy is your
22 testimony today?

23 A. I -- as I stated before, I've never signed my
24 mother's signature to anything.

25 Q. Did you have any conversations with Mr.



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1 Bernstein in relation to the settlement?

2 A. No -- no. He did reach out to me a couple
3 times by phone, but no, we've never spoken.

4 Q. Did you have conversations with Travis Sahm
5 Jr., your sister, in relation to this settlement?

6 A. Yes. One time. Not about this. You mean
7 this settlement agreement in particular?

8 Q. Yes.

9 A. Or about any kind of conversation about this
10 case?

11 Q. This settlement in particular.

12 A. No -- no.

13 Q. Your sister was living with your mom, correct?

14 In May of 2023?

15 A. Correct.

16 Q. Since you were acting on your mom's behalf in
17 March of 2023, were you told that there were settlement
18 offers?

19 MR. SWEETAPPLE: I'm going to object. It's
20 irrelevant. Repetitive.

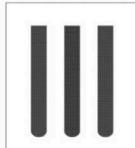
21 THE COURT: And asked and answered.

22 THE WITNESS: I'm sorry. Did you tell me --

23 THE COURT: I sustained the objection.

24 THE WITNESS: Oh, okay. Sorry.

25 THE COURT: My fault. I didn't say that.



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1 THE WITNESS: That's -- I can't -- if I could see
2 your mouth over the thing.

3 THE COURT: I'm sorry.

4 THE WITNESS: No, it's okay.

5 THE COURT: I sustained the objection.

6 THE WITNESS: That's okay.

7 BY MS. GARCIA:

8 Q. Have you seen the revocation of your Florida
9 power of attorney, dated March 15, 2023?

10 A. No, I have not. I've only --

11 Q. Do you know --

12 A. I'm sorry.

13 Q. Do you know your mother's signature?

14 A. Do I know my mother's signature? Yes.

15 Q. I'm going to mark this as Defense Exhibit A.

16 THE COURT: A.

17 (EXHIBIT A MARKED FOR IDENTIFICATION)

18 MS. GARCIA: Counsel, I have a copy for you. I'll
19 just put an Exhibit A on it for you.

20 MR. SWEETAPPLE: That's the first A I've gotten
21 in a long time.

22 MS. GARCIA: No comment. And I have a copy for
23 Your Honor. I had -- if I may approach? May I
24 approach you? And then I have a copy for the
25 witness. May I approach the witness?



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1 THE COURT: You may.

2 BY MS. GARCIA:

3 Q. I'd like to show you what's been marked as
4 Exhibit A, which is a Power of Attorney Revocation dated
5 March 15, 2023. Have you seen this document before?

6 A. Not from this date. I've seen this document
7 before, but it had a different date at that time.

8 Q. Is this your mother's handwriting on this
9 document to the best of your knowledge?

10 A. Not all of it. But you're talking about the
11 signature?

12 Q. Yes.

13 A. Yes.

14 Q. And your mom does reside in Palm Beach,
15 correct?

16 A. In Boca Raton.

17 Q. So you've never seen this document?

18 A. I've not seen this particular -- I've seen
19 this document filled out with my sister's handwriting,
20 dated March 28th of 2023. This is the first time I'm
21 seeing one dated March 15th of 2023, and I've seen one
22 also of April 13th of 2023.

23 MS. GARCIA: I'm going to mark as Exhibit B for
24 identification.

25 (EXHIBIT B MARKED FOR IDENTIFICATION)



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1 THE COURT: Are you offering this in evidence

2 or --

3 MS. GARCIA: Not yet. For identification. So
4 here, Counsel, let me give you first before I go
5 to the judge, and then, Your Honor, I have for
6 you. May I approach the witness, Your Honor?

7 THE COURT: Sure.

8 BY MS. GARCIA:

9 Q. Okay. I'm going to show you what's been
10 marked as Defense Exhibit B on April 13, 2023.

11 A. Yeah. I've seen this one.

12 Q. Power of attorney.

13 A. Yeah.

14 Q. You have seen this document?

15 A. Yes, I have.

16 Q. So this means that at least as of April 13,
17 2023, your power was revoked?

18 A. That's correct.

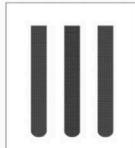
19 MR. SWEETAPPLE: Object to the form. Also, legal
20 conclusion.

21 BY MS. GARCIA:

22 Q. That's what you understood, correct?

23 A. That's what I understood, yes.

24 Q. So you realize that at that point, you
25 couldn't continue to make decisions for your mother,



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1 correct?

2 A. Correct. Which is why I reached out to John
3 Raymond's office and to Mr. Sweetapple that evening,
4 because at that point I realized that I was unable to
5 make any kind of decisions, and I didn't want to be in
6 trouble in Court anymore with Mr. Sweetapple doing his
7 job or with Mr. Raymond and Eileen doing their jobs,
8 because I've had no longer the power to handle those
9 things anymore.

10 MS. GARCIA: So I'd like to move these two in,
11 Your Honor, as Composite Exhibit 1 or I guess, as
12 Exhibit A and Exhibit B.

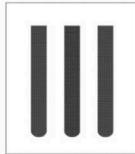
13 MR. SWEETAPPLE: I'm going to object. All that
14 she's established is that she knows the
15 signature. She doesn't know if this was filled
16 out at the time or what it looked like when it
17 was signed, how authenticated.

18 THE COURT: What are you -- what are you offering
19 for purpose?

20 MS. GARCIA: Just for the -- for the purpose of
21 the party, I guess, Plaintiff at the time being
22 aware that this existed and that she lost her
23 powers on -- as of that date.

24 THE COURT: Okay. As of the April 13th date?

25 MS. GARCIA: April 13, 2023.



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1 THE WITNESS: That's the first time I learned of
2 it, yes.

3 THE COURT: I'm going to admit it in evidence
4 over objection as Defense Composite Exhibit 1A
5 and B.

6 BY MS. GARCIA:

7 Q. Have you ever seen your mother's sworn
8 statement dated 4-19-2023?

9 A. Is that the one with 83 statements that she
10 supposedly wrote? Is that the one you're speaking of?

11 Q. Sixty-five. I'll mark it as Defense Exhibit
12 C.

13 (EXHIBIT C MARKED FOR IDENTIFICATION)

14 MS. GARCIA: Counsel? Your Honor, if I may
15 approach?

16 THE COURT: Sure.

17 MS. GARCIA: Thank you. May I approach the
18 witness?

19 THE COURT: You may.

20 MS. GARCIA: I'm going to show you what's been
21 marked as Defense Exhibit D for identification,
22 which purports to be a statement of your mother.

23 (EXHIBIT D MARKED FOR IDENTIFICATION)

24 THE WITNESS: I've seen it.

25 BY MS. GARCIA:



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1 Q. When did you first see this?

2 A. I'm trying to think when it was here, when it
3 was -- I'm trying to think who gave it to me. I can't
4 remember the exact date of when it was given to me, but
5 I have seen it.

6 Q. Can you go to the second to the last page of
7 it, please. There's a verification with a signature of
8 Patricia A Sahm. Does that appear to be your mother's
9 signature?

10 A. It looks like it, yes. Yes, looks like it.

11 Q. Have you ever read this document?

12 A. I have.

13 Q. So did you tell your mom you were taking her
14 to brunch, and take her to Eileen O'Malley's office to
15 be evaluated?

16 A. I already explained --

17 Q. With regards to?

18 A. I explained to you what we did that day and
19 no, she was not evaluated. We were there ten minutes.
20 I dropped off my guardianship paperwork, and we went to
21 lunch at the Cheesecake Factory.

22 Q. Did your mom ever express to you her
23 dissatisfaction with you putting her into a guardianship
24 and taking away her decision making?

25 A. She never expressed that to me, no. I



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1 explained to her what a guardianship was whenever she
2 called me. A -- a large packet of paperwork was
3 delivered to her home, which was upsetting to her. So
4 she called me when she received the packet.

5 Q. And that's the package that was delivered
6 because you filed the guardianship, correct?

7 A. That is correct.

8 Q. And were you present at the committee member
9 evaluations?

10 A. No, I was not.

11 Q. Do you have any idea of what took place at
12 those evaluations?

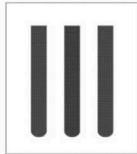
13 A. No, I do not.

14 Q. You had testified that you were making all the
15 decisions for your mom, and then you testified that you
16 informed your mom about everything going on, correct?

17 A. We spoke about it, and I explained to her what
18 was going on with everything that was happening. But
19 ultimately, I was the one who made the decisions with
20 the power of attorney. But I felt like she should know.

21 Q. And isn't it true that your mother hired her
22 own attorney and made her own decisions when it relates
23 to the power of attorney and the settlement?

24 A. I'm sorry, I don't understand. Repeat that
25 for me.



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1 Q. So isn't it true that your mother hired an
2 attorney, Amber Patwell, and made her own decisions on
3 what to do about the power of attorney and the
4 settlement?

5 A. I don't know. I wasn't a part of any of those
6 conversations.

7 Q. So you can't represent to the Court that
8 anybody took advantage of your mother at that time, can
9 you?

10 MR. SWEETAPPLE: Objection. She's already
11 testified as to what occurred. This is asked and
12 answered.

13 THE COURT: This is asked and answered.

14 MR. SWEETAPPLE: And it's argumentative.

15 THE COURT: Do you have any new or novel areas in
16 the Court --

17 MS. GARCIA: Getting there.

18 THE COURT: Please.

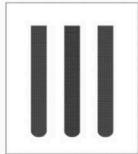
19 BY MS. GARCIA:

20 Q. Almost done. I'm almost done with her. Have
21 you ever met Ms. Patwell?

22 A. No, I have not.

23 Q. Do you have any knowledge of Ms. Patwell's
24 reputation, or credibility, or?

25 A. I don't know anything about her.



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1 MS. GARCIA: Your Honor, I'd like to move in the
2 Exhibit C.

3 THE COURT: Let's hear something.

4 MR. SWEETAPPLE: This is alleged state --
5 statement of Patricia Sahm. It's not
6 authenticated, it's hearsay.

7 THE COURT: The witness has laid a sufficient
8 basis for it. It is hearsay, so I will admit it
9 over the objection. Not for this -- but based on
10 the witness's -- based on what the testimony that
11 is a document that she received. As -- what
12 would you like it admitted as? Defendant 2 or C?
13 You already started with numbers, so --

14 MS. GARCIA: Yes, C. Okay.

15 THE COURT: So let's stay with -- let's stay with
16 numbers.

17 MS. GARCIA: Okay, that's fine.

18 THE COURT: That'll be Defendants.

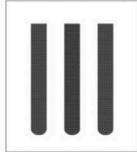
19 MS. GARCIA: Yeah. I'd like to provide Exhibit
20 E. Should I change it back to numbers?

21 THE COURT: You're okay. E for identification.

22 MS. GARCIA: Yeah, E for identification.

23 THE CLERK: Was there a D?

24 THE COURT: There wasn't. How about D for right
25 now?



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1 MS. GARCIA: One more. The other one is D.

2 THE COURT: The other one was C.

3 BY MS. GARCIA:

4 Q. Okay. So this is D. Your Honor, may I
5 approach? Counsel's been provided a copy. You
6 recognize your mother's signature, right?

7 A. Yes.

8 Q. Pretty well.

9 A. Mostly.

10 Q. Okay. I'm going to show you what's been
11 marked as Exhibit D for identification. Can you tell me
12 that's your mother's signature?

13 A. It looks familiar, yeah. I mean, it could be.
14 It matches the other ones.

15 Q. Have you ever seen this Stipulation for
16 Substitution of Counsel, dated May 22, 2023, signed by
17 your mom, between Amber Patwell and Robert Sweetapple
18 before?

19 A. No, I have not.

20 Q. I guess in line with Counsel, I'd like the
21 Court to take -- well Your Honor, strike that. Do you
22 have any reason to believe that's not your mother's
23 signature?

24 A. No.

25 Q. Does your sister ever sign your mother's



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1 signature?

2 A. I don't know.

3 Q. And this isn't you signing your mother's
4 signature, correct?

5 A. I've never signed my mother's signature to
6 anything.

7 Q. So if your mother signed a -- her signature on
8 a Stipulation for Substitution of Counsel on May 22nd,
9 the same day she settled, and the same day her attorney
10 filed an appearance, do you have any reason to doubt
11 that your mother signed that?

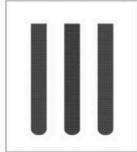
12 A. It appears as though she signed it, but I
13 don't believe she knew what she was signing.

14 MS. GARCIA: Your Honor, move the -- move this in
15 as Exhibit D.

16 THE COURT: Just so -- Exhibit D is a unsigned
17 Stipulation for Substitution of Counsel between
18 Ms. Patwell and Mr. Sweetapple, with a signature
19 that the witness has identified as being her
20 mother's. In the matter of Walter D. Sahm and
21 Patricia Sahm, first Bernstein Family Group. Is
22 that what Exhibit D --

23 MS. GARCIA: Right. It's this case, there's just
24 a typo, obviously, in the name.

25 THE COURT: Okay. And it's -- there isn't a



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1 signed version of this, by the by the attorneys,
2 other than --

3 MS. GARCIA: No, that -- I don't have a signed
4 version. I saw it was filed in the Court record,
5 I saw Ms. Patwell filed for appearance on the
6 same day, because this was not signed.

7 MR. SWEETAPPLE: Well there's no trans -- I've
8 never seen it before today, so -- that I can
9 recall. I haven't had it provided to me. I've
10 never heard from -- Ms. Patwell's never contacted
11 me ever.

12 THE COURT: I -- I'm going to receive this into
13 evidence as Exhibit -- the Defendant's Exhibit
14 number 3.

15 MS. GARCIA: Okay.

16 THE COURT: As -- and that's exactly what I said
17 in the document, according to be a Stipulation
18 for the Substitution of Counsel. It's not signed
19 by Counsel?

20 MS. GARCIA: Right.

21 THE COURT: We have a signature that the witness
22 recognized as belonging to her mom.

23 BY MS. GARCIA:

24 Q. Did -- does your sister, Patty Jr., assist
25 your mom with, like, communications and e-mails and



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1 phone calls, and things like that?

2 A. I don't know.

3 Q. Okay. So you wouldn't know then, if your
4 sister forwarded that stipulation to Mr. Sweetapple,
5 would you?

6 A. I don't know.

7 Q. And you wouldn't know if there was
8 communications between Mr. Sweetapple and Morgan
9 Weinstein concerning the stipulation, would you?

10 A. No, I would not.

11 Q. That'd only be a question Mr. Sweetapple or
12 Mr. White could answer -- or Ms. Patwell, correct?

13 A. Correct.

14 Q. Okay. And are you aware of any of these
15 communications? Did anyone ever tell you there was
16 communications about Stipulation to Substitute?

17 A. No.

18 Q. But you know that Patwell, on that day, did
19 file her appearance for your mother, correct?

20 A. No.

21 Q. When did you find out that Ms. Patwell did
22 file -- you know, appear for your mom in this case?

23 THE COURT: Ms. Patwell -- we've gone over Ms.

24 Patwell and this witness's knowledge of Ms.

25 Patwell's filing. At this point, it is



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1 cumulative to the evidence, and it's not really
2 relevant.

3 MS. GARCIA: Okay. Your Honor, I'd like to
4 approach.

5 THE COURT: It is -- sure. It's 4:01.

6 MS. GARCIA: Okay. With Exhibit E.

7 THE COURT: Would anybody need to come up there?

8 BY MS. GARCIA:

9 Q. I'm sorry, I meant to give it to him first,
10 Your Honor. I apologize. And I'm short a copy, so I'm
11 going to approach you with what's been marked as Defense
12 Exhibit E, which purports to be the settlement agreement
13 dated May 22, 2023m which is an eight-page document
14 which your attorney filed in Court. Could you please
15 look at that document and tell me if you've ever seen
16 this document before?

17 A. Yes.

18 Q. And can you please look on each page, is the
19 initials and tell me -- and then look at the signatures
20 at the end and tell me that appears to be your mother's
21 initials and signature?

22 A. It appears to be, yes.

23 Q. And is this the settlement agreement that you
24 want set aside?

25 A. Yes.



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1 Q. And when is the first time you saw that
2 settlement agreement?

3 A. I did not see that settlement agreement until
4 Mr. Sweetapple's office filed it in Court. And the
5 settlement agreement set -- set aside, it's not me.
6 That's setting this aside. It's the guardian that's
7 filed to set it aside. I have not filed to set it
8 aside.

9 Q. Do you have any reason to believe that your
10 mother didn't sign this agreement?

11 A. That is her initials and her signature, but I
12 do not believe she knew what she was signing.

13 Q. But you have no reason to believe it's a
14 forgery, correct?

15 A. No.

16 Q. And do you have any proof, solid proof that
17 your mother didn't voluntarily sign that agreement?

18 MR. SWEETAPPLE: Objection.

19 THE WITNESS: My mother was in an incapacitation.
20 She would be in the middle of a guardianship, and
21 the -- what's it called, a incapacity? We were
22 waiting on a judgment of incapacity when this was
23 signed. So that had not been determined yet.

24 And this was provided to her during the time that
25 this was the -- it was pending. The capacitation



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1 -- incapacitation was pending when this was
2 signed.

3 BY MS. GARCIA:

4 Q. But you don't know when your mother first saw
5 that, do you?

6 A. No.

7 Q. And you don't know that's the same agreement
8 that was negotiated between me and Mr. Raymond, do you?

9 MR. SWEETAPPLE: Objection. Asked and answered
10 three times.

11 THE COURT: It has been asked and answered, I
12 think, more than three times.

13 BY MS. GARCIA:

14 Q. Okay. At that time, May 22nd, isn't it true
15 that there was no determination of incapacity yet by a
16 court?

17 MR. SWEETAPPLE: Objection.

18 THE COURT: It's been asked and answered.

19 MR. SWEETAPPLE: I --

20 THE COURT: She just testified, I was waiting on
21 a judgment of incapacity. It was pending when it
22 was signed. I promise you, I'm taking notes.

23 BY MS. GARCIA:

24 Q. Okay. Are you aware that Ms. Patwell had
25 filed a response for your mother to your petition for



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1 appointment of an emergency temporary limited guardian?

2 A. No, I don't -- I don't understand.

3 MS. GARCIA: If I may approach.

4 THE COURT: You may.

5 BY MS. GARCIA:

6 Q. Thank you, Your Honor. Thank you. Okay,

7 since I only have one copy, I --

8 THE WITNESS: It's okay.

9 MS. GARCIA: -- I apologize, I'm going to

10 approach you with it.

11 MR. SWEETAPPLE: Your Honor, I have no objection
12 to your taking judicial notice of the entire
13 guardianship file. I've asked to do that. We're
14 wasting time with putting in pleadings that, you
15 know, the Court can read.

16 MS. GARCIA: So judicial notice of this document?

17 THE COURT: No objection?

18 MR. SWEETAPPLE: No objection.

19 MS. GARCIA: All right. No objection?

20 MR. SWEETAPPLE: Well judicial notice of the
21 entire file.

22 MS. GARCIA: Including the transcripts? I have
23 all the transcripts to give to the Court now.

24 MR. SWEETAPPLE: I haven't looked at the
25 transcripts, but I'll -- Counsel. I mean, right



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1 now, no one's asked to have transcripts, but that
2 whole --

3 THE COURT: Okay, let me -- let me ask you all a
4 question. Let's take it one at a time.

5 MS. GARCIA: Okay.

6 THE COURT: This -- do you have any of -- if this
7 is -- by this, it's marked for identification as
8 Defense Exhibit F. You have no objection to me
9 receiving this as Defense Exhibit number --

10 MR. SWEETAPPLE: Not for the truth of the matter
11 asserted, but that -- that was filed in the case.

12 THE COURT: So that will be Defense Exhibit --

13 THE CLERK: The next number is four, Your Honor.

14 THE COURT: The next number is four, because
15 there's some that are marked for identification.

16 So I will receive it with without objection as
17 Defense Exhibit number 4.

18 BY MS. GARCIA:

19 Q. Okay. Have you -- I'm going to show you a
20 document filed in the guardianship case, dated June 11,
21 2024, which is a response from your mom's attorney to
22 your attorney. I'd like to ask you if you've ever seen
23 this document before?

24 A. No, I have not.

25 Q. Were you aware that as of June 11, 2023, that



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1 your mom's attorney was still contesting the capacity
2 issue?

3 A. No, I was not.

4 Q. So this is the first time you're aware that
5 that's the case, correct?

6 A. Yes.

7 Q. Okay. So in Paragraph nine, I'd like you to
8 look at Paragraph nine, please. And just read that to
9 yourself.

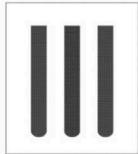
10 MR. SWEETAPPLE: Your Honor, it's in evidence.

11 It's the best evidence. We've stipulated it was
12 filed.

13 THE COURT: She's also testified that she has no
14 knowledge of it. So is she going to read to me
15 the document?

16 MS. GARCIA: No, she's reading to herself,
17 because I want to ask her some questions about
18 what the attorney filed, since it's only in --

19 THE COURT: Okay. And no. I -- no. I -- she
20 has testified regarding her knowledge of Ms.
21 Patwell's filings. The filings are what they
22 are, they're in the Court record. She has
23 testified, I lost count of how many times she's
24 testified that she is not aware of Ms. Patwell's
25 filings.



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1 THE WITNESS: No, I've not seen that.

2 BY MS. GARCIA:

3 Q. Okay.

4 MR. SWEETAPPLE: I thought we were at the end of
5 the questioning. This examination has taken
6 twice what the direct did, if not three times the
7 direct.

8 BY MS. GARCIA:

9 Q. Are you aware that -- let's say in June of
10 2023, that your mother was able to make decisions and
11 contracts with a lawyer's help?

12 A. No, I was not aware.

13 MS. GARCIA: So I'm going -- F is it, Your Honor?

14 I'm sorry.

15 THE COURT: G.

16 MS. GARCIA: G.

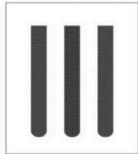
17 THE COURT: Is there another document in the
18 guardianship Court file?

19 MS. GARCIA: I'm sorry?

20 THE COURT: Is it another document in the
21 guardianship Court file?

22 MS. GARCIA: No. This is a letter from her
23 mother. On those I'll just go straight to the
24 judicial notice.

25 THE COURT: You -- the part that I don't



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1 understand is you objected, and we had maybe a
2 ten- minute argument over whether or not I should
3 take judicial notice of it. And now you're
4 introducing these documents.

5 MR. SWEETAPPLE: She also objects to the medical
6 opinions, and opened the door, my client provided
7 the -- to the Court.

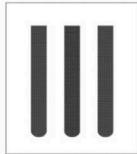
8 THE COURT: She did open the door for him. She
9 asked the question, there was no objection,
10 witness is able to respond. I just don't
11 understand why we're -- you-all set aside three
12 hours for an evidentiary hearing where the Court
13 is supposed to resolve factual disputes. And it
14 seems like on cross-examination, there are fewer
15 and fewer factual disputes. But I am going to
16 have to tell you to conclude your cross-
17 examination, because we have -- we have been
18 introducing a lot of cumulative evidence.

19 MS. GARCIA: We're -- I have -- we're almost done
20 then, Your Honor. I think I'm on my last
21 exhibit --

22 THE COURT: You said --

23 MS. GARCIA: -- for her.

24 THE COURT: You said we were almost done 20
25 minutes ago.



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1 MS. GARCIA: Last evidence for her, Your Honor.

2 THE COURT: Okay.

3 BY MS. GARCIA:

4 Q. Exhibit G, identification. Thank you. Thank
5 you, Your Honor. Okay, I'm going to show you --

6 A. I've seen it.

7 Q. A letter dated June 26, 2023.

8 A. I've seen it.

9 Q. Is that your mother's handwriting?

10 A. It is.

11 Q. And your mother's signature?

12 A. It is.

13 Q. So your mother did draft this? Where did you
14 see it for the first time?

15 A. Last month.

16 Q. How did you see it?

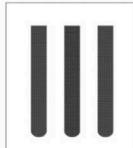
17 A. It was provided in some Court filing. It's
18 the first time I'd seen it.

19 Q. Do you know, was it this case or the
20 guardianship case?

21 A. I don't remember which one. I don't remember.

22 I know who filed it, but I don't remember what case it
23 was filed in.

24 Q. So this is definitely your mom's sig -- your
25 mom's handwriting, correct?



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1 A. It is.

2 Q. And you've read it?

3 A. Many times.

4 Q. So when your mother asked for her daughter

5 Joanna Sahm to stop any and all financial control she

6 may think she has over me regarding her finances, did

7 you ever discuss this with your mother?

8 A. We've discussed that a lot. We've discussed
9 that since my father died, actually.

10 Q. And has your mother asked you about the
11 teaching pension and Social Security, why she doesn't
12 get to it any more?

13 A. We talk about it every day. And actually,
14 that's controlled by Charlie now, the guardian.

15 Q. So he controls everything, but the trust,
16 right?

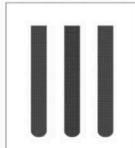
17 A. That is correct.

18 MS. GARCIA: Your Honor, I'd move this in as
19 Exhibit 5, you said.

20 THE COURT: -- five. Any legal objection to you?

21 MR. SWEETAPPLE: I'm going to object, because
22 it's not authenticated.

23 THE COURT: Well she's testified that she
24 recognizes the letter as being her mother's
25 handwriting, and she received it. What part was



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1 it the foundation?

2 MR. SWEETAPPLE: I just -- there was no
3 foundation she got it from her mother.

4 THE WITNESS: I didn't get it from my mother. My
5 mother was mortified when I showed it to her. It
6 was filed by Kevin Hall in another, I don't even
7 know what case it was filed in, but it was filed
8 by --

9 MS. GARCIA: Objection, no question pending.

10 THE COURT: I was asking --

11 MS. GARCIA: Oh, sorry, Your Honor.

12 THE COURT: -- Mr. Sweetapple.

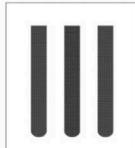
13 MR. SWEETAPPLE: Yeah, I didn't think there was
14 any predicate. And she created the impression
15 that she got it from the mother, but she didn't
16 get that from her mother, and she didn't get it
17 -- I can do it on cross.

18 THE COURT: She -- it was very clear that she did
19 not receive it. She received it in a Court
20 filing. I didn't know if you had any questions
21 for her on either voir dire --

22 BY MR. SWEETAPPLE:

23 Q. On voir dire I would say: Did you ever receive
24 that from your mother?

25 A. The letter?



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1 Q. Did you get that from your mother? That
2 letter?

3 A. No, I did not.

4 Q. All right. And did you ask your mother about
5 that?

6 A. Yes, I did.

7 Q. And what was her reaction?

8 THE COURT: So she's testified. But the question
9 that you're asking her on voir dire she's
10 testified to. I'll let you -- I'll certainly
11 give you leeway to redirect it, but I find that
12 there is a sufficient predicate laid to the
13 introduction of her to receive the evidence as a
14 defense filing.

15 MR. SWEETAPPLE: Okay.

16 MS. GARCIA: Your Honor, one moment and then I'll
17 be done. Thank you, Your Honor. We're finished
18 with the witness. Thank you.

19 THE COURT: Any redirect examination?

20 MS. GARCIA: And I'll just get my documents.

21 THE COURT: On any areas that have not been
22 covered.

23 MS. GARCIA: I'm just going to retrieve the
24 documents, Your Honor?

25 THE COURT: Go ahead, sure.



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1 MS. GARCIA: Thank you.

2 THE WITNESS: Thank you.

3 THE COURT: Any redirect examination?

4 MR. SWEETAPPLE: No.

5 THE COURT: No? Okay. May this witness step
6 down?

7 MR. SWEETAPPLE: Yes, sir.

8 THE COURT: All right. Thank you very much.

9 THE WITNESS: Thank you.

10 THE COURT: Step down. How many additional
11 witnesses do you have?

12 MR. SWEETAPPLE: I'm going to call Ms. Garcia,
13 and perhaps Mr. Bernstein.

14 THE COURT: Okay. And other than Mr. Garcia --

15 I'm sorry, Ms. Garcia and Mr. Bernstein, how many
16 additional items of evidence?

17 MR. SWEETAPPLE: Very limited.

18 THE COURT: Okay. We are getting -- we have 15
19 minutes left in the hearing.

20 MR. SWEETAPPLE: How much?

21 THE COURT: Fifteen, one five. We all set aside
22 three hours. So my proposition is, anybody need
23 a comfort break before we get going?

24 MS. GARCIA: Yes.

25 THE COURT: I won't -- I won't take it off, I'll



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1 give you an additional --

2 MR. SWEETAPPLE: Five minutes would be
3 appreciated.

4 THE COURT: Why don't we take five. Take five,
5 we'll come back, we'll regroup.

6 (OFF THE RECORD)

7 THE COURT: Okay, you ready to go, Mr. Court
8 Reporter?

9 THE REPORTER: Yes, sir.

10 THE COURT: All right. So we're back on the
11 record. Mr. Sweetapple here, Ms. Garcia here?

12 MR. SWEETAPPLE: Yes, I'm calling Ms. Garcia,
13 Your Honor.

14 THE COURT: What's the scheduling? Because --
15 practically speaking, are we going to conclude
16 your witness's testimony today?

17 MR. SWEETAPPLE: I --

18 THE COURT: Before the Court has to kick me out.

19 MR. SWEETAPPLE: It depends on where it goes. I
20 could finish it in 15 minutes.

21 THE COURT: Okay. And Ms. Garcia and Mr.
22 Bernstein, both their testimony?

23 MR. SWEETAPPLE: No -- no -- no, and I have -- I
24 may have a couple other witnesses, obviously.

25 THE COURT: Right. And I'm -- I don't want



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1 to --

2 MR. SWEETAPPLE: I'm not going to finish today.

3 THE COURT: -- I don't want to limit your proof.

4 I guess the question that I have is -- we

5 obviously need to continue that. There is a --

6 Ms. -- Ms. Garcia's indicated that she is

7 inclined to claim privilege, and we have a

8 stay --

9 MR. SWEETAPPLE: I'm not going to get into any of
10 the communications. Now this, I'm going to show
11 the Court something.

12 THE COURT: I just, I guess I just don't want

13 to --

14 MR. SWEETAPPLE: Related to this settlement. No
15 -- I'm not going to -- right now I will not get
16 into an argument about attorney-client.

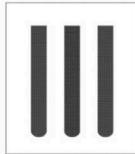
17 THE COURT: Okay. Just simple.

18 MS. GARCIA: That just -- my testimony on my case
19 achieves --

20 MR. SWEETAPPLE: There's a whole basis, a whole
21 ethical basis why this settlement is
22 unenforceable. But the record shows --

23 MS. GARCIA: Of course.

24 THE COURT: Could you face the clerk and raise
25 your right hand, she'll swear you in?



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1 THE CLERK: Do you solemnly swear or affirm that
2 the evidence you're about to give will be the
3 truth, the whole truth, and nothing but the
4 truth?

5 MS. GARCIA: I do.

6 TESTIMONY OF INGER GARCIA

7 DIRECT EXAMINATION

8 BY MR. SWEETAPPLE:

9 Q. Good afternoon, Ms. Garcia. You are a member
10 of the Florida Bar, are you not?

11 A. Yes, sir.

12 Q. And you were Counsel of record in this
13 foreclosure case on May 22, 2023, were you not?

14 A. Yes.

15 Q. And did you ever attempt to negotiate a
16 settlement agreement with me?

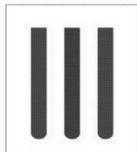
17 A. Yes, you were included in all the e-mails with
18 Mr. Raymond.

19 Q. And then -- and then and that settlement did
20 not result in a settlement, did it?

21 A. With --

22 Q. With Mr. Raymond. The one you negotiated with
23 Mr. Raymond?

24 A. No. What that settlement resolved in was this
25 actual settlement, and the language, the exact language



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1 was negotiated between me and Mr. Raymond, which you
2 were copied.

3 Q. Okay. And then did you -- did you --

4 A. So the settlement was prepared between March
5 13th and March 30th.

6 Q. And you --

7 A. Which you were copied on.

8 Q. Right. And you knew -- you knew when you were
9 negotiating with Mr. Raymond, that I was Counsel of
10 record for Ms. Sahm, right?

11 A. No. Amber Patwell. No, at that point, in
12 March 2013, I sent an e-mail to you and Mr. Raymond
13 asking you and Mr. Raymond to clarify to me what the
14 estate's rights were, where the power of attorney was.
15 Was Ms. Sahm cooperating, and had knowledge of the
16 settlement. So you were included in all these
17 communications, sir.

18 Q. So you knew that I was Counsel of record for
19 Ms. Sahm when you were dealing with Mr. Raymond,
20 correct?

21 A. In March 2000 -- in March 13, 2023, you were
22 Counsel of record in this case, yes. And Mr. Raymond
23 was the Counsel of record for the estate, because the
24 estate claimed to have rights also. So he also was
25 relevant to the negotiation, because the estate had



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1 rights.

2 Q. And before this settlement agreement was
3 signed by the -- was this settlement agreement signed by
4 the Bernsteins?

5 A. Excuse me?

6 Q. Was this settlement agreement signed by the
7 Bernsteins?

8 A. That settlement agreement was signed by the
9 Bernsteins, yes.

10 Q. On May 22nd, '23, correct?

11 A. I'm assuming that's the day of the notary that
12 they signed it.

13 THE COURT: When you all say, just so the
14 record's clear, so I'm clear. When you say,
15 "this," is that the document that's been entered
16 into evidence?

17 MR. SWEETAPPLE: Yes.

18 THE COURT: As Defense Exhibit number 4?

19 BY MR. SWEETAPPLE:

20 Q. Yes. Thank you, Your Honor. Yes. And did
21 you negotiate that agreement at all with Ms. Patwell?

22 A. Yes.

23 Q. Before it was signed?

24 A. Yes.

25 Q. Did you discuss it? When did you start



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1 discussing it with her?

2 A. I'd have to look at my records to tell you the
3 exact date, but I'm going to assume it was early May.

4 Q. But you knew at that time that I was Counsel
5 of record in the foreclosure case, and you didn't
6 negotiate with me, did you?

7 A. I negotiated with you through Mr. Raymond.
8 You never responded, as usual.

9 Q. In May -- in May, ma'am. I'm talking about
10 May. When you started negotiating with Ms. Patwell in
11 the beginning of May regarding this settlement, you knew
12 that I was the only Counsel of record for Ms. Sahm
13 through a power of attorney, correct?

14 A. No. Amber Patwell was retained by Ms. Sahm
15 before I negotiated with her. And she was retained by
16 Ms. Sahm specifically to stipulate in your position,
17 because she did not want you to be her lawyer.

18 Q. Okay. So you knew that. You knew that there
19 was an attempt to substitute Ms. Patwell for me,
20 correct? You knew that. You were aware that there was
21 an attempt to stipulate Ms. Patel for me as Counsel of
22 record in the foreclosure case, correct.

23 A. Ms. Patwell had already been retained for
24 purposes of this settlement and the foreclosure.

25 Q. She had -- and you've seen her retainer



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1 agreement?

2 A. Yes.

3 Q. Okay. And you represent Ms. Patel now -- Ms.
4 Patel now, right?

5 A. I don't represent Amber Pat -- Amber Patwell?

6 Q. Amber Patwell.

7 A. No. She represented your client.

8 Q. Didn't you say --

9 A. She is your Co-Counsel, sir.

10 Q. Didn't you say, in your motion to continue,
11 that you now represented Ms. Patwell?

12 A. No, I don't represent Ms. Patwell. I've never
13 represented Ms. Patwell. She's your client's attorney.
14 She's your Co-Counsel, she's the person that stipulated
15 it for you.

16 Q. So you knew that there was an attempt to
17 stipulate Ms. Patwell for me sometime in May, right?

18 A. Yeah, which you ignored. That's why she filed
19 an appearance.

20 Q. And that stipulation was never signed, right?

21 A. Yeah, you refused to sign it. You ignored it.
22 You ignored -- you ignored Morgan Weinstein when he
23 terminated you, you ignored your client when she
24 terminated you, and you ignored Ms. Patwell, when she
25 sent you the stipulation.



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1 Q. The fact is you knew there was going to be an
2 attempted stipulation for substitution of Counsel, and
3 you never contacted me about this settlement, right?

4 A. That's a compound question. So I can say
5 this. You refused to sign a stipulation and ignored it,
6 just like you ignored me. Ms. Patwell was retained --
7 is her attorney.

8 Q. Who sent who sent me a stipulation?

9 A. Ms. --

10 Q. Are you saying someone sent me a stipulation?

11 A. Yes, Ms. Patwell e-mailed it to you.

12 THE COURT: Now, you have an excellent -

13 MS. GARCIA: And Morgan --

14 THE COURT: -- hang on. You have an excellent
15 court reporter.

16 MS. GARCIA: Yes, sorry.

17 THE COURT: Who can only take down one person at
18 a time.

19 MS. GARCIA: Okay. We'll slow down. I can
20 finish the answer --

21 BY MR. SWEETAPPLE:

22 Q. The bottom line, Ms. Garcia.

23 A. Can finish the answer, sir?

24 Q. Let me withdraw the question and I'll start
25 again. You negotiated this settlement agreement with



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1 Ms. Patwell while I was the only Counsel of record in
2 this foreclosure case, correct?

3 A. No, not exactly. That's not how it exactly
4 happened.

5 Q. Well was Ms. Patwell -- when did Ms. Patwell
6 become Counsel of record in this case as filed a notice
7 of appearance?

8 A. Ms. Patwell --

9 :

10 Q. When did she file a notice of appearance?

11 A. Ms. Patwell became her attorney on May 1st.

12 Q. For her guardianship case?

13 A. No.

14 Q. Did she appear in a guardianship case,
15 anything?

16 A. She also was her attorney in the guardianship
17 case, which you guys approved and resolved with her.

18 Q. She filed a notice of appearance in a
19 guardianship case on May 1st, right?

20 A. I don't know what day she filed it without
21 seeing the record, sir.

22 Q. Okay. When did she file a notice of
23 appearance in this foreclosure case?

24 A. If you look at the Court record, apparently,
25 when you refused to sign a stipulation, she filed a



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1 notice of appearance on May 22nd, the day that her
2 client signed the settlement agreement. She appeared on
3 the same day that her client signed the settlement
4 agreement in this case.

5 Q. Can I see -- can I see please, the
6 stipulation, unsigned stipulation? You see this date
7 here? It's typed May 22, 2023. You put that in
8 evidence. That's when the proposed stipulation was
9 prepared, right?

10 A. I don't know when you-all prepared it. I know
11 that she became her attorney --

12 Q. You-all?

13 A. -- I know she became her attorney, I believe
14 it was May 1, 2023.

15 Q. In a guardianship case, right?

16 A. In this case also, she retained her.

17 Q. How do you know that?

18 A. It's in her retainer, I assume. You have a
19 copy, you produced it.

20 Q. Did you seen the -- have you seen the retainer
21 to see if she was retained for this case? While you
22 were dealing with Ms. Patwell to negotiate this
23 settlement when you knew I was Counsel of record, had
24 she given you any evidence that she was representing Ms.
25 Sahm in the foreclosure case?



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1 A. She -- Ms. Patwell was specifically hired by
2 Ms. Sahm because she wanted to settle this case, and she
3 was being ignored by her attorney, who she didn't know.
4 So she hired --

5 Q. Did you ever call me to see if that was the
6 case?

7 A. Why would I call you about your Co-Counsel and
8 your relationship with your client, sir? I tried to
9 negotiate with you in March. I spent hours and hours
10 drafting this agreement to find out it was even false,
11 that I was wasting my time negotiating with the estate
12 who had no rights.

13 Q. Okay.

14 A. Which you didn't substitute in and filed false
15 claims into bankruptcy court, sir.

16 Q. On May 22nd, there was a stipulation. Was it
17 signed by Amber Patwell?

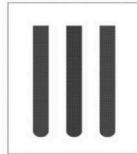
18 A. That document is not signed by her.

19 Q. Okay. And was it signed by me?

20 A. That document is not signed by either of you.

21 Q. And you knew your clients were driving over to
22 Ms. Sahm's house in the evening of May 22nd, right?

23 A. I don't know if I knew exactly what the
24 clients were discussing on their own. They, on their
25 own, since they've known each other for 30 years, I



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1 believe, or more, they decided that they wanted to
2 resolve this matter, sir.

3 Q. And --

4 A. And they resolved this matter. She hired an
5 attorney, who got run off by someone pretending like
6 they were the mom. You ignored all the settlements. She
7 hired Ms. Patwell specifically for this. And then, as a
8 result of her -- as a result of her -- of your client or
9 your former client withdrawing the power of attorney and
10 me disclosing to the bankruptcy court on April -- I
11 think it was 14th -- she started looking for a second
12 attorney, which was Ms. Patwell. So she might have even
13 hired her prior to that, and she had hired her
14 specifically because she was angry at the fact that this
15 foreclosure was still going forward the way it was going
16 without her knowledge, without her signature --

17 Q. You spoke to Ms. -- you spoke to Ms. Sahm
18 about all this?

19 A. No.

20 Q. Well then how do you know all this?

21 A. I was told this by -- by different people.

22 Q. And so, did you ever -- when you were
23 negotiating with Ms. Patwell, did you ever contact me to
24 see if I had been substituted out?

25 A. No. Because she hired her, and she called me



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1 and said, "I'm her attorney."

2 Q. But you knew -- you were negotiating this
3 whole settlement with Ms. Patwell while I was the only
4 attorney of record on the foreclosure, right?

5 A. She hired her. She was her attorney. She
6 wanted to settle the case. The parties on their own
7 settled the case. Ms. Patwell and I implemented the
8 settlement agreement that had already existed.

9 Q. So you reviewed this --

10 A. They agreed on the number.

11 Q. -- you reviewed this with Ms. Patwell, the
12 settlement agreement? You went over it with her?

13 A. I did not go over it with her. I sent it to
14 her and she, I think, took 15, 20 days to go over it
15 with the client, went over it with her client probably
16 over six or seven times.

17 Q. You sent this to Ms. Patwell?

18 A. Yes.

19 Q. When you knew I was the attorney? And you
20 sent the settlement agreement to Ms. Patwell in May,
21 before it was signed, when you knew I was Ms. Sahm's
22 attorney in the foreclosure?

23 A. Ms. Patwell was also retained to be her
24 attorney.

25 Q. What --



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1 A. She hired Ms. Patwell to resolve this matter
2 because she was sick of this.

3 Q. What evidence do you have of that? What do
4 you base that statement on? Something Ms. Patwell told
5 you?

6 A. Something that numerous people told me.

7 Q. Okay. And do you know that Ms. Patwell's
8 filed her notice of appearance on May 22nd at 6:37, or
9 something like that, p.m.?

10 A. Yes. She filed her appearance when the case
11 was settled, and she informed the Court immediately.

12 Q. Who told you that Ms. Patwell was authorized
13 to represent Ms. Sahm in this foreclosure settlement?

14 A. That's my understanding, is the whole purpose
15 she hired her.

16 Q. Who told you this?

17 A. I'm telling you my understanding first.

18 Q. Where'd you get it from?

19 A. Get what?

20 Q. The understanding that Ms. Sahm -- that █
21 █ was hired to handle this foreclosure in early
22 May?

23 A. Well you're asking me now to talk about
24 attorney-client privilege with my clients, and this is
25 why I wanted a ruling on the protective order.



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1 Q. Okay. So if this is -- if this is something
2 you got from your clients, then I don't want to get into
3 that. So --

4 A. This is between my clients, and also Ms.
5 Patwell.

6 Q. So the truth is that --

7 A. Ms. Patwell, at the time --

8 Q. -- the entire time you negotiated with Ms.
9 Patwell regarding this settlement, you knew I was
10 Counsel of record and you never e-mailed me, you never
11 called me, correct? In May of 2023? No communication
12 with me, right?

13 A. You'd been fired.

14 Q. Who said I was -- who was -- did the Court --

15 A. She hired Ms. Patwell.

16 Q. -- did the Court --

17 A. She fired you when she hired Mr. Morgan
18 Weinstein, I think it was April 11th. You refused to
19 acknowledge it. There's e-mails back and forth between
20 you and Mr. Weinstein, which Patty, Jr. had forwarded,
21 that were asking you to do the stipulation with Mr.
22 Weinstein. You said, "No, I can't. There's a power of
23 attorney problem."

24 Q. So you thought I was fired, and even though I
25 was Counsel of record and I hadn't been substituted in,



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1 you didn't -- you didn't communicate with me regarding
2 the settlement because you thought I'd been fired,
3 right? Is that what you're saying?

4 A. I didn't communicate with you because number
5 one, you were non-responsive. Number two, she hired
6 Morgan Weinstein, had a signed retainer with him as of
7 April 11th. He specifically, in his retainer, was hired
8 to settle this matter at even -- at whatever price they
9 had decided.

10 Q. So --

11 A. So your client had already decided to settle
12 this case on April 11th, but you continued to travel
13 forward with a dead defendant, and with a woman on a
14 power of attorney that had been revoked, and ignoring
15 us, wasting my time for weeks, to try to negotiate this
16 with -- with Mr. Raymond and Eileen O'Malley.

17 Q. So you intentionally decided not to
18 communicate with me regarding this settlement agreement,
19 even though you knew I was Counsel of record?

20 A. It had already been settled between the
21 parties.

22 Q. What do you mean it had already settled
23 between the parties?

24 A. The parties had already made their agreement.
25 The attorneys were retained.



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1 Q. This is an agreement regarding settling a
2 lawsuit.

3 THE COURT: Are you -- are you introducing
4 evidence, or are you all arguing with each other?

5 MR. GARCIA: I don't know.

6 THE COURT: Okay.

7 MR. SWEETAPPLE: I think I'm putting in evidence
8 of something that's happened that's a violation
9 of the bar rules, which would make this agreement
10 void just based on that.

11 THE COURT: Why don't you ask another question,
12 please?

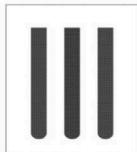
13 MR. SWEETAPPLE: Okay. You --

14 THE COURT: I don't disagree that you're
15 eliciting evidence that could be relevant, but
16 also we're just getting -- we're just arguing
17 with each other.

18 BY MR. SWEETAPPLE:

19 Q. And did you prepare -- did you draft this
20 agreement? The settlement agreement?

21 A. I drafted that agreement in March at the
22 request of John Raymond, which you were copied on every
23 e-mail in our communications. And that was drafted
24 because you-all led to me -- led me to believe the
25 estate and Joanna Sahm were the only ones with rights



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1 because Pat Sahm was incapacitated. And I'm the one
2 that brought up the fact maybe she needs a guardian, and
3 as a result, John put in writing she doesn't need a
4 guardian. But at the same time, his law firm, through
5 Eileen O'Malley, files a guardianship to stop the
6 settlement. You guys are the ones that are playing the
7 games, not us.

8 Q. Who's us?

9 A. You're blaming me and Amber, your Co-Counsel,
10 of manipulating your client into signing a settlement
11 agreement. You're making these aggressive allegations
12 against us, threatening and setting us up with bar rules
13 when your client fired you, hired two other lawyers --

14 Q. So you decided that my --

15 A. -- and settled the case.

16 Q. You made a decision, even though I was Counsel
17 of record, that my client had fired me and that she was
18 competent to have fired me. You made that decision,
19 right?

20 A. I didn't make the decision. Your client did.
21 She signed retainers with two other lawyers.

22 Q. You made the decision --

23 A. Who told you, and you refused to sign a
24 stipulation, sir.

25 Q. So you -- so -- and that's why -- that's why



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1 you refused to deal with me regarding the settlement?

2 A. There was no reason for me to deal with you
3 regarding the settlement. My job had already been done
4 back in March. This settlement was drafted in March,
5 sir.

6 Q. This is -- this is -- this is a settlement
7 that deals with what's going to happen with the final
8 judgment, right?

9 A. Yes.

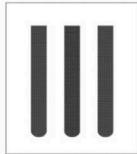
10 Q. And it's a set -- it's a settlement that deals
11 with what's going to happen with regard to selling a
12 piece of real estate, right?

13 A. Not selling it. The case settled, sir. The
14 money's been sitting in the Court registry, which the
15 Co-Defendant, Mr. Rose, in conjunction with Ted
16 Bernstein and -- I don't know whether it's your office
17 or Brad's office or whoever -- the money's been sitting
18 in the Court registry to pay this since the day it
19 settled.

20 Q. And you never filed a motion to stay this case
21 based on this settlement, did you?

22 A. No. I -- as a courtesy, Mr. Rose asked me to
23 wait and see what happened with the guardianship --

24 Q. Can -- what she said, can you answer yes or
25 no --



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1 A. -- of Anthony --

2 Q. -- and then explain: Did you ever file a
3 motion in this Court to enforce this settlement?

4 A. No.

5 Q. Okay. Did you ever file a motion to stay this
6 case based on this settlement?

7 A. In my motion --

8 Q. Yes or no, please. Did you ever file a motion
9 to enforce this settlement?

10 A. I believe that in my 1.540 I filed just to
11 preserve the record because I knew you guys would
12 contest this, just knowing the way you litigate, that I
13 mentioned in my 1.540 about this settlement and about
14 the party's actions and about why I had to file the
15 1.540, and the fact it was settled and the fact that the
16 money was sitting in the Court registry ready to pay.
17 But Mr. Rose asked me not to take it out of the
18 registry. He said, "Just wait."

19 Q. You drafted this? You drafted it?

20 A. I drafted it with your approval, because you
21 wanted e-mails with your -- with John's approval. We
22 drafted that settlement.

23 Q. I didn't have any drafting, did I? I --

24 A. You were there on every e-mail, sir. You had
25 every opportunity to comment. You had every opportunity



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1 to respond. And when he told me to respond to you, you
2 never once responded.

3 Q. Would you -- would you tell me when the
4 money's due under this agreement? When is the -- when
5 is the closing --

6 A. The money is -- sorry.

7 Q. -- when's the closing on this settlement in
8 this agreement? When's it due? And I'll save you some
9 time, isn't it a fact that you prepared an agreement for
10 the payment of money to settle a case, and you have no
11 payment date due? And it's now a year-and-a-half since
12 this document was purportedly executed, and there's no
13 date that any money's due, ever?

14 A. You've been a party to the communications and
15 you fully well know that Judge Laura Johnson has set
16 aside in the Court registry funds to satisfy this
17 settlement. I have filed numerous motions to release
18 those funds, and it's case 52 -- what is it? Let's see.

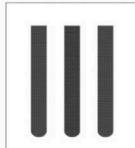
19 Q. Did you -- did you --

20 A. Hey. Excuse me, sir.

21 Q. -- do you know my question? My question is:
22 Is there a date --

23 A. 214 --

24 Q. -- that's due in this agreement, ma'am? I
25 don't -- I'm not asking you --



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1 A. Yes.

2 Q. What -- when is the payment due under this
3 agreement? When do the Bernsteins have to give the
4 Sahms money?

5 A. As soon as it would be released from the Court
6 registry in front of Laura Johnson, West Palm Beach
7 Court case 214-CP-3698, and it's Shirley Bernstein
8 Trust. The attorney for Patricia Sahm will attend the
9 Zoom hearing and fully support the settlement agreement,
10 the release of funds, and will assist with the
11 conclusion of the foreclosure case only as to the true
12 parties in interest of the first mortgage, not the
13 estate. The true party in interest, which was Patricia
14 Sahm individually, not through a power of attorney,
15 Patricia Sahm individually.

16 Q. So what's the date?

17 A. So --

18 Q. What's the date? What's the latest date that
19 -- that money can be paid under this agreement --

20 A. The money's --

21 Q. -- Ms. Sahm signed?

22 A. -- the money is sitting in a Court registry to
23 be -- to be released when and if this Court determines
24 the settlement's valid or not. The second that it's
25 determined that this -- this settlement is valid, a



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1 court order can be issued to Laura Johnson -- or she's
2 not there anymore, but her division, and the funds will
3 be released immediately. The funds have been sitting
4 there tied up because you guys wasted a year-and-a-half
5 contesting this settlement with no basis.

6 Q. Excuse me, wasn't it your duty, if you have a
7 settlement agreement on behalf of the Bernsteins, to
8 come into court and to move to enforce it? Wasn't that
9 your burden?

10 A. No.

11 Q. If you think there's a settlement agreement?

12 A. No. That's your -- that's your Co-Counsel.
13 Your Co-Counsel was the attorney on the guardianship.
14 Once the guardianship was filed, your -- and the
15 determinations weren't made by the committee members,
16 and we were waiting for the final determination, it was
17 a strategic decision made by your client's attorney and
18 I, Mr. Rose, you were copied, and I think you even filed
19 -- I don't even know if you filed objections. I don't
20 remember. But you know, and everybody knew, these funds
21 had been sitting in designated after numerous court
22 hearings solely for the settlement. The funds are still
23 sitting there, right? They're still holding up my
24 attorney's fees for a year-and-a-half. They're holding
25 up the kids to get their money because you guys decided



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1 to contest the settlement a year later. I think you
2 waited a year to file this motion to set this aside.

3 Q. Because you never moved to enforce it, and I
4 had to wait for judges to be disqualified, guardians to
5 be appointed --

6 THE COURT: -- we're arguing, okay?

7 MR. SWEETAPPLE: I'll finish. I'll be ready to
8 suspend in a second.

9 BY MR. SWEETAPPLE:

10 Q. Let me just get clear on this. The settlement
11 was signed without any communication with me as Counsel
12 of record for the plaintiff; correct? Yes or no?

13 A. I don't know.

14 Q. Okay.

15 A. I don't know what your conversations were with
16 your Co-Counsel, sir.

17 Q. With you? With you? With you? No --

18 A. I had no obligation to speak to you. I was
19 speaking to your Co-Counsel, the man -- the -- I mean,
20 the woman who represented your client.

21 Q. You spoke to her what, after she appeared in
22 the case at 6:37 on the 22nd?

23 A. She was --

24 Q. And that -- and then -- no attorney signed
25 that settlement agreement regarding this lawsuit, right?



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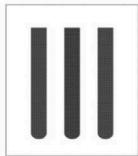
1 It's only signed by some of the clients in the
2 litigation. Some of the -- some of the parties in the
3 litigation signed this, right? Not all of them.

4 A. All the parties don't have to sign a
5 settlement agreement. The relevant party, the plaintiff
6 -- the only real plaintiff, Patricia Sahm, Sr., signed
7 the settlement agreement with the advice of her
8 attorney.

9 Q. And when you prepared it, you didn't put any
10 signature blocks for attorneys to settle litigation, did
11 you?

12 A. The document discusses how it would be handled
13 once the funds were released.

14 Q. And I provided -- you got a copy of
15 Plaintiff's Request for Judicial Notice on -- that was
16 filed April 18th, the day after the guardianship. I
17 told the Court that Plaintiff is a surviving spouse and
18 owner of the note, which was the subject of the incident
19 lawsuit. That's one. Two, undersigned Counsel has been
20 advised that a revocation of the current power of
21 attorney held by Ms. Sahm's daughter, Joanna, has
22 recently been executed. Undersigned Counsel spoke
23 directly with Plaintiff, Patricia Sahm, yesterday. Ms.
24 Sahm indicated she was unaware of any such revocation
25 and still wanted undersigned Counsel to represent her in



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1 this matter. Four, the Court is further advised and
2 requested to take judicial notice of the pending
3 guardianship matters regarding the plaintiff in the 15th
4 Judicial Circuit filed on April, the respective case
5 numbers I provided. So even though I filed with the
6 Court a notice that there was a guardianship, a notice
7 that my client indicated to me that she did not want to
8 revoke her power of attorney, even though you had this
9 in your hand on the -- on the 18th of May 2023, you
10 still went forward and negotiated with Ms. Patwell to
11 get this case settled for your clients, right?

12 A. This case had been settled prior between the
13 clients.

14 Q. This is --

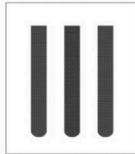
15 A. The client hired -- the client hired --

16 Q. Excuse me. Excuse me. I'm going to withdraw
17 the question. Do you understand that this settlement of
18 this lawsuit had to be in writing?

19 A. It is in writing. It's in the settlement on
20 Page four.

21 Q. Okay. So why do you need --

22 A. Page four, D -- 2(d), sir. It says, "If Court
23 orders are necessary in either the Walter Sahm probate
24 case in Marion County or the Palm Beach foreclosure case
25 or the Shirley Bernstein trust case, the parties agree



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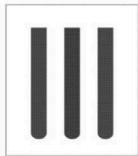
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1 to fully cooperate and file the needed joint agreed
2 motions to confirm the settlement to release the funds
3 as agreed and to file the dismissal of the foreclosure.
4 No other party or person can interfere with this
5 agreement, cause any further delays in releasing said
6 funds, or cause the property at issue to sell the
7 foreclosure sale." Meanwhile, you filed a motion to
8 resell the house. "There are no other interested
9 parties to these funds or the home at issue. The
10 parties shall cooperate jointly with any title company
11 or lender per this agreement. At the final payment of
12 the clearance, full satisfaction" -- sir -- "will be
13 reported" --

14 Q. I don't need you to read -- I don't need you
15 to read the agreement, ma'am.

16 A. -- "and the pending foreclosure lawsuit will
17 be dismissed with prejudice. The parties will appear
18 before Judge Bella to foreclosure if needed, and inform
19 the Court of the settlement, and to file the dismissal
20 with prejudice, and to record the satisfaction of
21 mortgage. No party or other person is to interfere with
22 the settlement or cause the party to be sold." So once
23 your client signed this settlement, sir, you didn't
24 cooperate. You guys instead filed for sanctions and
25 actions against Amber and I, claiming we somehow or



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1 another took advantage of your client.

2 Q. And operated behind my back, Counsel of
3 record. And --

4 THE COURT: Are we -- are we arguing?

5 MR. SWEETAPPLE: Yeah. Let me -- let me -- let
6 me -- I know you want to --

7 THE COURT: I want evidence. I --

8 MR. SWEETAPPLE: I understand. I --

9 THE COURT: I don't want you-all to argue. You-
10 all have been arguing back and forth through e-
11 mails.

12 BY MR. SWEETAPPLE:

13 Q. So how long has Mr. Reward been the guardian?

14 A. I believe in late June, he became the
15 guardian.

16 Q. Of what year?

17 A. Of 2023.

18 Q. So more than a year ago?

19 A. Yes. He became the guardian, I think, a month
20 after this settlement was done, and this settlement has
21 been brought up a lot in front of Judge Burton.

22 Q. And so if he had to -- so in order to
23 implement the settlement, he would have to sign a
24 satisfaction of mortgage, right?

25 A. I'm not sure who would sign what at this



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1 juncture.

2 Q. Have you thought about the fact that the
3 guardian at this point -- who -- are you -- are you --
4 do you expect Ms. -- Ms. Sahm to sign a satisfaction of
5 mortgage and note when she's incapacitated?

6 A. Well her capacituation is now at issue again,
7 sir, by the way, because you filed another petition to
8 take away all of her rights, which reopens the door to
9 all the initial issues. And it's a lot of fraud and a
10 lot of mistakes that are being investigated by the --

11 Q. Okay. So --

12 A. So her capacity is still at issue when it
13 comes to moving forward.

14 Q. There's a final order --

15 A. But I would assume --

16 Q. -- of incapacity --

17 A. I'm sorry.

18 Q. And it's been more than 14 months, and the
19 fact is you have taken no action as to Mr. Revard to
20 have him do anything with regard to this settlement,
21 right?

22 A. Actually, that's not true. I sent you an e-
23 mail because this settlement agreement was to put the
24 funds into Amber Patwell's trust, and I sent you an e-
25 mail telling you I would put them into your trust or



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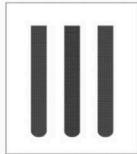
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1 wherever the guardianship court directed the funds to
2 go, and to handle it based on whatever the Courts tell
3 us we need to do. It's you guys -- when I say, "you
4 guys," I mean, Joanna and Charlie acting on her behalf -
5 - that have delayed this, that have waited over, I
6 think, a year to file a motion to set it aside, and have
7 been coming after Ms. Patwell and I for depositions,
8 attorney-client privilege information, and refusing to
9 sign it, claiming some nefarious action by us with no
10 proof. She signed this with an attorney legitimately,
11 and the fact that you're alleging that her and I did
12 anything unethical or improper is disgusting.

13 Q. Well I am alleging that, and that's why I'm
14 asking these questions. And the Court's already found -
15 - federal Court's already found something you did was
16 unethical, correct?

17 A. I'll tell you one thing about that, sir. That
18 was a complete set-up by you guys. It's not true. You
19 were misrepresenting to the Courts, and there's motions
20 going to be filed to set that aside, as well as a
21 fraudulent injunction, as well as the fraudulent claims
22 filed by the State, who had no rights. And that has
23 nothing to do with this legitimate settlement, sir.

24 Q. My client didn't file the bankruptcy; your
25 client did. And so, you didn't -- you didn't file this



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1 settlement agreement in this case until November 29,
2 2023, correct?

3 A. No. I believe the day -- well the day after
4 the settlement was entered into the Court was informed
5 that there was a settlement.

6 Q. Which court?

7 A. The foreclosure court, through my motion and
8 through -- and through Patwell that my motion clearly
9 says there's a settlement, Judge. And basically --

10 Q. When was that filed? When did you say that
11 was filed?

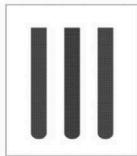
12 A. I think it was filed, like, May 22nd, May
13 23rd, May 24, 2023.

14 Q. And when's the first time you filed this
15 purported settlement agreement in the foreclosure case?
16 November 29th?

17 A. I -- I haven't filed it in the foreclosure
18 case itself.

19 Q. You did file it.

20 A. Your attorney, your -- your -- your former Co-
21 Counsel would've filed it and filed a dismissal after
22 cooperation. But since this has been done, you guys
23 have not cooperated. You keep saying this settlement's
24 no good, this settlement's no good, you guys are
25 nefarious, you guys are unethical. And you-all are



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1 holding it up for no reason.

2 Q. When is the first time you even filed a copy
3 of this settlement agreement in this Court file?

4 A. I haven't filed anything in this Court file, I
5 don't believe.

6 Q. You aren't aware of --

7 A. Except for my 1.540 Motion.

8 Q. You're not aware you had drafted it as an
9 exhibit and did a notice of filing November 29, '23,
10 which is the first time you ever produced this
11 settlement agreement in this case?

12 A. Well that's not true, because your -- her
13 attorneys had this settlement since the day it was
14 signed, sir. And she filed an appearance that day --

15 Q. You mean Ms. Patwell? You mean Ms. Patwell?

16 A. Ms. Patwell. Yes. I'm sorry, sir. You're
17 right. Ms. Patwell, who filed an appearance, had this
18 settlement agreement since the day it was signed.

19 Q. Has she ever substituted for me?

20 A. She doesn't.

21 THE COURT: We're just arguing, sir.

22 MR. SWEETAPPLE: Your Honor, I'm -- I -- I'm
23 going to need to take her depo before I get into
24 the attorney-client, because I'm going to be
25 arguing the crime fraud exception and be asking



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1 for motions to compel testimony. So I -- I'm --
2 I'm not going to get into that.

3 THE COURT: So are you done with Ms. Garcia? Can
4 she go back to Counsel table?

5 MR. SWEETAPPLE: Yeah. I'm just going to -- if
6 we could suspend now, I'll -- I'm going to be
7 asking -- to have them schedule a conference, so
8 I can finally take these --

9 THE COURT: Why don't we -- why don't we have Ms.
10 Garcia go by a microphone, just so everybody pick
11 her up and we can discuss schedule? I think we
12 have to schedule a time. Let me -- I just told
13 you to go by the microphone, and I started
14 talking. So let me let you get to the
15 microphone.

16 MR. GARCIA: Is this your copy or the judge's,
17 sir?

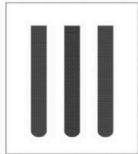
18 THE COURT: Is the settlement agreement, was that
19 ever moved into evidence?

20 MR. GARCIA: No.

21 THE COURT: Why?

22 MR. GARCIA: I was going to call my clients in to
23 authenticate it, Your Honor. But if there's no
24 objection, we can move it into evidence.

25 THE COURT: Mr. Sweetapple?



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1 MR. GARCIA: Mr. Sweetapple, do you have an
2 objection to the settlement agreement being moved
3 into evidence, sir?

4 MR. SWEETAPPLE: Only that I don't believe it was
5 -- we're going to preserve my argument that it
6 wasn't properly executed by a competent
7 individual.

8 THE COURT: Let's ask -- let me ask. Practically
9 speaking, you want me to set aside this
10 agreement?

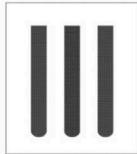
11 MR. SWEETAPPLE: Right. And it's --

12 THE COURT: And are you objecting to me
13 introducing into evidence? How am I going to set
14 it aside if I don't have it in evidence?

15 MR. SWEETAPPLE: Well it's an exhibit. It's
16 attached to my motion. It's in the Court file.

17 THE COURT: That doesn't mean it's in evidence.
18 Do you have an objection to it being received in
19 evidence?

20 MR. SWEETAPPLE: The only objection I have is
21 that it has not been authenticated by Ms. Sahm,
22 and I don't think she's capable of authenticating
23 it because she's not competent to testify. And I
24 guess we'll -- if they try to call her, we'll get
25 into that debate with --



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1 THE COURT: I -- I'm going to --

2 MR. SWEETAPPLE: -- your Honor --

3 THE COURT: -- I'm going to admit it into
4 evidence over objection as --

5 THE CLERK: Six.

6 THE COURT: -- Defendant's Exhibit number 6.

7 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

8 THE COURT: All right. For scheduling purposes,
9 we have the case management conference --

10 MR. GARCIA: The 19th, I believe, sir.

11 THE COURT: -- the 19th -- 19th; is that correct?

12 MR. GARCIA: Yes.

13 MR. SWEETAPPLE: Yes.

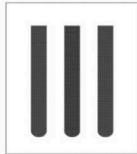
14 THE CLERK: Yes.

15 THE COURT: All right. How much more do you
16 anticipate? Have you-all had any conversations
17 whatsoever about narrowing the issues for this?

18 MR. GARCIA: I wish.

19 THE COURT: Well aren't you supposed to before
20 filing a motion or having a hearing? I don't
21 know why we're spending so much time arguing
22 about whether or not the settlement agreement
23 that I'm being asked to set aside is admissible
24 in evidence for me to consider.

25 MR. SWEETAPPLE: Well I think I --



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1 THE COURT: I just -- I -- I'm having --

2 MR. SWEETAPPLE: I think -- I think in this
3 matter I have to preserve the record by saying I
4 don't think it was executed due to --

5 THE COURT: Well the whole point of the motion is
6 to say that the settlement agreement exists, but
7 it shouldn't count, right?

8 MR. SWEETAPPLE: Well if it wasn't properly
9 executed, it may not exist.

10 THE COURT: But the paper --

11 MR. SWEETAPPLE: I mean, the document exists,
12 but --

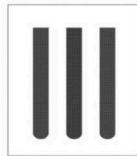
13 THE COURT: Right.

14 MR. SWEETAPPLE: -- is it -- you know, the
15 document can come into evidence, but I'm saying
16 it may be --

17 THE COURT: That's all I'm asking.

18 MR. SWEETAPPLE: Yeah.

19 THE COURT: That's all I'm asking. Before our
20 next -- I don't know if I previously ordered it,
21 but before our next -- before the scheduling
22 conference, I'm ordering you all to discuss what
23 the -- to narrow the issues, because we're not
24 going to have a trial, a full trial, as to all
25 the previous issues. We're here for one motion



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1 and one motion only, and we are spending a lot of
2 time on wholly collateral issues and issues that
3 may be very personally relevant to each of you.

4 And I -- and I don't say this to minimize
5 anybody's stake in the matter, but it's just a
6 waste of Court time. It just is a waste of Court
7 time to go over the same things over and over
8 again. I'm taking notes. You've seen me up here
9 taking notes here. We have a court reporter
10 taking notes. You-all need to get together --

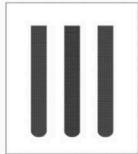
11 MR. SWEETAPPLE: Well maybe what we can do is
12 ascertain now to help us who Ms. Garcia intends
13 to call, who I intend to call, and --

14 THE COURT: And then, I'm ordering you-all to
15 meet and confer. Can you decide that and then
16 file a joint status report --

17 MR. SWEETAPPLE: Okay.

18 THE COURT: -- for the scheduling conference so
19 that I know how much time we should realistically
20 have to set aside? And then, at the scheduling
21 conference, you are scheduling the deposition as
22 well as the Motion for Protective Order; is that
23 correct?

24 MR. SWEETAPPLE: Yeah. I was trying to take Ms.
25 Garcia and Ms. Patwell's depos --



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1 THE COURT: Right.

2 MR. SWEETAPPLE: -- and were not provided dates.

3 THE COURT: Right.

4 MR. SWEETAPPLE: So.

5 THE COURT: Are you able to provide him dates in
6 advance of the scheduling order, or do we need to
7 have a hearing where I would have to hear whether
8 or not I should order you to require deposition
9 dates?

10 MR. GARCIA: We can legitimately try to work
11 through the dates, the witness list, the exhibit
12 list, and we'll do it like a normal trial, you
13 know, or a normal hearing and try to -- I mean,
14 try not --

15 THE COURT: Why wasn't it done ahead of time?

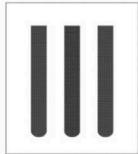
16 That's what you're supposed to do as members of
17 the Florida Bar. You guys know this.

18 MR. GARCIA: It -- it's pretty hard, Your Honor.

19 THE COURT: All we can do is try.

20 MR. GARCIA: Yep.

21 THE COURT: So I'm going to order you-all to meet
22 and confer, narrow the issues. If you can come
23 up with some deposition dates that work for the
24 both of you, that would take one issue off. I am
25 starting a trial tomorrow. I may be in trial



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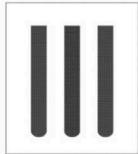
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1 during the 19th. So if I -- we're anticipating
2 that the jury will be out, so it shouldn't be an
3 issue. But the less time that we spend over
4 stuff that you-all can come to agreements on, the
5 better it is for everybody. We'll address those
6 two issues, the scheduling of the protective
7 order. If you want to also provide some dates
8 for the Motion for Protective Order, and if you
9 want to come up with a reasonable amount of time
10 that you think I'm -- presuming you oppose it, so
11 a reasonable amount of time that we would need to
12 have argument on that. This way, we can start
13 looking for times that accommodate you-all. And
14 then, from that point in time, once I get it,
15 please give a courtesy copy of the status report
16 to the divisional e-mail. Because if it gets
17 filed, I probably -- it probably won't come to
18 me. Nothing against the Court, it's really
19 great. But --

20 MR. GARCIA: Your Honor, I'd like to make a
21 suggestion. I don't know if it's even possible
22 or not, but we are willing to try to mediate this
23 case if they're willing to try to mediate this
24 case to try to resolve this once and for all.

25 THE COURT: If you-all want to do that, you can



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1 speak to each other and tell me that at the case
2 management conference. If you need an order from
3 me and you agree to the order, then I'll sign an
4 order. It sounds like a good idea, but I'm not
5 going to take that up today.

6 MR. GARCIA: Right.

7 MR. SWEETAPPLE: And it is Zoom on the 19th,
8 correct?

9 THE COURT: Yes, sir. Correct. The 19th is
10 Zoom.

11 MR. SWEETAPPLE: All right. Thank you for
12 hearing us, Judge. Sorry --

13 THE COURT: Part of my job is to be gruff, tough,
14 and mean --

15 MR. GARCIA: We do appreciate -- we do appreciate
16 you a lot, Your Honor, and we thank you for
17 everything you do. And Counsel, and Charlie --

18 THE COURT: Just doing my job.

19 MR. GARCIA: And I gave -- did I give you a copy
20 of the transcripts?

21 THE CLERK: No.

22 THE COURT: All right.

23 MR. GARCIA: Judge, I have a copy of the
24 transcripts for you. Do you want it
25 electronically or hard copy?



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1 THE COURT: The transcripts of what?

2 MR. GARCIA: For all the guardianship hearings.

3 THE COURT: Is there an agreement --

4 MR. SWEETAPPLE: We haven't agreed to that.

5 THE COURT: So why don't you give it to Counsel,
6 because I think you had said that you hadn't
7 gotten a chance to review it?

8 MR. GARCIA: Yes. I'll do a Notice of Filing,
9 Your Honor.

10 THE COURT: You can do that.

11 MR. GARCIA: I'll just do it that way.

12 THE COURT: You can do that.

13 MR. GARCIA: Okay.

14 THE COURT: If that's something that you all want
15 me to consider as evidence in this hearing --

16 MR. GARCIA: Yeah -- yeah.

17 THE COURT: -- then why don't you give it to
18 Counsel, and see the file -- well wait. Before
19 you do a Notice of Filing --

20 MR. GARCIA: It's confidential.

21 THE COURT: Ms. -- Ms. Lewis, you practice
22 primarily in guardianship. Are they --

23 MS. LEWIS: I do.

24 THE COURT: -- are those -- are those transcripts
25 confidential, such that they should be kept out



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1 of the Court file?

2 MS. LEWIS: So if it was something that was in
3 the mental health file, those would be
4 confidential. If they are guardianship files,
5 you know, I think that's more of a question for
6 the Clerk because generally, when we're at work
7 with public access, guardianship cases are not
8 publicly accessible. So I do think that probably
9 should be a --

10 THE COURT: You may want to --

11 MS. LEWIS: -- a confidential file with it, Your
12 Honor.

13 THE COURT: -- you may want -- yeah. You may
14 want to do --

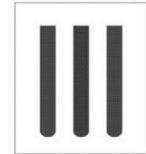
15 MS. LEWIS: No problem.

16 THE COURT: Okay.

17 MS. LEWIS: Yes. Thank you, sir.

18 THE COURT: All right. Thank you all.

19 (HEARING CONCLUDED AT 5:01 P.M. ET)



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1 C E R T I F I C A T E
2

3 STATE OF FLORIDA)

4 COUNTY OF ORANGE)

5
6 I, MARK SILVER, Court Reporter and Notary Public
7 for the State of Florida at Large, do hereby certify
8 that I was authorized to and did report the foregoing
9 proceeding, and that said transcript is a true record of
10 the said proceeding.11
12 I FURTHER CERTIFY that I am not of counsel for,
13 related to, or employed by any of the parties or
14 attorneys involved herein, nor am I financially
15 interested in said action.16
17 Submitted on: August 21, 202418
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MARK SILVER

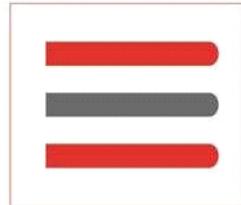
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1 IN THE CIRCUIT COURT OF THE FIFTEENTH
2 JUDICIAL CIRCUIT IN AND
3 FOR PALM BEACH COUNTY, FLORIDA
4 CIRCUIT CIVIL DIVISION: "AO"
5 CASE NO.: 50-2018-CA-002317-XXXX-MB

ORIGINAL

6
7 WALTER E. SAHM,
8 CHARLES REVARD AS GUARDIAN OF THE WARD PAMELA A SAHM,
9 Plaintiff/Petitioners

10
11 vs.

12
13 BERNSTEIN FAMILY REALTY LLC,
14 ALL UNKNOWN TENANTS,
15 BRIAN O'CONNELL,
16 et al.,
17 Defendant/Respondents.

18
19
20
21 WITNESSES: DR. STANLEY BLOOM
22 KATHRYN LEWIS
23 INGER GARCIA

24 DATE: JANUARY 28, 2025
25 REPORTER: FLOR LOPEZ

1 APPEARANCES

2 ON BEHALF OF THE PLAINTIFF, CHARLES REVARD, AS GUARDIAN
OF THE WARD PAMELA SAHM:3 Robert A. Sweetapple, Esquire
Cynthia Miller, Esquire
4 Sweetapple, Broeker & Varkas, P.L.
4800 North Federal Highway
5 Suite 306D
Boca Raton, Florida 33431
6 Telephone No.: (561) 392-1230
E-mail: pleadings@sweetapplelaw.com
7 E-mail: cmiller@sweetapplelaw.com8 ON BEHALF OF THE DEFENDANT, BERNSTEIN FAMILY REALTY,
LLC., ELLIOT & CANDICE BERNSTEIN, INDIVIDUALLY & AS
9 NATURAL GUARDIANS OF MINOR CHILDREN, ALL UNKNOWN
TENANTS:10 Inger M. Garcia, Esquire
Postal Ctr
11 7040 Seminole Pratt Whitney Road
Suite 25-#43
12 Loxahatchee, Florida 33470
Telephone No.: (954) 451-2426
13 E-mail: serviceimglaw@yahoo.com
14 Also Present: John Parnofielo, Honorable Judge; Kathryn
Lewis, Esquire, observing in court room; Candice
15 Bernstein, Defendant; Hilary Hogue, Guardianship
Improvement Task Force, on zoom; Zoraida Navarro, M.D.,
16 Advocate for the Elderly, on zoom; Kathleen Bosse,
Observing on zoom; Luanne Fleming, Observing on zoom;
17 Ale Carrino, Observing on zoom; Danny Mojo, Observing on
zoom; William Stransbury, Observing on zoom
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1 STIPULATION
2
3

3 The hearing was taken at Palm Beach County Courthouse,
4 205 North Dixie Highway, West Palm Beach, Florida 33401,
5 on TUESDAY the 28TH day of JANUARY, 2025 at
6 approximately 11:05 a.m. (ET); said hearing was taken
7 pursuant to the FLORIDA Rules of Civil Procedure.

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1 PROCEEDINGS

2 THE COURT: Good afternoon, everybody. You all
3 could be -- or I guess it's still morning. Good
4 morning, everybody. You can be seated.

5 MR. SWEETAPPLE: Good morning, Your Honor.

6 THE CLERK: Good morning.

7 THE COURT: Hold on one second.

8 THE CLERK: You want to give the name, Your
9 Honor?

10 THE COURT: Sure.

11 We're here on case 2018-CA-2317. May I have
12 the appearances of the parties, please?

13 MR. SWEETAPPLE: Your Honor, Robert Sweetapple
14 and Cynthia Miller here on behalf of the plaintiffs.

15 THE COURT: Good morning, Mr. Sweetapple, Ms.
16 Miller.

17 MS. GARCIA: Good morning, Your Honor. Inger
18 Garcia on behalf of the defendants, BFR Limited and
19 the five Bernstein individually.

20 THE COURT: Good morning, Ms. Garcia.

21 MS. GARCIA: I have one of my clients present,
22 Mrs. Candice Bernstein.

23 THE COURT: Good morning, Ms. Bernstein.

24 MS. BERNSTEIN: Hello.

25 MS. LEWIS: And good morning, Your Honor.



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1 Kathryn Lewis also on behalf on Charles Revard, the
2 guardian. Although I'm not counsel of record, I'm
3 here in advisory capacity in this case.

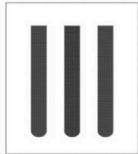
4 THE COURT: Good morning.

5 And let's see. Let me just put everybody on
6 mute. Anyone -- any attorneys on Zoom that need to
7 enter an appearance? No? Okay.

8 All right. So we had begun taking evidence on
9 Mr. Sweetapple's motion. And we bifurcated Ms.
10 Garcia's motion. Then we were -- we ran out of
11 time. We tried to call up the case for Hurricane
12 Milton, tried to call up the case for Hurricane
13 Helene. And now we're here for the conclusion of
14 the presentation of evidence on the two matters.

15 I think when we broke, we were in the middle of
16 Mr. Sweetapple's direct examination. So Mr.
17 Sweetapple, do you have any additional witnesses or
18 evidence that you'd like to present?

19 MR. SWEETAPPLE: Yes, Your Honor, if it pleases
20 the Court. I showed Ms. Garcia a number of
21 documents, most of which are for judicial notice,
22 because it's my position, and this case is
23 ultimately a matter of law. I did put in reports
24 from the examining committee, but the Court was
25 concerned about them being hearsay. And even though



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1 I believe this is a collateral estoppel argument,
2 and that Judge Burton clearly ruled that he relied
3 on those, the Court indicated, well, the date could
4 be hearsay.

5 So I indicated that I would call Dr. Bloom and
6 Dr. Cheshire. They're going to be 15 minutes each,
7 half an hour each, but they're not available until
8 1:30 and 2:00.

9 THE COURT: Okay.

10 MR. SWEETAPPLE: So after I put in these
11 exhibits, which I believe Ms. Garcia has no
12 objection to, I won't have any witnesses to call
13 until then, and she can proceed.

14 THE COURT: Okay.

15 MR. SWEETAPPLE: All right, so if I -- if I
16 may, the -- I'm going to move in and what exhibit
17 number are we on now?

18 THE CLERK: We're onto 5. So 5 would be the
19 next one.

20 MR. SWEETAPPLE: Thank you. And I can hand
21 these to your clerk of the Court?

22 MS. GARCIA: I'd like to also take them.

23 THE COURT: Just -- I -- just show them to Ms.
24 Garcia first, if there's any objections.

25 MR. SWEETAPPLE: Yes. Well, I showed her



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1 earlier. So you want me to just hand it to the
2 clerk to mark?

3 THE COURT: Let me see if Ms. Garcia has an
4 objection. So that's --

5 MR. SWEETAPPLE: For identification, at least.

6 THE COURT: Sure. Sure. So Plaintiff's
7 Exhibit number 5. What is the -- what is that
8 document?

9 MR. SWEETAPPLE: This is an e-mail from Ms.
10 Garcia to Mr. Raymond, and a copy of a settlement
11 agreement that she transmitted to him prior to the
12 one that was executed in this case.

13 THE COURT: Ms. Garcia, do you have any legal
14 objection to Plaintiff's Exhibit number 5?

15 MS. GARCIA: Oh, I -- well, I have the
16 objection that he -- he's redacted the first page
17 that I have. I guess for completeness, I have my
18 chain of e-mails I would move in, I guess, without
19 objection.

20 But also, he's got an attachment here, but I
21 don't see an attachment referred to in the e-mails,
22 unless that's it.

23 MS. MILLER: If you look at the top e-mail, it
24 shows that there is an attachment.

25 MR. SWEETAPPLE: So I can tell the Court that



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1 the -- this was transmitted to me by my client. I
2 responded to my client. So this was actually -- was
3 all communication with my client. If she wants to
4 put that in for the Court to review on camera, I
5 have no problem. But I'm not waiving the privilege
6 by adding her e-mail to Mr. Raymond. And the
7 document she sent to Mr. Raymond was forwarded to me
8 by my client, and then I responded to my client.
9 That's the only redaction. And you'll see that if
10 you see her -- I don't think she even has that.

11 THE COURT: Do you have an objection to the
12 exhibit?

13 MS. GARCIA: No, Your Honor.

14 THE COURT: Okay. Then I will receive it into
15 evidence, without objection as Plaintiff's Exhibit
16 5?

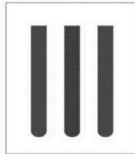
17 MR. SWEETAPPLE: 5.

18 THE CLERK: Yes, Your Honor.

19 (PLAINTIFF EXHIBIT 5 RECEIVED INTO EVIDENCE)

20 MR. SWEETAPPLE: Your Honor, number 6 is an
21 order from the Bankruptcy Court dated April 14th,
22 2023, which was three days before the filing of the
23 petition.

24 I'm asking the Court to take judicial notice of
25 that. I've shown this to Ms. Garcia, she was



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1 involved in this proceeding and is the subject of
2 the sanction finding --

3 THE COURT: Sir --

4 MR. SWEETAPPLE: -- or my Motion for -- or my
5 Motion for Sanctions. Exhibit 6.

6 THE COURT: Is there any legal objection to
7 Exhibit number 6?

8 MS. GARCIA: Your Honor, he did not file a
9 proper or timely motion for a judicial notice, so I
10 object on that basis.

11 THE COURT: How are you procedurally prejudiced
12 by his introduction of this?

13 MS. GARCIA: Procedurally, Your Honor?

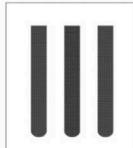
14 THE COURT: Yes, ma'am.

15 MS. GARCIA: Like I say, I've seen it before,
16 Your Honor. So --

17 MR. SWEETAPPLE: She was a party. She's filed
18 this proceeding, Your Honor, and was the counsel --

19 THE COURT: I believe this was attached to the
20 motion originally. So I hear that -- your objection
21 that you weren't given proper notice. I'm asking
22 procedurally, how are you prejudiced by the lack of
23 proper notice?

24 MS. GARCIA: First of all, I don't think it's
25 on this original exhibit list. And you limited us



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1 to our original exhibit list.

2 THE COURT: Is it, or --

3 MS. GARCIA: Unless there was documents
4 discovered that I -- was produced to him during
5 depositions, because I produced many documents to
6 him during deposition that you intend to use.

7 Secondly, had I known he was going to be moving
8 this in today, I would've called the attorney who
9 drafted this order, because --

10 MR. SWEETAPPLE: Your Honor, this is Exhibit J
11 to our motion to strike at your hearing. This has
12 been --

13 THE COURT: This is an order signed by a judge,
14 is it not?

15 MR. SWEETAPPLE: Okay, this is -- this was
16 signed by --

17 MS. GARCIA: Yes.

18 THE COURT: Hang on, Mr. Sweetapple, I -- I'm
19 -- Ms. Garcia is --

20 MS. GARCIA: Yes.

21 THE COURT: -- articulating to me her
22 procedural prejudice, so --

23 MS. GARCIA: Yeah, it's -- it is signed by the
24 judge, Your Honor. And it will be taken up in that
25 court for fraud. So he can use it how he wants



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1 today, and we'll deal with it there.

2 THE COURT: All right, then I'm going to
3 receive Exhibit 6 over Objection, as Plaintiff's
4 Exhibit number 6.

5 (PLAINTIFF EXHIBIT 6 RECEIVED INTO EVIDENCE)

6 MR. SWEETAPPLE: Number 7, Your Honor, is the
7 request for judicial notice I filed, in this case
8 filed.

9 And Ms. Garcia was e-served with this on, I
10 believe April 18th, 2023. It was mentioned in my
11 case, but I have not asked the Court to take
12 judicial notice of this. It's been shown to Ms.
13 Garcia.

14 THE COURT: That's Exhibit number 7?

15 MS. GARCIA: Do you have a copy, sir?

16 THE COURT: Ms. Garcia, what is your position
17 with respect to Plaintiff's Exhibit number 7?

18 MS. GARCIA: No objection.

19 THE COURT: All right. I'll receive this into
20 evidence as Plaintiff's Exhibit number 7.

21 (PLAINTIFF EXHIBIT 7 RECEIVED INTO EVIDENCE)

22 MR. SWEETAPPLE: Exhibit 8, Your Honor, is the
23 objection to the examining committee, filed by Amber
24 Patwell (phonetic) as counsel for Patricia Sahm, in
25 case number 50-2023.



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1 Some of these that -- have mental health -- may
2 have been filed under seal, so they -- that. I've
3 shown this. This was in the underlying case, the
4 Purager (phonetic) case.

5 THE COURT: What's your position, Ms. Garcia
6 with, I believe Plaintiff's Exhibit number 8?

7 MS. GARCIA: No objection.

8 THE COURT: It'll be received into evidence
9 without objection as Plaintiff's Exhibit number 8.

10 (PLAINTIFF EXHIBIT 8 RECEIVED INTO EVIDENCE)

11 MR. SWEETAPPLE: And then Your Honor, I have
12 Ms. Garcia's appearance in the underlying case where
13 Judge Burton issued his order, which I'm asking the
14 Court to take judicial notice of.

15 THE COURT: Ms. Garcia. What's your position
16 with respect to Plaintiff's Exhibit number 9?

17 MS. GARCIA: Same objection for the record,
18 Your Honor, that he didn't properly file for the
19 judicial notice, timely?

20 THE COURT: I thought that at the -- at the --

21 MS. GARCIA: But there's no objection.

22 THE COURT: Okay. So there's no -- if there's
23 no objection, then I'll receive it into evidence
24 without objection. But I thought that initially
25 there was a request for the Court to take judicial



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1 notice of the entire mental health --

2 MS. GARCIA: Yes.

3 THE COURT: -- and guardianship court file at
4 the --

5 MS. GARCIA: I think so, Your Honor.

6 THE COURT: -- at the first hearing in August.

7 So --

8 MS. GARCIA: Okay.

9 THE COURT: -- I don't find that there's -- I
10 don't find that you weren't given proper notice, but
11 there's no objection. So I'll receive it into
12 evidence as 9?

13 THE CLERK: Yes, Your Honor.

14 (DEFENSE EXHIBIT 9 RECEIVED INTO EVIDENCE)

15 MR. SWEETAPPLE: And Your Honor, I did put in
16 that --

17 MS. GARCIA: So that was 8, right?

18 THE COURT: 9. That was 9.

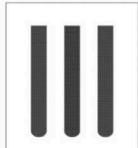
19 MS. GARCIA: What was 8?

20 THE COURT: 8 was the lack of -- or --

21 THE CLERK: Objection to the examining
22 committee --

23 THE COURT: It was the objection to the
24 examining committee report.

25 MS. GARCIA: Okay, that's 8?



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1 THE COURT: Yes, ma'am.

2 MS. GARCIA: Okay.

3 MR. SWEETAPPLE: Your Honor, I already put in
4 Judge Burton's order determining a capacity, but I
5 did not put in his order appointing under a guardian
6 of the person who properly entered
7 contemporaneously. So I'm moving for the Court to
8 take judicial notice of that order as well.

9 THE COURT: What's the date of that order?

10 MR. SWEETAPPLE: It is June, I think, 22nd. Let
11 me -- June 27th, 2023.

12 THE COURT: Ms. Garcia, what's your position
13 with respect to --

14 MS. GARCIA: No objection.

15 THE COURT: I'll receive it into evidence
16 without objection as Plaintiff's Exhibit number 10.

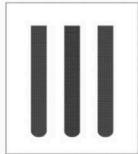
17 (DEFENSE EXHIBIT 10 RECEIVED INTO EVIDENCE)

18 MR. SWEETAPPLE: And lastly, Your Honor, is an
19 order granting filing for protection against
20 exploitation of a vulnerable adult, entered in the
21 guardianship by Judge Burton.

22 The date is dated -- it's dated September 22,
23 2023, Your Honor.

24 THE COURT: Uh-huh. Ms. Garcia?

25 MS. GARCIA: Objection. Missing as to



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1 relevance.

2 THE COURT: What is the relevance, Mr.
3 Sweetapple?

4 MR. SWEETAPPLE: There's findings in this order
5 that Judge Burton made regarding -- and I can read
6 it to the Court.

7 The respondent, who was is the younger sister,
8 Patricia Sahm, Jr. -- this is on Page 4 of 14. "The
9 respondent further testified that in March of 2023,
10 a female notary arrived at the residence, then
11 occupied by respondent and the vulnerable adult.
12 Although the respondent suspected that the Bernstein
13 family with whom the vulnerable is currently
14 litigating against, or Kevin Hall (phonetic), an
15 attorney involved in that litigation, sent the
16 notary to the residence, the respondent claims that
17 she took no action while the notary notarized the
18 vulnerable adult's signature on documents that
19 revoked the Power of Attorney in favor of the
20 vulnerable adult's then-acting agent and trustee,
21 Joanna (phonetic)."

22 So this relates specifically to conduct that
23 occurred at the time of the guardianship, that this
24 Court is reviewing. And even though it -- even
25 though there is a legal argument being made as to



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1 why the Court, as a matter of the collateral
2 estoppel has defined incapacity, I'm also making a
3 record, factually, through the experts and the
4 testimony, to show the improper conduct. Because I
5 have asked for sanctions against Ms. Garcia,
6 including for her client's conduct at her direction.

7 THE COURT: All right. Anything further, Ms.
8 Garcia?

9 MS. GARCIA: Again, objection to relevance. The
10 time frame, 9-22-23 is after the fact. This is a
11 hearing that was not concluded. I'll testify, I
12 guess, to broadly perpetrated today, and I'll deal
13 with any other courts.

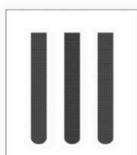
14 THE COURT: What -- I'm sorry. You gave -- you
15 handed me a 14-page document, I think. What's the
16 -- is this a permanent file injunction, or is it
17 time-limited?

18 MR. SWEETAPPLE: Pardon me?

19 THE COURT: Is this a permanent file -- I
20 apologize. I'm --

21 MR. SWEETAPPLE: This is an order that has not
22 been appealed or vacated, of Judge Burton.

23 THE COURT: No, but some injunctions are safe
24 for a period of six months or eight months. Is
25 this --



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1 MR. SWEETAPPLE: Oh --

2 MS. MILLER: I think it lasted 60 days, Your
3 Honor. That's my recollection from the
4 guardianship.

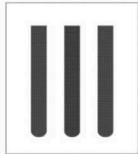
5 MS. GARCIA: It was an agreed final injunction
6 that the Court made no findings. They put it in the
7 order anyway. And I have the transcript. I'll do
8 it with the other Judge now that they're using it
9 here in front of you.

10 MS. MILLER: That's not correct, Your Honor.
11 But that's, I suppose, an issue for Judge Burton to
12 take up.

13 THE COURT: All right. I'm going to receive it
14 into evidence over objection, subject, of course, to
15 Ms. Garcia explaining why it's not relevant for the
16 Court's consideration -- ultimate consideration.
17 But for the purposes of the hearing, I will admit it
18 into evidence, and you can tell me why I shouldn't
19 give it any weight.

20 (PLAINTIFF EXHIBIT 11 RECEIVED INTO EVIDENCE)
21 MR. SWEETAPPLE: All right, but you're going to
22 take judicial notice of it?

23 THE COURT: Yes. I'm admitting it into
24 evidence over their objection. But she's certainly
25 free to tell me why it should not bear in my



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1 decision-making.

2 MR. SWEETAPPLE: And I'll be then calling Dr.
3 Bloom and Dr. Cheshire. I don't anticipate any
4 other witnesses unless there's some rebuttal
5 message.

6 THE COURT: And you said Dr. Bloom and Dr.
7 Cheshire would testify at --

8 MR. SWEETAPPLE: 1:30 and 2:00, I have them on
9 stand-by on Zoom.

10 THE COURT: Okay.

11 MR. SWEETAPPLE: I tried to get them this
12 morning and I couldn't.

13 THE COURT: That's okay. All right, Ms.
14 Garcia, with respect to your motions, do you have
15 any witnesses or evidence that you'd like to admit?

16 MS. GARCIA: Evidence? Yes, Your Honor.

17 THE COURT: Or witnesses.

18 MS. GARCIA: I'm sorry?

19 THE COURT: Or witnesses. Either testimony or
20 evidence that you'd like to submit?

21 MS. GARCIA: Yes, Your Honor. But I have an
22 issue with me having to try my case in -- is in the
23 middle of his case.

24 THE COURT: Okay.

25 MS. GARCIA: His witnesses should be here



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1 timely. It was set for 11:00. He told us to be
2 here, and I object to him calling the witnesses at
3 1:30 and 1:15. It's just not the way the Court
4 operates. And I have to start my case in the middle
5 of his case. Because I'm going to move for directed
6 verdict.

7 THE COURT: Well, I can take a recess through
8 -- I haven't had a chance to review all the
9 documents that have just been judicial noticed. If
10 you'd like for me to step off the bench and you can
11 wait here while I read the documents --

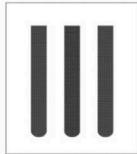
12 MS. GARCIA: I'd like to also -- well, should I
13 guess I can go over with him, my exhibits also.

14 THE COURT: Why don't you do that? Because I
15 -- it just seems like it's a better use of
16 everybody's time. I'm not prejudicing you from
17 moving for directed verdict. I'm just trying to be
18 economical with everybody's time.

19 MS. GARCIA: I understand, Your Honor.

20 THE COURT: So --

21 MR. SWEETAPPLE: I can proffer to the Court,
22 and if the Court wanted to continue working, you
23 know, up -- at any time up to 1:30, that all I'm
24 going to do, is have the two examining committee
25 members testify as to what's in the report. So



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1 there's not going be any surprise or anything that
2 she doesn't know is going to be coming now.

3 THE COURT: So do you want to show Mr.
4 Sweetapple -- do you want to take a couple moments
5 to show Mr. Sweetapple your exhibit? I'll step off
6 the bench. You show him your exhibits. I'll take
7 some of these and start reading them and then you
8 can come get me when you're ready?

9 MS. GARCIA: Okay.

10 THE COURT: All right.

11 (OFF THE RECORD)

12 THE COURT: You all can be seated.

13 All right, Ms. Garcia is present. The court
14 reporter is present. Mr. Sweetapple is present.

15 Have you all gotten a chance to go over Ms.
16 Garcia's evidence?

17 MR. SWEETAPPLE: Yes, Your Honor.

18 THE COURT: All right. Are there any
19 agreements to any of the evidence, or --

20 MR. SWEETAPPLE: Limited. There is some
21 judicial notice that is entirely irrelevant to this
22 proceeding. If you take judicial notice of it, I do
23 want to alert you that we're going far afield here.

24 THE COURT: Okay. Let me see what Ms. Garcia
25 has to present.



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1 MS. GARCIA: May I approach?

2 THE COURT: Sure.

3 MS. GARCIA: Marked as H for identification is
4 a death certificate of Mr. Walter Sahm.

5 THE COURT: Okay. Any legal objection?

6 MR. SWEETAPPLE: Your Honor, I've indicated I
7 -- there's -- this is no issue as is, but it's
8 totally irrelevant to this proceeding.

9 THE COURT: Well, it might not be relevant to
10 your Motion, but is -- Ms. Garcia has a motion.

11 MR. SWEETAPPLE: But it's not bifurcated --

12 MS. GARCIA: Yeah.

13 MR. SWEETAPPLE: -- for today. It must be set
14 at a later date.

15 MS. GARCIA: Yeah, my motion's not set for
16 today, Your Honor. Just the balance of this trial.

17 THE COURT: Okay.

18 MS. GARCIA: You get to determine that if and
19 when you rule -- or when you rule on the settlement,
20 then I would go ahead and do my discovery and set my
21 1.54 and 1.340.

22 THE COURT: So when is -- so what is the
23 relevance of this to --

24 MS. GARCIA: The relevance to this, is that
25 you're going to see the orders and the pleadings



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1 that the gentleman died in 2021, and they continued
2 to file pleadings in his name through 2024 without
3 telling this Court. They got final judgements.
4 They'd go to the Bankruptcy Court claiming there's
5 an estate issue, but then they had filed with his
6 name there. And my testimony will explain the
7 relevance of his date of death and what has happened
8 since. It's very relevant to our defense.

9 THE COURT: All right. So I'll receive this
10 into evidence over objection as Defense Exhibit 1 --
11 or is it --

12 MS. GARCIA: 8.

13 THE COURT: -- 7?

14 THE CLERK: 7. 7.

15 THE COURT: 7. Exhibit number 7.

16 THE CLERK: 7.

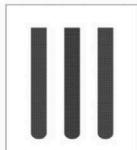
17 (DEFENSE EXHIBIT 7 RECEIVED INTO EVIDENCE)

18 MS. MILLER: I think you're doing -- are you
19 doing letters? You were --

20 MS. GARCIA: No, that was for identification.
21 And then they would doing -- they did numbers for
22 the actual exhibits. But it has defendant on it.

23 So H is 7.

24 MR. SWEETAPPLE: Your Honor, I noticed that you
25 have a warning that we're recording. I just want to



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1 make sure that the people on Zoom have been alerted
2 that they should not be recording this. I see Mr.
3 Hall and others on Zoom.

4 THE COURT: Right. So the only -- there's only
5 one record that can be kept of a proceeding, and
6 that is the court reporter's record. So I mean, the
7 recording is not prohibited -- it is prohibited.
8 It's not the official court recording. That's by
9 order of the Chief Judge, and by order of me.

10 What's that --

11 MS. GARCIA: Okay. If I may approach?

12 THE COURT: Sure.

13 MS. GARCIA: I, the final judgment in this
14 case.

15 THE COURT: Thank you. Any legal objection?

16 MR. SWEETAPPLE: No, Your Honor.

17 THE COURT: I will receive it in to evidence
18 without objection as Defense Exhibit 8.

19 (DEFENSE EXHIBIT 8 RECEIVED INTO EVIDENCE)

20 MS. GARCIA: 8. Okay.

21 This one is J. I have it on the back. It's a
22 judicial notice. This was filed in this case,
23 January 2nd, 2023, by me. I made my initial
24 appearance.

25 MR. SWEETAPPLE: Just note my objection to



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1 relevance, Judge. It has nothing to do with the
2 competency issue and the draw on the Court issue.

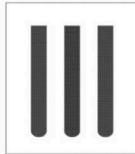
3 THE COURT: Miss, what's the relevance of your
4 motion?

5 MS. GARCIA: The relevance of my motion, Your
6 Honor, is I started from when I came in the case
7 from day one, disclosing to the Court, like all the
8 issues with the fraud and filing for dead people and
9 filing cases, the estate -- the bankruptcy cases for
10 the estate that had no rights, filing for Patricia
11 Sahm.

12 MR. SWEETAPPLE: Your Honor, the 1540 Motion
13 was not for the hearing today.

14 THE COURT: That -- that's what my confusion is
15 I -- it seems -- I -- I'm not saying that this isn't
16 relevant to your 1540 Motion, but I'm trying to
17 figure out what the relevance is to the Motion that
18 we're here for.

19 MS. GARCIA: The relevance is, Your Honor.
20 They're coming in here with unclean hands. Like for
21 instance, on Page 6, Paragraph 11, he was --
22 Mr. Sweetapple continued to represent Walter Sahm
23 after his death, without informing the Court. And
24 even when there was a suggestion of death filed, he
25 continued to file pleadings. And then Walter Sahm



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1 -- now the final judgment entered in the name of
2 Walter Sahm, which was the -- what was settled.

3 So it's going to show that from day one in this
4 case, there has been issues as far as the final
5 judgment, the amount, the outstanding issues, 1.54
6 and 1.30 do affect the reasonableness of the
7 settlement. So the Court goes through the, you
8 know, the elements where you have, whether or not
9 they can even prove incapacitation at the time or
10 not, since it was before the finding of the Court,
11 first of all the threshold issue. And then next,
12 you have the issues that he's claiming, undue
13 influence, fraud. And I'm not sure what else he's
14 claimed.

15 THE COURT: Okay. I'm going to receive it into
16 evidence over objection as Plaintiff's Exhibit --

17 MR. SWEETAPPLE: 9.

18 THE COURT: -- 9.

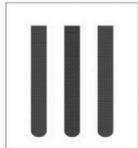
19 (PLAINTIFF EXHIBIT 9 RECEIVED INTO EVIDENCE)

20 MS. GARCIA: The next one is K, Your Honor.

21 MR. SWEETAPPLE: I think you can just tell the
22 Court whether I objected to it or not.

23 MS. GARCIA: This one you were -- you objected
24 to relevance, I believe.

25 MR. SWEETAPPLE: Well, this is where your --



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1 no, it was hearsay. You're trying to -- first of
2 all, any communications from Mr. Raymond, I would
3 require testimony to authenticate in some form. And
4 then there's an affidavit --

5 MS. GARCIA: Oh, sorry. I'm so sorry, the
6 affidavit.

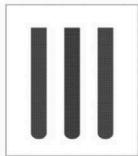
7 MR. SWEETAPPLE: -- affidavit from a mister --

8 THE COURT: We need to identify what it is for
9 the record. And then --

10 MS. GARCIA: Okay. This is -- it starts --
11 it's an e-mail chain that I produced to Counsel
12 during the deposition when we were ordered to waive
13 privilege or to appear and take privilege. And I
14 produced for the record, and this goes to the
15 settlement negotiations between me, Mr. Raymond and
16 Mr. Sweetapple, and dealing in March of 2023, during
17 the relevant time frame as to the capacity and the
18 negotiations between the lawyers.

19 THE COURT: Okay.

20 MS. GARCIA: And it's clearly one -- this --
21 clearly what I'm asking questions of the attorneys,
22 and they're responding, this is the attorney for the
23 estate. And that's relevant to the issues of filing
24 in the bankruptcy, planning the estate rights, not
25 substituting the estate.



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1 THE COURT: Okay. So your objection to it, is
2 hearsay?

3 MR. SWEETAPPLE: Well, in terms of, there's a
4 find an affidavit by William Stransbury. She showed
5 me an affidavit she wanted to put in.

6 THE COURT: I don't have an affidavit.

7 MS. GARCIA: I didn't attach that.

8 MR. SWEETAPPLE: Okay. So yeah, I'm -- so
9 you're not going to move -- so you're going to agree
10 with me, that doesn't come in?

11 MS. GARCIA: No, but I'm not doing it here.
12 I'll do it separately. Only, I --

13 THE COURT: All I have is an e-mail.

14 MR. SWEETAPPLE: All right. Well, first of
15 all, there's a representation that's sent to me,
16 which is inaccurate. Second of all, you're going to
17 learn that she sent numerous e-mails to a different
18 e-mail address than my e-mail, repeatedly in March,
19 and never included me on any of these, despite Mr.
20 Raymond saying, include mister -- Mr. Sweetapple is
21 in charge, he's handling this, not me.

22 So if we get into these communications, I'm
23 going to have to, for completeness, cross-examine
24 her on the whole episode. And so I object to this,
25 unless she comes in and testifies to authenticate,



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1 and I can ask her if -- for completeness, about
2 other e-mails and what she did.

3 THE COURT: So your objection is, it's not
4 authenticated?

5 MR. SWEETAPPLE: Yes. She would have to come
6 in and testify. Mr. Raymond is not here. So she'd
7 have to say, Mr. Raymond sent this to me. I
8 received it. And then I'm going to ask her about
9 other e-mails.

10 THE COURT: Okay. All right. Are you in a
11 position to do that?

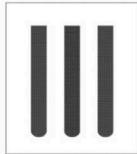
12 MS. GARCIA: I can testify to receiving the e-
13 mails.

14 THE COURT: All right. So then I'll have it
15 marked for identification purposes, subject to it
16 being authenticated.

17 There's no other objection?

18 MR. SWEETAPPLE: Yeah, I -- I'm not
19 calling her, but I anticipate cross-examining her, based
20 on
21 her --

22 THE COURT: I wasn't sure if there was an --
23 it's highlighted, indicating that the part that the
24 Court wants -- she wants the Court to consider is
25 Mr. Raymond's statement, which seems to me to be



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1 hearsay. But if there's not an objection to that,
2 then --

3 MR. SWEETAPPLE: Well, that's it.

4 THE COURT: -- then it's just authenticity,
5 then we'll let it get authenticated.

6 MR. SWEETAPPLE: Well, I'm going to object on
7 hearsay, Judge. I thought we had her statements
8 here as well. So I will object to hearsay on
9 anything, just from Mr. Raymond to her.

10 THE COURT: Ms. Garcia, how is Mr. Raymond's
11 statement not hearsay?

12 MS. GARCIA: This e-mail is our communication
13 in relation to the settlement, and it's relevant.
14 And when I asked him questions, he responded.

15 THE COURT: Right. So hearsay is a statement
16 made out of court --

17 MS. GARCIA: This is --

18 THE COURT: -- for the truth of the matter
19 that's asserted. So how is it not hearsay?

20 MS. GARCIA: It's an exception under the
21 business rule. This is a -- this is a communication
22 from my law firm. It's a business record. This was
23 received by me, and I can authenticate this as a
24 business record.

25 THE COURT: Okay. And how is Mr. Raymond's



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1 statement to you not hearsay?

2 MS. GARCIA: I guess I can -- I guess I -- can
3 I have one moment, Your Honor?

4 THE COURT: Sure.

5 MR. SWEETAPPLE: I have no objection to her
6 portion of, you know -- she authenticates, I don't
7 have a chance to cross examine her and bring in her
8 other communications. But I -- to the extent she's
9 just trying to put in Mr. Raymond's communications,
10 I --

11 THE COURT: I just -- that's what I thought
12 with that. I only thought that because it's
13 highlighted in orange, but if that's not --

14 MR. SWEETAPPLE: I don't have a highlighted
15 copy.

16 THE COURT: That's not what you're seeking to
17 do then?

18 MR. SWEETAPPLE: Well I didn't -- she didn't
19 give me the highlighted --

20 THE COURT: Okay. This is what was handed to
21 me.

22 MS. GARCIA: Another exception, Your Honor.

23 THE COURT: All right.

24 MR. SWEETAPPLE: Yeah, I didn't -- that wasn't
25 -- I was looking at the bottom --



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1 MS. GARCIA: Here. I'll give you one. Similar
2 passages, the square that is highlighted.

3 MR. SWEETAPPLE: Sorry, I just --

4 THE COURT: It's okay.

5 MR. SWEETAPPLE: I didn't -- I was --

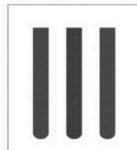
6 THE COURT: I'm not trying to create issues. I
7 just --

8 MS. GARCIA: For one thing, Your Honor, the --
9 there is an exception under party admission.
10 Because this is where the other attorneys that I was
11 negotiating with in this case, who represent the
12 parties, are informing me that Ms. Sahm wasn't under
13 guardianship and didn't need a guardian in March.

14 So that goes to my mental impression of what
15 was her status. And I'll testify to different
16 conversations and different mental impressions that
17 I had that Ms. Patwell had, based on our
18 conversations.

19 THE COURT: All right, I'll have it marked for
20 identification, subject to being authenticated. But
21 that does sound like an exception to the hearsay.

22 MR. SWEETAPPLE: And just so we -- we're clear,
23 I'm also objecting to relevance from this statement
24 in March when we're on the subject of admissions by
25 parties' representative and parties.



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1 I am going to be correcting one of the exhibits
2 I provided to the Court, because Ms. Garcia just
3 provided me with the May settlement agreement she
4 forwarded to Mr. Raymond that is signed by her
5 clients, where there repeated representation that
6 Mrs. Sahm is incapacitated. That's in May. All
7 right? This is in March.

8 THE COURT: Okay.

9 MR. SWEETAPPLE: So just so the Court, for
10 relevance and context -- yeah, I'll be -- I'll be
11 moving -- we've already admitted that into evidence,
12 but I'm going to ask the Court to note that that is
13 an admission of Ms. Garcia as the representative and
14 the parties.

15 THE COURT: Okay.

16 MS. GARCIA: Can I have just one moment, Your
17 Honor?

18 THE COURT: Of course.

19 MS. GARCIA: The next one, Your Honor, is
20 marked as -- for identification, Exhibit L.

21 THE COURT: Thank you.

22 MS. GARCIA: This is the affidavit of Mr.
23 Stransbury.

24 THE COURT: All right. What's the plaintiff's
25 position?



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1 MR. SWEETAPPLE: I object. It's hearsay, Your
2 Honor.

3 THE COURT: Ms. Garcia?

4 MS. GARCIA: I can call the witness, Your
5 Honor.

6 THE COURT: Okay. I'm going to sustain the
7 objection as to hearsay, but I'll have it marked for
8 identification as L.

9 MR. SWEETAPPLE: And note my objection also to
10 relevance, that this witness doesn't have any
11 testimony since March of 2022. It's not going to be
12 relevant to the --

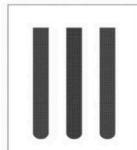
13 THE COURT: I found that it's hearsay.

14 MR. SWEETAPPLE: Just saying if we get -- when
15 that witness comes in, I'm just previewing that, the
16 date of this.

17 MS. GARCIA: The next one, Your Honor, is N.
18 This is the -- this is a notarized letter, signed by
19 both parties, the deceased, Mr. Sahm, and Mrs. Sahm
20 as the trustee.

21 MR. SWEETAPPLE: This is undated and hearsay,
22 Your Honor.

23 MS. GARCIA: I'll say it's a statement of a
24 party opponent. It's also -- Mr. Sahm is deceased,
25 and it's a statement by him, which is an exception



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1 to the hearsay rule.

2 THE COURT: Where is that in the hearsay
3 exception, a statement of a deceased person? Isn't
4 it a statement of a person upon impending knowledge
5 of death?

6 MR. SWEETAPPLE: Your Honor, also relevance.

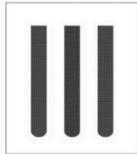
7 This is -- this -- it says a phone call, October
8 11th, 2019.

9 THE COURT: Isn't this prior to the file --
10 judgment?

11 MR. SWEETAPPLE: Well, it's prior -- it's prior
12 to the lawsuit being filed. Around the time --

13 MS. GARCIA: This goes to the relevance is that
14 it goes to the long-term negotiations. Because
15 there's allegations that basically, once we found
16 out that there were some committee reports out there
17 that we rushed to do a settlement. And this shows
18 the Court by statements by both parties that this
19 has been going on for years. And it talks about the
20 amount of \$200,000 was a reasonable amount at that
21 time, where they were willing to accept.

22 THE COURT: All right. I find that this is
23 hearsay. So -- without an exception, so I'm going
24 to sustain the objection unless it can be
25 authenticated some other way. I don't see



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1 necessarily how it's relevant, but it is hearsay.

2 MS. GARCIA: I could authenticate it by the
3 receiver of the letter who's here, that can testify,
4 Your Honor. So --

5 This is marked as Defendant's O, Your Honor.

6 It's a retainer by Twig, Trade, & Tribunal dated
7 April 11th, 2023.

8 MR. SWEETAPPLE: It's hearsay, Your Honor. I
9 would note, though, it is telling how the defendants
10 have communications between an alleged attorney for
11 Mrs. Sahm. This is a privileged document, and the
12 fact they can have it is consistent with my theory
13 of the case.

14 THE COURT: I'm going to overrule the
15 objection. This is -- appears to be a legal
16 document, which -- it's words of operative legal
17 effect. So that is an exception to hearsay.

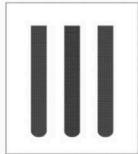
18 What number were we at?

19 THE CLERK: Number 10, Your Honor.

20 THE COURT: Number 10 will be received into
21 evidence over objection as Exhibit number 10.

22 (PLAINTIFF EXHIBIT 10 RECEIVED INTO EVIDENCE)

23 MR. SWEETAPPLE: Your Honor, I just -- if the
24 Court will officially note, I don't see Page 2. I
25 don't see it signed by Mr. Weinstein.



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1 THE COURT: It appears to be signed by the
2 plaintiff.

3 MR. SWEETAPPLE: Yeah. But we don't know if it
4 was paid or anything about it.

5 THE COURT: And you'll be free to argue that to
6 me --

7 MR. SWEETAPPLE: Okay.

8 THE COURT: -- as to why I should or should not
9 consider it. But it appears that it's authentic and
10 it appears that it would be admissible into
11 evidence. I'm going to receive it --

12 MR. SWEETAPPLE: Okay.

13 THE COURT: -- for whatever its evidentiary
14 value is.

15 MS. GARCIA: Do you have a pen?

16 MR. SWEETAPPLE: What?

17 MS. GARCIA: Do you have a pen?

18 Your Honor, marked as Exhibit P is an e-mail --

19 MR. SWEETAPPLE: Is this -- was this e-mailed
20 to someone?

21 MS. GARCIA: -- from Morgan Weinstein to Mr.
22 Sweetapple, and this deals with their communications
23 in -- April 13th, 2023, when Mr. Weinstein was
24 attempting to substitute in as the attorney in this
25 case, based on his retainer with the client.



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1 THE COURT: All right. What's the plaintiff's
2 position?

3 MR. SWEETAPPLE: He's talking about this. The
4 top is from Kevin Hall.

5 MS. GARCIA: This was --

6 MR. SWEETAPPLE: And you're referring to just
7 the Morgan Weinstein to me?

8 MS. GARCIA: This was produced during a
9 deposition pursuant to your court orders.

10 MR. SWEETAPPLE: Let me just -- you -- you're
11 talking about this section right here? "Hello. Mr.
12 Sahm has a -- this section does not have an e-mail
13 address of response to her daughter Patty's e-mail
14 account. I've copied that account here. Mr.
15 Sweetapple's asking that you e-mail back to
16 authorize the change of representation from his
17 firm." So --

18 THE COURT: Is there an objection to that?

19 MR. SWEETAPPLE: It's just hearsay. And I
20 don't think it's complete either. I presume there's
21 a response somewhere or a follow-up on any of this.
22 It's not relevant. It doesn't tend to prove or
23 disprove anything.

24 MS. GARCIA: It is relevant. You won't let me
25 respond.



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1 MR. SWEETAPPLE: This is hearsay from me. It's
2 hearsay within hearsay. He's writing to Patricia
3 Sahm, and copying me, saying that I have asked
4 something to happen.

5 THE COURT: What -- Ms. Garcia, what's it being
6 offered -- is it being offered for the truth of
7 what's being stated?

8 MS. GARCIA: It's being offered for the fact
9 that it would -- that this communication occurred,
10 and that Mr. Sweetapple was aware of the potential
11 of substitution in this case on April 13th of 2023.

12 THE COURT: All right. The portion that
13 indicates that Mr. Sweetapple has asked that you e-
14 mail back to authorize the change, would be hearsay.

15 But the fact that the communication occurred
16 and Mr. Sweetapple's e-mail is CC'd to the e-mail is
17 not hearsay. So I'll receive that portion of it in
18 evidence as 11.

19 THE CLERK: Yes, Your Honor.

20 THE COURT: Defense Exhibit number 11, over
21 objection.

22 (DEFENSE EXHIBIT 11 RECEIVED INTO EVIDENCE)

23 MR. SWEETAPPLE: Is there any follow up e-mail
24 that she's offering where -- that's something
25 happened?



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1 THE COURT: I don't know.

2 MS. GARCIA: Okay. Here is the next e-mail.

3 It's Exhibit Q for identification. This is further
4 communications between Mr. Sweetapple and Patty
5 Sahm, Junior, who she was communicating -- Mr.
6 Sweetapple, to see the Power of Attorney, who was
7 Mr. Sweetapple, and asked for a copy of the
8 Revocation of Power of Attorney and requested that
9 he -- Mr. Weinstein substitute in as her attorney.

10 MR. SWEETAPPLE: I'm going to object to hearsay
11 because I certainly want Patty Sahm to testify.

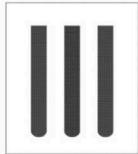
12 THE COURT: Ms. Garcia, what's the purpose of
13 this e-mail again?

14 MS. GARCIA: The purpose of this e-mail is to
15 show the fact that there was communication and Mr.
16 Sweetapple had knowledge that he was requested to
17 substitute out and allow Mr. Weinstein to substitute
18 in. And Mr. Sweetapple had asked for a copy of the
19 Power of Attorney, and it was the Revocation of
20 Power of Attorney that was provided to him at that
21 time --

22 MR. SWEETAPPLE: Your Honor, there's --

23 MS. GARCIA: -- four days before the
24 Guardianship was filed.

25 MR. SWEETAPPLE: There's no attachment to this.



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1 It says, "I have attached my mom's Revocation."

2 MS. GARCIA: Right.

3 MR. SWEETAPPLE: And it's -- there's nothing
4 attached to this e-mail.

5 MS. GARCIA: The Revocation's already in
6 evidence, Your Honor, as the Exhibit --

7 THE COURT: I'm going to --

8 MS. GARCIA: -- Composite Exhibit 1.

9 THE COURT: I'm going to receive this item of
10 evidence in the -- into -- I'm going to receive this
11 exhibit into evidence over objection for the reason
12 stated by Ms. Garcia as Defense Exhibit number 12.

13 (DEFENSE EXHIBIT 12 RECEIVED INTO EVIDENCE)

14 MS. GARCIA: Your Honor, was that marked P? I
15 apologize. P or --

16 THE CLERK: Q.

17 MS. GARCIA: Q, okay. So 11 was that one. That
18 was Q. Okay. Q. Thank you.

19 Then this is R. Your Honor, it was marked as
20 Defense Exhibit R. It's further e-mail
21 communications in relation to the same time frame.

22 This was April 15th, 2023, two days later, where --

23 MR. SWEETAPPLE: This is all hearsay from the
24 daughter, who I believe is on house arrest, though,
25 but available by Zoom.



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1 MS. GARCIA: Well --

2 MR. SWEETAPPLE: You can call her --

3 MS. GARCIA: -- she's off in two days.

4 MR. SWEETAPPLE: Pardon?

5 MS. GARCIA: She's off in two days.

6 MR. SWEETAPPLE: You can call her by Zoom. This
7 is -- I've been trying to unsuccessfully get her
8 depo scheduled for months.

9 MS. GARCIA: Not true.

10 So Your Honor, this goes again to the fact that
11 at this time --

12 MR. SWEETAPPLE: The hearsay is objectionable,
13 Your Honor.

14 THE COURT: Hang on. I need -- I need you to
15 not all argue with each other. I need you to state
16 your position so that I can make a ruling. So your
17 objection is that it's hearsay. Ms. Garcia, how is
18 it not hearsay?

19 MS. GARCIA: Let's see.

20 THE COURT: This is a communication between
21 Mrs. Sahm and Morgan Weinstein who is not Mr.
22 Sweetapple, or anybody employed with Mr.
23 Sweetapple's firm.

24 MS. GARCIA: Well taken, Your Honor.

25 THE COURT: I'll sustain the objection.



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1 MS. GARCIA: If I want to admit it, I will call
2 Ms. Sahm.

3 Okay. Marked as Defense Exhibit S. I mean, T.
4 I apologize. I scratched S.

5 THE COURT: Okay.

6 MS. GARCIA: T, Your Honor. This is produced
7 pursuant to the deposition.

8 MR. SWEETAPPLE: My objection, Your Honor, is
9 hearsay. These are texts with Ms. Patwell, who I've
10 also been trying to depose, who's also incarcerated.

11 MS. GARCIA: This --

12 MR. SWEETAPPLE: So obviously anything --

13 THE COURT: Hang on. I need to know what Ms.
14 Garcia's exhibit is, for the record.

15 MS. GARCIA: Right.

16 THE COURT: And then I'll ask you what your
17 objection is.

18 MR. SWEETAPPLE: Okay. I'm sorry.

19 MS. GARCIA: This is Exhibit S, Your Honor. And
20 this is the messages with Morgan Weinstein and
21 myself. Because our communications and our
22 knowledge of what was going on at this time frame,
23 when we were being accused of committing fraud and
24 taking advantage of somebody, you ordered us to
25 produce these communications. So I produced the



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1 relevant communications from 4-10-2023 through 4-16-
2 23.

3 The last one is irrelevant, Your Honor. Which
4 basically is my communications with Mr. Weinstein,
5 which I'll be testifying to. The fact that he told
6 me he was being retained, he was filing his notice
7 of appearance, and he's had them sign a retainer
8 and --

9 THE COURT: Mister --

10 MR. SWEETAPPLE: It's hearsay. Anything Mr.
11 Weinstein said in these is hearsay.

12 THE COURT: And in your statements, how are
13 they not hearsay? And if you're going to testify to
14 it, it's subject to cross-examination. I don't see
15 how this is an exception of the hearsay.

16 MS. GARCIA: This again, this is a business
17 record, Your Honor. This is by communications with
18 opposing counsel that I was ordered to produce in a
19 deposition, which I produced in a deposition,
20 subject to cross-examination at the deposition.

21 THE COURT: I haven't heard that it's a
22 business record. I mean, it may be. I haven't
23 heard that.

24 MS. GARCIA: This is kept in the regular course
25 of business communications with opposing counsel,



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1 communications with my clients. In this particular
2 document, you ordered us to produce the
3 communications, so I did. He's had the benefit of
4 it, has cross- examined --

5 MR. SWEETAPPLE: And --

6 THE COURT: Just because I ordered it produced
7 doesn't mean it's admissible into evidence. It --

8 MS. GARCIA: Okay.

9 THE COURT: -- means that perhaps he would like
10 to admit it into evidence as a statement that you
11 made -- I don't know -- which would be an exception
12 to hearsay, but if you are asking to admit it, I
13 need to find out how it's admissible.

14 MR. SWEETAPPLE: And anything that --

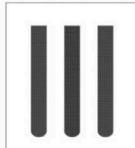
15 THE COURT: I would --

16 MR. SWEETAPPLE: Anything that was her
17 communication, I'd want her to authenticate it, but
18 I --

19 THE COURT: Right. And --

20 MS. GARCIA: This is an authorized admission,
21 Your Honor. The Federal Rule of Evidence
22 801(d)(2)(C)(D). Supposedly there's a conspiracy.
23 This would be an admission of a co-conspirator also,
24 under his theory, under 801(d)(2)(E). It's also --

25 MR. SWEETAPPLE: Who's the co-conspirator?



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1 MS. GARCIA: -- an adopted admission.

2 MR. SWEETAPPLE: Who's the co-conspirator
3 though?

4 THE COURT: It -- he -- so that would be an
5 exception that he would seek to admit it under,
6 unless you're conceding that you're part of a
7 conspiracy and you're saying that you wanted to
8 introduce your co-conspirator's statement?

9 MS. GARCIA: No --

10 THE COURT: Is that what you're --

11 MS. GARCIA: No --

12 THE COURT: -- conceding?

13 MS. GARCIA: No, I'm not saying that we are
14 conspirators. I'm saying we've been accused of
15 conspiracy. We've been accused of fraud.

16 THE COURT: I will reserve on ruling on it. But
17 as of right now, it sounds like it's hearsay without
18 an exception.

19 MS. GARCIA: Okay.

20 MR. SWEETAPPLE: And then now also, Your Honor,
21 this whole thing about Mr. Weinstein is irrelevant.
22 There's no dispute. I was never provided with the
23 proposed substitution. Of any form.

24 THE COURT: It may ultimately be irrelevant,
25 but --



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1 MR. SWEETAPPLE: Your Honor, we are wasting
2 time --

3 THE COURT: Well, your witnesses aren't
4 available until 1:00, so --

5 MR. SWEETAPPLE: I know. I understand. What
6 I'm saying is --

7 THE COURT: - -- or 1:30, so we have to -- we
8 have to get this for -- it would've been nice to
9 have some agreements to some of this to streamline
10 things, but there was an objection to even waiting
11 until 1:30. So let's use our time wisely.

12 MS. GARCIA: Here's U, Your Honor. Defense U.
13 This is -- he agreed to the judicial notice.

14 MR. SWEETAPPLE: I have no objection to this.
15 It's Mr. Shraiberg's (phonetic) fee agreement from
16 the Bankruptcy Court when he represented the estate
17 and Patricia Sahn individually.

18 THE COURT: So you have no objection to
19 receiving --

20 MR. SWEETAPPLE: No.

21 THE COURT: -- defense U into evidence --

22 MR. SWEETAPPLE: That's correct.

23 THE COURT: -- as Defense Exhibit 13?

24 MR. SWEETAPPLE: In Bankruptcy Court, you know,
25 you're required to file your fee agreement, so



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1 there's really no objection at this point.

2 THE COURT: Received into evidence without
3 objection as 13. Defense 13.

4 (DEFENSE EXHIBIT 13 RECEIVED INTO EVIDENCE)

5 MS. GARCIA: Okay. Exhibit V, Your Honor.

6 Defense Exhibit v. is the report of an examining
7 committee member. One of the three committee
8 members that was initially assigned to the case.

9 MR. SWEETAPPLE: Well, this is the one who's
10 going to be testifying second, so I have no
11 objection.

12 THE COURT: I'll receive it into evidence
13 without objection as Defense 14.

14 (DEFENSE EXHIBIT 14 RECEIVED INTO EVIDENCE)

15 THE CLERK: Yes, Your Honor.

16 MS. GARCIA: Okay. So that was V, allowed as
17 14, Your Honor?

18 THE COURT: Yes, ma'am.

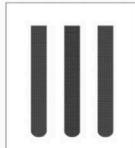
19 MS. GARCIA: Thank you.

20 Exhibit W. Oops.

21 MR. SWEETAPPLE: It may save some time, we're
22 discussing -- we may waive calling this witness as
23 she's allowing this into evidence.

24 THE COURT: Okay.

25 MS. GARCIA: Oh, yeah. Sorry. See, that's W.



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1 MR. SWEETAPPLE: Okay.

2 MS. GARCIA: Your Honor. Exhibit W is a
3 report --

4 MR. SWEETAPPLE: This is not filed, this is --

5 MS. GARCIA: -- by Dr. Sugar.

6 THE COURT: Yeah. I need her to tell me what
7 it is --

8 MS. GARCIA: And --

9 THE COURT: -- and then you to tell me why --

10 MR. SWEETAPPLE: I'm sorry, Your Honor --

11 THE COURT: -- I should or should not.

12 MR. SWEETAPPLE: -- I thought she was finished.

13 THE COURT: It's okay.

14 MS. GARCIA: And this one is being moved into
15 the fact that it was prepared, just like the other
16 ones that you already allowed, although it's
17 hearsay. The fact that this report exists. So I
18 can testify to the relevance of it in my testimony.

19 MR. SWEETAPPLE: Your Honor, this is not a
20 appointed examiner. This is somebody they went out
21 and hired. It's not filed in the case. It wasn't
22 part of Judge Burton's review, and it's hearsay.

23 THE COURT: It is hearsay. The other one was
24 not objected to. This one is objected to. It's
25 hearsay.



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1 MR. SWEETAPPLE: And they said the doctor who
2 they testified was -- had a High Holy day and
3 couldn't be here. We had to continue so he could be
4 here. So obviously there's no prejudice. They know
5 that if they want to call Dr. Sugar, he has to be
6 here.

7 THE COURT: His -- Dr. Sugar's report is
8 hearsay, so I'm sustaining the objection.

9 MS. GARCIA: Your Honor, I'm moving it not for
10 the -- not for the content, but the fact that it was
11 prepared and the date it was prepared.

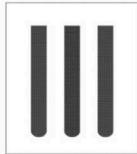
12 MR. SWEETAPPLE: Well --

13 MS. GARCIA: You had allowed the other reports
14 for the same purpose, saying it was hearsay, so I'm
15 not moving in for the contents of the report. I'm
16 moving it for the fact that it was prepared, when it
17 was prepared, and the relevance in my mind of this
18 report --

19 MR. SWEETAPPLE: It's all hearsay.

20 MS. GARCIA: -- without -- no, it's not
21 hearsay, because I'm not going to discuss the
22 relevance of the report.

23 THE COURT: I will -- I will allow you to
24 testify to the fact that a report was prepared, when
25 it was prepared, and that --



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1 MS. GARCIA: Okay.

2 THE COURT: -- you received it. But the
3 substance of the report is hearsay.

4 MS. GARCIA: I see.

5 THE COURT: Without an exception.

6 MS. GARCIA: Right.

7 THE COURT: So I'm sustaining the objection to
8 the physical report.

9 MS. GARCIA: But it's allowed for the fact that
10 it was prepared?

11 THE COURT: Yes. You can -- you can --

12 MS. GARCIA: Okay, so --

13 THE COURT: -- testify to that, yes?

14 MS. GARCIA: Okay.

15 THE COURT: You can -- I think you have
16 testified.

17 MS. GARCIA: I think we started, Your Honor.

18 Okay.

19 THE COURT: That's -- it's -- identification
20 only.

21 MS. GARCIA: Okay. The next one, Your Honor,
22 is Composite Exhibit Y, and it entails a Promissory
23 Note in this case.

24 MR. SWEETAPPLE: These are -- these are
25 attached to the Complaint and the court file. I



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1 have no objection --

2 MS. GARCIA: Okay.

3 MR. SWEETAPPLE: -- they're not relevant, but I
4 have no objection.

5 THE COURT: I'll receive them into evidence
6 without objection as Composite Exhibit 15.

7 How many composites are there? 15A and B?

8 THE CLERK: It's Composite --

9 MR. SWEETAPPLE: Note and Mortgages. Amended
10 Mortgage.

11 THE COURT: So A and B? Amended Mortgage?

12 MS. GARCIA: I'm going to approach, Your Honor.
13 So Composite Exhibit Y.

14 THE COURT: Okay. So I'm going to make the
15 Promissory Note is 15A, and the Mortgage is 15B,
16 will be received into evidence without objection.

17 (DEFENSE EXHIBIT 15A RECEIVED INTO EVIDENCE)

18 (DEFENSE EXHIBIT 15B RECEIVED INTO EVIDENCE)

19 MS. GARCIA: I'm sorry, was the v. -- which was
20 the Cheshire Report was that was admitted as Exhibit
21 14, correct?

22 MR. SWEETAPPLE: I stipulated to that.

23 MS. GARCIA: Right.

24 THE COURT: Correct.

25 MS. GARCIA: So that's 14?



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1 THE COURT: Yes, ma'am.

2 MS. GARCIA: Okay.

3 MR. SWEETAPPLE: Trying to save us time.

4 MS. GARCIA: Okay. So this one was Exhibit 15.

5 Defense -- for ID Exhibit Z, Your Honor. I
6 believe that he agreed to the judicial notice --

7 MR. SWEETAPPLE: No objection to judicial
8 notice of this. It's in the Court file in this
9 case.

10 THE COURT: It'll be received into evidence
11 without objection as Defense Exhibit 16.

12 (DEFENSE EXHIBIT 16 RECEIVED INTO EVIDENCE)

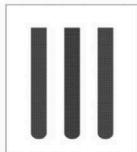
13 MS. GARCIA: So was Defense Z is Defendant's
14 16?

15 THE COURT: Yes, ma'am.

16 MS. GARCIA: Thank you, Your Honor.

17 This is Defendant's AA. Not AAA. And this is
18 a state record showing that the Bernstein Family
19 Realty, LLC, was active as a reinstatement on the
20 relevant time frame, March 16th, 2023.

21 MR. SWEETAPPLE: And Your Honor, it was then
22 dissolved administratively not long after that. And
23 as long as I can put in that to show that it's not
24 currently even in good standing, I have no
25 objection, as long as I can put in the current



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1 document that shows the actual date of dissolution.

2 THE COURT: Any issues with that, Ms. Garcia?

3 MS. GARCIA: I'm sorry?

4 THE COURT: Any issues with what Mr. Sweetapple
5 proposes?

6 MS. GARCIA: I have not seen what he's talking
7 about. So that's what the public record shows. I
8 don't have a problem that one also coming in.

9 THE COURT: Is that what the public record
10 shows?

11 MS. GARCIA: Maybe a composite --

12 MR. SWEETAPPLE: Yes, Your Honor. It's the
13 same printout from Sunbiz.

14 THE COURT: All right. So then --

15 MS. GARCIA: But --

16 THE COURT: -- I'll allow his in if I'll allow
17 Ms. Garcia's. So it'll be received by stipulation
18 as Defense Exhibit 17.

19 (DEFENSE EXHIBIT 17 RECEIVED INTO EVIDENCE)

20 MS. GARCIA: Yes. Composite --

21 MR. SWEETAPPLE: I'll provide that to the
22 Court. We'll print it during lunch.

23 MS. GARCIA: So I guess I would call it
24 Composite 17 since he's going to add the second --

25 THE COURT: And he's going to add it as



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1 Plaintiff's Exhibit --

2 MS. GARCIA: Okay.

3 THE COURT: -- whatever.

4 MS. GARCIA: This stipulates -- this judicial
5 notice, this is Defendant's BB. This is a
6 Suggestion of Bankruptcy filed in this case on 4-3-
7 23.

8 THE COURT: Position of the defense, or the
9 defendant?

10 MR. SWEETAPPLE: No, I have no objection to the
11 Court taking judicial notice. It's on the Court
12 file.

13 THE COURT: It'll be received into evidence
14 without objection as Defense Exhibit 19?

15 THE CLERK: 18.

16 THE COURT: 18.

17 (DEFENSE EXHIBIT 18 RECEIVED INTO EVIDENCE)

18 THE COURT: I'm a lawyer, I can only count so
19 well.

20 MS. GARCIA: Okay. From -- counsel, here.
21 Defense -- for identification, CC, again, it's a
22 judicial notice, Your Honor, this is a filing in
23 this case -- no, a filing of the Guardianship in the
24 mental health case. My appearance for Patricia Anne
25 Sahm, Junior dated 8-14-23.



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1 THE COURT: Position of the plaintiff?

2 MR. SWEETAPPLE: No objection.

3 THE COURT: It'll be received the evidence
4 without objection as Defense 19.

5 (DEFENSE EXHIBIT 19 RECEIVED INTO EVIDENCE)

6 THE CLERK: Yes.

7 THE COURT: Yes --

8 MS. GARCIA: 19.

9 THE COURT: -- I'm back. 19.

10 MS. GARCIA: We're getting near the end here.
11 Okay. Then we have Defense DD, which is a 5-22-23,
12 again, judicial notice. It's the -- Ms. Patwell's
13 notice of appearance in this case, filed May 22nd,
14 2023.

15 THE COURT: Position?

16 MR. SWEETAPPLE: No objection.

17 THE COURT: It'll be received into evidence
18 without objection as Defense Exhibit number 20.

19 (DEFENSE EXHIBIT 20 RECEIVED INTO EVIDENCE)

20 MS. GARCIA: Defendant's EE for identification,
21 Your Honor. It's a Stipulation for Substitution of
22 Counsel signed by Patricia Sahm.

23 MR. SWEETAPPLE: This is hearsay. It wasn't --
24 it doesn't show it was filed.

25 THE COURT: I thought this was produced at our



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1 -- in our August hearing and received into evidence,
2 wasn't it?

3 MS. GARCIA: I believe when we see Stipulation
4 for Substitution, yeah, it's Defendant's --

5 MR. SWEETAPPLE: That was -- that was me, and
6 have -- that wasn't -- that wasn't signed.

7 MS. GARCIA: The original --

8 MR. SWEETAPPLE: This is -- this is Laura
9 Burkhalter.

10 MS. GARCIA: Let me see, Plaintiff -- it was
11 Defendant's D, and it was admitted as Exhibit 3
12 already, Your Honor. Evidence 3.

13 MR. SWEETAPPLE: This is already in?

14 MS. GARCIA: Yeah.

15 THE CLERK: Let me look --

16 MS. GARCIA: I believe. I have to compare
17 it --

18 THE CLERK: So the original exhibit that was
19 put in as her D -- as Defendant's D, was an unfiled
20 stipulation for substitution that was signed by
21 Patty Sahm, Senior, but was unsigned by the attorney
22 in this case.

23 THE COURT: That's what this is?

24 THE CLERK: That's for Laura Burkhalter. This
25 was -- that was for --



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1 MR. SWEETAPPLE: This is the Probate Court,
2 Judge.

3 THE CLERK: That's the Probate Court in front
4 of you.

5 MR. SWEETAPPLE: This is not --

6 THE COURT: No --

7 MR. SWEETAPPLE: -- in our exhibits.

8 THE COURT: -- this is --

9 MS. GARCIA: The MH?

10 THE COURT: This is 20 --

11 MS. GARCIA: No, I'm sorry. You're right, Your
12 Honor --

13 THE COURT: This is 2018 --

14 MS. GARCIA: -- I apologize.

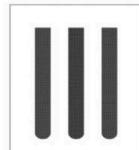
15 THE COURT: -- CF, that's this case.

16 MS. GARCIA: No, Your Honor. I apologize, it's
17 the wrong -- I -- let me take that back, let me
18 refresh. No, this is the stipulation for
19 substitution of counsel in the mental health case,
20 where Patwell --

21 THE COURT: This is -- it's 2018-CA-2317.

22 That's this case number. What you've handed me --
23 maybe perhaps you handed me the wrong document?

24 MS. GARCIA: I handed you the wrong one. What
25 is yours? The MH case and then pending damages?



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1 MR. SWEETAPPLE: It says Probate Division on
2 top -- the one that we're not --

3 THE COURT: I think -- I think you have a
4 different paper than I do, of -- what I'm saying.

5 MS. GARCIA: Let me see.

6 THE COURT: I have this one. It's this --

7 MS. GARCIA: I handed you the wrong one, Your
8 Honor.

9 THE COURT: Okay.

10 MS. GARCIA: Sorry.

11 MR. SWEETAPPLE: Oh, yeah. That's already in
12 evidence.

13 MS. GARCIA: Yeah, that's the one that's
14 already in, Your Honor. I apologize.

15 MR. SWEETAPPLE: This is what she's handing you
16 now --

17 MS. GARCIA: This is just --

18 MR. SWEETAPPLE: -- that I'm objecting to.

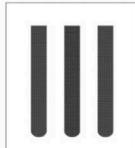
19 THE COURT: Okay. Hang on. Wait. Hold on.

20 MS. GARCIA: Now I've got to put a -- I'm going
21 to have to mark it correctly, Your Honor.

22 THE COURT: No problem, no problem.

23 MS. GARCIA: If you give me a second. I
24 apologize.

25 MR. SWEETAPPLE: If she has -- this one's filed



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1 in a case, I have no problem with the judicial
2 notice. But this is -- she's handed me a Stipulation
3 to a Substitution of Counsel in a probate case,
4 allegedly signed by Patricia Sahm and nobody else
5 and no date.

6 MS. GARCIA: So this was -- this was EE.

7 THE COURT: So this is the Stipulation --

8 MS. GARCIA: Yes.

9 THE COURT: -- 2023MH1072?

10 MS. GARCIA: Yeah. This is the one in the
11 mental health case to show that Ms. Patwell
12 substituted in for Laura Burkhalter. And this is
13 the -- this is the place it's signed by the client.
14 And I think we've already moved into evidence the
15 notice of appearance. So I guess it could have
16 really been attached to that, but I can separate --

17 THE COURT: Noting your objection, I'm going to
18 receive it into evidence as Defense Exhibit number

19 21.

20 (DEFENSE EXHIBIT 21 RECEIVED INTO EVIDENCE)

21 MS. GARCIA: Your Honor, I'm just correcting
22 the other one.

23 THE COURT: No problem.

24 MS. GARCIA: It will go into this pile.

25 It's marked as Defense FF. This is in the



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1 public records. He stipulated -- this is the second
2 mortgage on the property in this case that was
3 recorded --

4 MR. SWEETAPPLE: No objection. Except to
5 relevance.

6 THE COURT: You'll tell me why it's relevant or
7 not. I'll receive it into evidence without
8 objection as 22 -- Defense 22.

9 (DEFENSE EXHIBIT 22 RECEIVED INTO EVIDENCE)

10 MS. GARCIA: And we have Defense Exhibit GG,
11 which is a letter from the Kipperson (phonetic) law
12 firm --

13 MR. SWEETAPPLE: Hearsay.

14 MS. GARCIA: -- to Ms. Patwell and Mr. Bennett
15 terminating Mrs. Sahm. I'm sorry, terminating -- or
16 attempting, I should say, to terminate Amber
17 Patwell, August 1st, 2023. And the attorney is
18 present here for the --

19 MS. LEWIS: I didn't write that letter.

20 MS. GARCIA: Is Mr. Revard present?

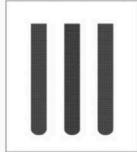
21 MR. SWEETAPPLE: Pardon?

22 MS. GARCIA: Is Mr. Revard present?

23 MR. SWEETAPPLE: He's not present here, no.

24 MS. GARCIA: Is he on Zoom?

25 MR. SWEETAPPLE: I haven't looked. Is Mr.



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1 Revard on Zoom? Just give me one second.

2 THE COURT: Sure.

3 MR. SWEETAPPLE: We're going to object to
4 hearsay, Your Honor.

5 THE COURT: Ms. Garcia?

6 MS. GARCIA: I would move it in Your Honor, not
7 for the truth of the matter asserted, for the fact
8 that this letter was sent.

9 THE COURT: It does appear to be words of
10 operative legal effect, seeking to terminate an
11 attorney-client relationship. So I'm going to
12 receive it over objection as Defense Exhibit 24 or
13 3?

14 THE CLERK: 23.

15 THE COURT: 23.

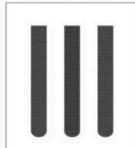
16 THE CLERK: 23.

17 (DEFENSE EXHIBIT 23 RECEIVED INTO EVIDENCE)

18 MS. GARCIA: The next one is Defense Exhibit
19 HH, which is a filing, which they stipulated to, as
20 far as a record in the estate case of Walter Sahm.
21 This is the statement regarding creditors.

22 THE COURT: What about all this handwritten --

23 MS. GARCIA: And the handwriting is my notes,
24 which I will testify to those notes as far as that
25 was from my conversations with Mr. Raymond when we



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1 were settling the case. We were going over the
2 estate's rights, and I -- I'll testify to the
3 relevance of it during my testimony.

4 MR. SWEETAPPLE: First of all, number 3 says

5 there's something attached, a list of creditors.

6 And I don't see anything attached to this. Second
7 of all, I don't see how this is relevant. The
8 estate has no claim in this case. The estate has
9 never had a claim in this case.

10 THE COURT: In an abundance of caution over
11 your objection, I'm going to receive it into
12 evidence as Defense Exhibit number 24.

13 (DEFENSE EXHIBIT 24 RECEIVED INTO EVIDENCE)

14 MS. GARCIA: II, Your Honor. It's a -- Ms.
15 Patwell's response to the Guardian's Request for
16 Production that was delivered to us in the
17 guardianship case.

18 MR. SWEETAPPLE: Your Honor, this wasn't filed
19 with the Court and it's hearsay.

20 MS. GARCIA: This is all the documents that
21 they requested to be produced by Ms. Patwell, and
22 this goes to the mental impressions of her and I's
23 negotiations and what she produced to the Court.

24 It's very relevant to the issues of fact, as far as
25 communications by Ms. Patwell. It's got the mental



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1 impressions that Judge Burton had read to the Court.

2 MR. SWEETAPPLE: Well, I have the right to
3 cross-examine Ms. Patwell about her findings and
4 mental impressions, and everything else. That's why
5 we have a hearsay rule.

6 THE COURT: All right. This does appear to be
7 classical hearsay. So at this time I'm going to
8 sustain the objection on a hearsay basis, subject to
9 you seeking to admit it some other way, but it's
10 hearsay right now.

11 For identification only.

12 MS. GARCIA: This is JJ, Your Honor. This is
13 the --

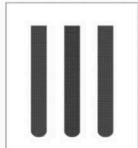
14 MR. SWEETAPPLE: No objection.

15 MS. GARCIA: This actually would probably
16 really tie in --

17 THE COURT: It doesn't sound like there's an
18 objection, so what is it?

19 MS. GARCIA: Okay. This is the actual executed
20 Stipulation of Substitution of Counsel where I had
21 already moved into evidence the one signed by
22 Patricia Sahm. This is a fully executed and filed
23 Stipulation. And it also has the proof of the
24 delivery --

25 THE COURT: And the order?



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1 MS. GARCIA: Yeah. And then the Order
2 substituting, Ms. Patwell in as the attorney for Ms.
3 Sahm.

4 THE COURT: It will be received into evidence
5 as Defense Exhibit 24.

6 THE CLERK: 25.

7 THE COURT: 25.

8 (DEFENSE EXHIBIT 25 RECEIVED INTO EVIDENCE)

9 MS. GARCIA: Defendant's Exhibit KK, which is
10 Mrs. Patwell's agreement. It's a hearsay exception
11 under the legal rule, and this is executed by Mrs.
12 Patwell, Ms. Sahm, dated May 1st, 2023. It's been
13 provided to the Court in the mental health case in
14 your discovery. And it is an exception to the
15 hearsay rule.

16 MR. SWEETAPPLE: You've already determined that
17 the retainer agreements are exception.

18 THE COURT: I'm going to receive it into
19 evidence. Is there an objection?

20 MR. SWEETAPPLE: Pardon?

21 THE COURT: Is there an objection?

22 MR. SWEETAPPLE: Object to hearsay.

23 THE COURT: I'll receive it into evidence over
24 objection as --

25 MR. SWEETAPPLE: I think correctly made a --



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1 THE COURT: Defense 26.

2 (DEFENSE EXHIBIT 26 RECEIVED INTO EVIDENCE)

3 MR. SWEETAPPLE: -- so I'll make a record,

4 but --

5 THE COURT: Just asking.

6 MR. SWEETAPPLE: I don't think I'd go any
7 further than that.

8 THE COURT: Just asking.

9 MS. GARCIA: I think we've already moved the
10 settlement agreement -- the fully executed
11 settlement agreement in. And let me see something.

12 MR. SWEETAPPLE: And did you put X in the --

13 MS. GARCIA: B. No, this is a --

14 THE COURT: I have it as --

15 MS. GARCIA: I think it's Exhibit 6.

16 THE COURT: 6?

17 MS. GARCIA: Defense Exhibit 6.

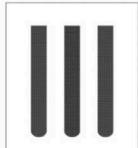
18 MR. SWEETAPPLE: Is this the settlement
19 agreement from March?

20 THE COURT: Yes, I have it as 6 -- Exhibit 6
21 entered in on August 12th.

22 MS. GARCIA: Okay. I didn't know if you need a
23 copy. Do you have a copy from last time?

24 THE COURT: The -- I'm not sure.

25 MR. SWEETAPPLE: Which date? Which one is



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1 this? May or --

2 MS. GARCIA: The May 22nd agreement.

3 MR. SWEETAPPLE: Okay.

4 MS. GARCIA: So it's already in evidence.

5 MR. SWEETAPPLE: And then you had a copy of the
6 prior agreement signed by your clients?

7 MS. GARCIA: Yeah, I'm not using it.

8 MR. SWEETAPPLE: Okay. Well, I want -- Your
9 Honor, she has -- she produced at deposition a
10 document that I put into evidence that she
11 stipulated to. She did not give me the copy that
12 was signed by her clients. Her client signed a
13 settlement agreement referencing that Mrs. Sahm was
14 incapacitated repeatedly.

15 So I do ask that she produce here the complete
16 document, not the one she gave me at the deposition.

17 THE COURT: Do you have that document?

18 MR. SWEETAPPLE: Ms. Garcia?

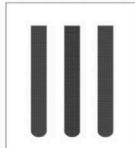
19 THE COURT: Ms. Garcia?

20 MS. GARCIA: Excuse me?

21 THE COURT: Do you have that document, Ms.
22 Garcia?

23 MS. GARCIA: I do, Your Honor, but I don't
24 intend on using it.

25 THE COURT: Right. But wasn't it ordered to be



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1 turned over and it wasn't turned over? So shouldn't
2 it have been turned over?

3 MS. GARCIA: Well, it was turned over --

4 MR. SWEETAPPLE: Not with the signatures.

5 MS. GARCIA: -- at the depositions.

6 MR. SWEETAPPLE: Not with the signatures. I
7 put in evidence what I was given by her, and I don't
8 have one with the signatures.

9 THE COURT: Do you have one with the
10 signatures?

11 MS. GARCIA: Yes. He said it was hearsay when
12 I showed it to him earlier.

13 MR. SWEETAPPLE: No, I said I want --

14 MS. GARCIA: This is --

15 MR. SWEETAPPLE: -- I --

16 MS. GARCIA: -- it's marked as Exhibit X.

17 THE COURT: You don't have to enter it as
18 evidence, but it -- but --

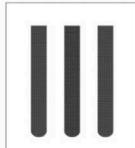
19 MR. SWEETAPPLE: I --

20 THE COURT: -- he's entitled to it, and he may
21 want me to receive it in as evidence --

22 MS. GARCIA: Okay.

23 THE COURT: It sounds like it does, so --

24 MR. SWEETAPPLE: I'm going to substitute this
25 and when I was presented with this, I said, I want



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1 to substitute this for what's in evidence. I did
2 not object to hearsay.

3 So this is a settlement agreement signed by the
4 Bernstein side on March 11th, and it is being
5 substituted for which --

6 THE CLERK: Plaintiff's 5.

7 MR. SWEETAPPLE: Plaintiff's 5, Judge. Or it
8 can be in addition, but this is the executed copy.

9 THE COURT: Ms. Garcia, what's your position
10 with respect to -- I guess, do you have the same
11 position that you did when they moved Plaintiff's 5?

12 MS. GARCIA: I'm sorry, Your Honor?

13 THE COURT: Do you have the same position that
14 you did when they moved Plaintiff's Exhibit number 5
15 into evidence, or any additional --

16 MS. GARCIA: Let me see. Plaintiff's 5 was not
17 accepted, and I don't see it anywhere.

18 THE CLERK: It was not objected to.

19 MS. GARCIA: There is no Plaintiff's 5. So --

20 THE COURT: Madam Clerk's indicating it was
21 received without objection. Do you have the date,
22 Madam Clerk?

23 THE CLERK: At 11:09, it was --

24 THE COURT: At 11:09 today?

25 THE CLERK: Oh --



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1 THE COURT: I know it'd be -- we --

2 THE CLERK: At 11 --

3 THE COURT: We --

4 THE CLERK: I'm sorry. 11:10 it was admitted.

5 THE COURT: I know we've been working hard, but
6 apparently it was admitted at 11:10.

7 MS. GARCIA: I'm sorry?

8 THE COURT: I have -- this is -- yes. Sorry.

9 Right here.

10 THE CLERK: Yes. Do you want to -- do you
11 want --

12 THE COURT: Yeah. It's this one. This is how
13 it starts.

14 MR. SWEETAPPLE: Yes. That was a
15 transmission --

16 THE COURT: So do you have any additional
17 objections to this signed?

18 MS. GARCIA: No, Your Honor. So what numbers?

19 And I apologize for --

20 THE COURT: I -- I'm going to receive -- I'm
21 not going to substitute it. I'm going to receive it
22 in evidence as -- what's Plaintiff up to?

23 THE CLERK: I believe the next one would be 12.

24 THE COURT: 12. I'm going to receive this one,
25 the signed one, as Plaintiff's Exhibit number 12.



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1 (PLAINTIFF EXHIBIT 12 RECEIVED INTO EVIDENCE)

2 MS. GARCIA: Is there an ID number or just
3 Exhibit 12?

4 THE COURT: Exhibit number 12. ID 12, Exhibit
5 12.

6 MS. GARCIA: And just before we do that, Your
7 Honor --

8 What'd I do with this file? Of there it is.
9 It's that one. Okay. What was Plaintiff's 11? I
10 don't see an 11 in the order.

11 THE CLERK: 9-22-23, the order.

12 MS. GARCIA: I have that as 10. 5, 6, 7, 8, 9,
13 10.

14 THE CLERK: That was another order.

15 THE COURT: 10 was another order.

16 MS. GARCIA: An Order Appointing a Limited
17 Guardian is 9, and an Order Granting -- number 9 was
18 a Notice of Appearance and a Joinder. One second.
19 Number 9, Plaintiff, Notice of Appearance and
20 Joinder and Objection filed by the Alleged
21 Incapacitated Person. Plaintiff 9. It was the
22 objection, right --

23 MR. SWEETAPPLE: Yes.

24 MS. GARCIA: -- to the examination committee.

25 THE CLERK: That's 8.



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1 MS. GARCIA: 8. 9 is a Notice of Appearance and
2 Tenancy Order, 11 and 12. Okay.

3 THE COURT: Madam Clerk, you don't have to
4 apologize. You're fine.

5 THE CLERK: Okay. Thank you.

6 MS. GARCIA: Thank you, Your Honor.

7 THE COURT: Yes, ma'am.

8 MR. SWEETAPPLE: Your Honor, I do have the
9 Sunbiz report moved in as 13 --

10 THE COURT: All right.

11 MR. SWEETAPPLE: -- if Counsel wants to take a
12 look at it. Are you finished? I'm sorry.

13 MS. GARCIA: No.

14 MR. SWEETAPPLE: Oh, I thought you were
15 finished.

16 MS. GARCIA: No. Two more. Okay. We'll read
17 that as one. And then -- wait, I'm sorry.

18 Okay. That's a -- that's in reverse order. I
19 could put it in the right order for you. The pages
20 weren't in the right order.

21 MR. SWEETAPPLE: Thank you.

22 MS. GARCIA: Okay. This is Defense MM for
23 identification. These are the text messages between
24 me and Mrs. Patwell that were produced for the
25 relevant time frame of May 1st, 2023 and May 22nd,



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1 2023.

2 MR. SWEETAPPLE: Object to hearsay on anything
3 that Ms. Garcia wrote. She can certainly
4 authenticate and testify to it in court.

5 THE COURT: All right. Ms. Garcia?

6 MS. GARCIA: I guess the same objection as last
7 time. This is a business record. This is my
8 statements. It's also a business record and it's a
9 statement of previously existing state of mind.

10 THE COURT: I'm going to sustain the objection
11 as to hearsay. So those will be marked for
12 identification purposes as MM.

13 MS. GARCIA: That's it for now, Your Honor.

14 MR. SWEETAPPLE: And Your Honor, Ms. Garcia --

15 MS. GARCIA: Yes.

16 MR. SWEETAPPLE: -- if you want to take a look
17 at this, I do have the current Sunbiz filing showing
18 dissolution as of September 27th, 2024.

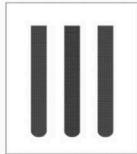
19 MS. GARCIA: Do you have a copy for me and a
20 copy for the Court?

21 MR. SWEETAPPLE: I can print it out.

22 MS. GARCIA: Yeah, print it. Uh-huh. Okay, so
23 this is --

24 MR. SWEETAPPLE: I think this is --

25 THE COURT: Plaintiff's 13 --



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1 MR. SWEETAPPLE: -- Plaintiff's 13, Your Honor.

2 THE COURT: Any issues with the -- Plaintiff's
3 13?

4 MS. GARCIA: No, Your Honor.

5 THE COURT: Received by stipulation of the
6 parties as Plaintiff's Exhibit number 13.

7 (PLAINTIFF EXHIBIT 13 RECEIVED INTO EVIDENCE)

8 MS. GARCIA: Can I --

9 Thank you for your patience, Your Honor.

10 THE COURT: No problem. Do you have additional
11 documents that you need to admit?

12 MS. GARCIA: I'm sorry?

13 THE COURT: Do you have any additional
14 documents that you need to admit?

15 MS. GARCIA: Not at the moment, no, Your Honor.

16 THE COURT: All right. So we have your witness
17 that's set to go?

18 MR. SWEETAPPLE: Yeah, we're discussing whether
19 or not we can save time by just calling Dr. Bloom
20 since she stipulated, Dr. Cheshire. I don't know if
21 she'd stipulate to Dr. Bloom or not. We put it in
22 just for judicial notice at the prior hearing.

23 THE COURT: I don't --

24 MR. SWEETAPPLE: Do you have any objection to
25 Dr. Bloom's report coming in?



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1 MS. GARCIA: Yes, I definitely would like to
2 cross-examine Dr. Bloom.

3 THE COURT: Okay. Is -- can -- is Dr. Bloom
4 available at 1:30?

5 MR. SWEETAPPLE: 1:30.

6 THE COURT: All right. So do you want to take
7 a 15-minute break and then we'll get back together
8 at 1:30 and we'll pick up with your defense witness?

9 MR. SWEETAPPLE: What I'd like to do is have an
10 hour-long lunch during 15 minutes and that isn't
11 going to happen.

12 THE COURT: Well, what I'd like to do is after
13 that witness, do you have any other witnesses or
14 evidence that --

15 MR. SWEETAPPLE: I'm discussing with Ms. Lewis,
16 just trying to save time, because --

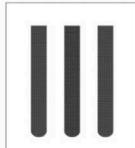
17 THE COURT: Sure.

18 MR. SWEETAPPLE: -- I want to get through this
19 today. So I may not call Dr. Cheshire. She has
20 a --

21 THE COURT: Okay.

22 MR. SWEETAPPLE: -- court reporter --

23 THE COURT: That's fine. So you have one,
24 possibly two, other witnesses. Anything other than
25 the two doctors?



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1 MR. SWEETAPPLE: I -- if Mr. Bernstein does not
2 show up, I'm going to read three snippets from his
3 party deposition.

4 THE COURT: Okay. And then Ms. Garcia, how
5 many witnesses?

6 MS. GARCIA: That would, of course, would be
7 improper without proper presentation.

8 THE COURT: I'm -- how many witnesses do you
9 intend to call?

10 MS. GARCIA: Depending what happens with Dr.
11 Bloom, one or two.

12 THE COURT: Okay.

13 So what I'll do is -- we'll take 15. We'll get
14 your one witness on. If you decide whether or not
15 you're going to call Dr. Cheshire, then maybe we'll
16 do both of them and then we'll break. I'll give you
17 guys an hour for lunch. And then I'll let Ms.
18 Garcia make her motion and call her witnesses,
19 depending on my ruling on her motion. And then we
20 should have all of the evidence in so that this
21 portion is -- can be submitted to the Court. Sound
22 good?

23 MR. SWEETAPPLE: Yeah. Except I will read the
24 party deposition for less than 60 seconds.

25 THE COURT: We will -- we'll take that -- we'll



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1 take that up at the appropriate time.

2 MR. SWEETAPPLE: Okay.

3 THE COURT: All right. I'll be back in -- I
4 guess now it's ten minutes.

5 MR. SWEETAPPLE: Thank you.

6 MS. GARCIA: Thank you, Your Honor.

7 THE COURT: Thank you.

8 (OFF THE RECORD)

9 THE BAILIFF: Come to order, Court's back in
10 session.

11 THE COURT: Everybody can be seated.

12 Well, it looks like everybody's back. Mr.
13 Sweetapple, let me turn it over to you to call your
14 next witness.

15 MR. SWEETAPPLE: Thank you, Your Honor. May it
16 please the Court, before I do, I ask if Ms. Lewis
17 can assist us here. I am led to believe that this
18 mental health report --

19 UNIDENTIFIED SPEAKER: I'll call you back. I
20 just got a call from a court. I'll call you back.
21 Bye.

22 MR. SWEETAPPLE: This report would need to be
23 under seal and also that no one other than the
24 doctor can be observing this presentation. So I'll
25 let Ms. Lewis address that. I'm not an expert in



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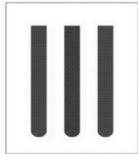
1 guardianship or mental health.

2 MS. LEWIS: Your Honor, there -- generally
3 mental health reports, any reports that are offered
4 by the committee members are filed under seal.
5 They're not publicly accessible.

6 There was an incident in the guardianship and
7 mental health matter where somebody, we still don't
8 know who, obtained copies of the original committee
9 reports and gave them to a member of the press,
10 which did a story about Mrs. Sahm and showed copies
11 of her confidential medical committee reports on --
12 I think it was CBS12.

13 So we have a concern that if there are public
14 observers on the Zoom, because we have no idea who
15 leaked those reports, although some of the people
16 that are on the Zoom today are people who have
17 attempted to intervene in the guardianship and
18 mental health, that they would take that testimony
19 and go back to the press. Because this is
20 information that would be confidential in a
21 guardianship and involve very sensitive information,
22 I believe that Mr. Sweetapple's going to ask the
23 Court to dismiss the observers from the Zoom during
24 Dr. Bloom's testimony.

25 THE COURT: All right.



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1 MR. SWEETAPPLE: That is correct. I am making
2 that request based on --

3 THE COURT: Ms. Garcia?

4 MS. GARCIA: I'm going to object to that. This
5 is an open and public courtroom. They're the ones
6 that are bringing this issue up. They want you to
7 make a determination of someone's capacity at a
8 certain date and time based on the testimony of a
9 committee member. So I firmly believe this is open.
10 They're the ones that brought it out into the open.
11 They're the ones that have moved this into evidence.

12 THE COURT: I guess my -- while the
13 guardianship proceedings are -- certainly have a
14 different level of privacy, this is a foreclosure
15 action. So I guess what authority do I have to
16 prohibit the public from having access to the Court?
17 Is there a statute or anything that says that --
18 because let's say, for example, this was a car crash
19 and it was a loss of consortium claim, or there was
20 testimony about a traumatic brain injury or
21 something like that, where -- it would be the same
22 issues. It would still be a public Courtroom. I
23 wouldn't be able to deny the public access.

24 MS. GARCIA: So candidly, Your Honor, the only
25 statute that I'm aware of is --



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1 MS. HOGUE: Your Honor, may I speak?

2 THE COURT: Are you a counsel of record?

3 MS. GARCIA: She's not, Your Honor.

4 MS. HOGUE: No, I'm not --

5 MS. GARCIA: She's a --

6 MS. HOGUE: I -- my name is Ms. Hogue. I'm a
7 member of the Guardianship Improvement Task Force.

8 And if I could just say, nothing about any of the --

9 MR. SWEETAPPLE: I object. I object, Your
10 Honor, I object --

11 MS. HOGUE: Well --

12 MR. SWEETAPPLE: -- to someone who's not
13 counsel.

14 THE COURT: Hang on.

15 MS. HOGUE: -- even in --

16 THE COURT: Hang on.

17 MS. HOGUE: -- even in probate hearings,
18 there's a statute and it says a closed probate
19 hearing is forbidden. The only person -- it's Rule
20 5.540, Hearings. And it specifically says, "An
21 election to close the hearing may be made before the
22 hearing by filing a written notice." And the only
23 person that can close it is that person who's been
24 adjudicated incapacitated.

25 So even if this was a probate --



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1 THE COURT: Okay.

2 MS. HOGUE: -- proceeding, hearings are open.

3 THE COURT: Okay.

4 MS. HOGUE: So I'll put myself on mute, and
5 thank you, Your Honor.

6 THE COURT: Thank you, ma'am. I just -- I
7 don't see -- I don't see any legal basis for -- to
8 close a circuit civil proceeding that is not a
9 probate action. It's not a guardianship action.

10 MR. SWEETAPPLE: And what about sealing the
11 reports that are in evidence?

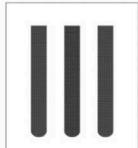
12 THE COURT: If the reports that are in evidence
13 are reports from the proceedings, then I think there
14 is a basis to seal that evidence because it's
15 evidence that is -- that comes from a closed
16 proceeding. So I would -- I would order that those
17 be sealed pending further order of the Court. But
18 as far as the testimony, I'm not going to -- I'm not
19 going to dismiss the observers.

20 MR. SWEETAPPLE: Understood.

21 MS. LEWIS: And that -- so that would just
22 apply to the Dr. Brennan Cheshire report that's in
23 evidence. Okay?

24 THE COURT: Got you. You --

25 MR. SWEETAPPLE: May I proceed?



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1 THE COURT: Sure.

2 MR. SWEETAPPLE: Thank you, Your Honor.

3 THE COURT: Who are you calling?

4 MR. SWEETAPPLE: I'm calling Dr. Bloom.

5 THE COURT: Dr. Bloom? Dr. Bloom, would you
6 raise your right hand for me?

7 Dr. Bloom, can you hear me?

8 Dr. Bloom, can you hear me?

9 MR. SWEETAPPLE: Is he on mute?

10 THE COURT: He's not on mute. He's not
11 responding. Dr. Bloom?

12 He can't hear. Is he connected to audio? It
13 looks like he's connected to audio. Let's see if I
14 mute him and ask him to unmute himself. Let's see
15 if that works.

16 Dr. Bloom, can you hear us?

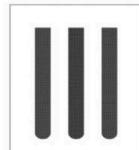
17 Perhaps if he disconnects and reconnects, and
18 then -- can someone communicate with him to ask him
19 to disconnect and reconnect?

20 MS. GARCIA: Uh-huh.

21 THE COURT: Mr. Bloom, can you hear us -- or
22 Dr. Bloom, can you hear us?

23 MR. SWEETAPPLE: I can write a note and put it
24 on the screen.

25 THE COURT: It comes up reversed.



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1 MR. SWEETAPPLE: Does it?

2 THE COURT: Learned that the hard way.

3 MR. SWEETAPPLE: You've done -- we've done that
4 before.

5 THE COURT: I can try to send him in a chat.

6 Dr. Bloom, can you please try to reconnect?

7 You may need to turn up the speakers on his
8 computer.

9 Does anybody have Dr. Bloom's phone number to
10 call him?

11 MR. SWEETAPPLE: Ms. Lewis, are you trying to
12 call him?

13 MS. LEWIS: Yeah, he -- I'm assuming he's not
14 answering because he's on his Zoom. Let me see if I
15 can --

16 MR. SWEETAPPLE: I see the screen coming on.

17 THE COURT: That's why I think perhaps his
18 speakers are just --

19 MR. SWEETAPPLE: All right.

20 THE COURT: -- not --

21 MR. SWEETAPPLE: Can we chat to him and turn up
22 the speakers?

23 THE COURT: I have asked him to reconnect.

24 MR. SWEETAPPLE: Okay.

25 THE COURT: He's not responding. He's not



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1 doing anything.

2 MR. SWEETAPPLE: I hope he's not getting into
3 trouble. Cynthia, why don't you stand in front of
4 the camera and show him that you're calling him?

5 MS. MILLER: Let me --

6 THE WITNESS: Can you hear me?

7 THE COURT: Yes.

8 THE WITNESS: I can't hear you.

9 THE COURT: Oh.

10 MS. MILLER: I'm going to write a note --

11 MR. SWEETAPPLE: Can you hear me from here?

12 THE WITNESS: Am I -- unmute is -- I'm unmuted.

13 THE COURT: Right. We can hear you.

14 MR. SWEETAPPLE: Can you hear us now?

15 THE COURT: I think it's his computer speakers.

16 MR. SWEETAPPLE: Pardon?

17 THE COURT: I think it's his computer speakers.

18 He either needs to reconnect, or --

19 MR. SWEETAPPLE: Okay. Let's not use --

20 MS. LEWIS: That's very creative, Your Honor.

21 THE COURT: It wasn't me.

22 MS. MILLER: I -- by any means necessary.

23 THE COURT: I like it, but it wasn't me.

24 MS. LEWIS: Oh, okay.

25 MS. MILLER: If she gave me credit, I would've



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1 taken it.

2 THE COURT: Honesty's the best policy. I'm
3 going to use it.

4 MS. MILLER: I would've, yes.

5 THE COURT: So he's just turned his video off,
6 though. He -- maybe -- can you tell him to give you
7 a phone call?

8 MS. MILLER: Yes.

9 MR. SWEETAPPLE: Are you calling your office
10 line?

11 MS. MILLER: I can answer it from here.

12 MR. SWEETAPPLE: You can? Okay.

13 THE COURT: I think he's reconnecting. Paging
14 Dr. Bloom, can you hear us?

15 Are you able to hear us, sir?

16 MS. MILLER: Dr. Bloom? Hello?

17 THE WITNESS: Hello?

18 MS. MILLER: Hi, Dr. Bloom.

19 THE WITNESS: Hi. I'm -- I'm not hearing you.

20 That's what I --

21 MS. MILLER: I don't think --

22 THE COURT: Yeah, that's not on mute.

23 THE WITNESS: I didn't see that, but I'll try
24 it again. Okay.

25 THE COURT: He indicated that he would try



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1 again?

2 MR. SWEETAPPLE: What'd you have him do?

3 MS. MILLER: He's going to log off and then log
4 back on.

5 THE COURT: Okay.

6 MS. MILLER: And then worst case, we should be
7 able to actually give him a number he can call in to
8 speak through.

9 THE COURT: Right.

10 Do you want me to step off the bench so that we
11 can work out the AV kinks and then I'll come back
12 once it's working? Do you want me to stare at you
13 all while we're working our way through this?

14 MR. SWEETAPPLE: How about if we just see if
15 this miraculously works before we do that?

16 THE COURT: Sure.

17 MR. SWEETAPPLE: Dr. Bloom, can you hear me?

18 THE COURT: It does not appear that he can hear
19 you.

20 MR. SWEETAPPLE: No, it does not. So how about
21 if we just ask the Bailiff to summon you when
22 we're --

23 THE COURT: All right.

24 MR. SWEETAPPLE: -- working? Thank you.

25 Dr. Bloom. Can you hear us?



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1 MS. MILLER: He can't. Let me see if I can do
2 it.

3 (OFF THE RECORD)

4 THE COURT: Dr. Bloom, can you raise your right
5 hand for me?

6 MS. MILLER: He can't hear you. He has --

7 THE COURT: He can't hear me? I think it's
8 because you're talking on the phone.

9 MS. MILLER: I can hear --

10 THE COURT: So what --

11 MS. MILLER: So you have a --

12 THE COURT: -- what Dr. Bloom's going to need
13 to do is he's going to need to put his video on
14 mute, or I can mute him. He's going to --

15 MR. BLOOM: I hear him now.

16 THE COURT: Can you hear me now?

17 MR. BLOOM: Yeah.

18 THE COURT: Okay.

19 Can you raise your right hand for me?

20 MR. BLOOM: Yes.

21 THE COURT: Do you swear or affirm the
22 testimony you're about to give is the truth, the
23 whole truth, and nothing but the truth?

24 THE WITNESS: I do.

25 THE COURT: All right. You can put your hand



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1 down now. And Mr. Sweetapple, you may inquire.

2 MR. SWEETAPPLE: Thank you, Your Honor, may it
3 please the Court.

4 TESTIMONY OF DR. STANLEY BLOOM

5 DIRECT EXAMINATION

6 BY MR. SWEETAPPLE:

7 Q. Dr. Bloom, would you please state your full
8 name for the record?

9 A. Stanley Bloom.

10 Q. And are you a licensed medical doctor?

11 A. Say again, please?

12 Q. Are you a licensed medical doctor?

13 A. Yes, I am.

14 Q. And how long have you been licensed?

15 A. About 50 years.

16 Q. And where are you licensed?

17 A. In New York and New Jersey.

18 Q. And have you ever been appointed by a Florida
19 Court to conduct a -- an examination of an alleged
20 incompetent or incapacitated person?

21 A. Yes, I have.

22 Q. On how many occasions have you been so
23 appointed?

24 A. Say again, please?

25 Q. And how many -- for how many years have you



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1 been appointed by Florida courts to --

2 A. Since -- since 2013.

3 Q. All right. So a dozen years?

4 A. Yeah.

5 Q. And how many examinations of alleged
6 incapacitated persons have you conducted for the Florida
7 courts?

8 A. I average about 150 to 200 a year. About a
9 thousand.

10 Q. All right. And do you have your records in
11 front of you regarding an examination you conducted on
12 May 5th --

13 A. Yes, I do.

14 Q. -- '23 of Patricia Sahm. You have that?

15 A. Yes, I do.

16 Q. All right. And can you tell the Court what
17 you did on that date?

18 A. Say again, please?

19 Q. Can you tell the Court what you did on that
20 date?

21 A. I did -- I interviewed the alleged
22 incapacitated person.

23 Q. All right. And how long did you spend --

24 A. It was a year ago, I couldn't tell you.

25 Q. All right. And that -- I -- that was on Zoom,



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1 was it not?

2 A. Uh-huh.

3 Q. All right. And do you -- do you remember your
4 mental diagnosis of her, or would you need to review
5 your records?

6 MS. GARCIA: Objection to foundation.

7 THE WITNESS: No, I remember. I thought she
8 had dementia. Probably Alzheimer's type.

9 MR. SWEETAPPLE: All right.

10 MS. GARCIA: Objection to foundation.

11 THE COURT: What part of the foundation is
12 lacking?

13 THE WITNESS: Pardon?

14 THE COURT: There was an objection, and I
15 asked --

16 MS. GARCIA: Well --

17 THE COURT: -- for clarification on the
18 objection.

19 MS. GARCIA: Qualifications specifically in
20 this case. As far as appointment, was he even
21 appointed?

22 THE COURT: Overruled.

23 BY MR. SWEETAPPLE:

24 Q. Were you appointed by Judge Burton to conduct
25 an examination of Patricia Sahm?



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1 A. I did. Are you talking to me?

2 Q. Yes, sir. Were you appointed by Judge Burton
3 to conduct this examination of Mrs. Sahm?

4 A. Yes, I was.

5 Q. All right. And under mental diagnosis, what
6 did you conclude?

7 A. I concluded that she had dementia. She had a
8 loss of long and short term memory. She was cognitively
9 impaired, and she was not oriented to time, place, or
10 person.

11 Q. Was she clear regarding her finances?

12 A. No.

13 Q. Did she know specifics regarding her assets?

14 A. No.

15 Q. Did she know how much money she had?

16 A. No.

17 Q. Was she aware of the guardianship?

18 A. She didn't understand the concept.

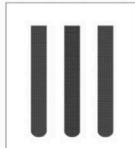
19 Q. Did she remember receiving copies of the
20 Petition?

21 A. I didn't ask her that specifically.

22 Q. Okay. And did she -- did she remember seeing
23 her attorney?

24 A. I didn't -- she did not.

25 Q. All right. Did she know what medication she



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1 was taking?

2 A. No, she did not.

3 Q. Did she know who the governor or vice
4 president is?

5 A. No.

6 Q. Could she multiply nine times seven?

7 A. Could she what?

8 Q. Multiply nine times seven.

9 A. No.

10 Q. Did she know how many quarters are in \$6?

11 A. No.

12 Q. Could she subtract seven from 100 serially?

13 A. No.

14 Q. Was she aware of the pending litigation
15 regarding this property?

16 A. No.

17 Q. And what is a M-O-C-A score?

18 A. Say again, please?

19 Q. What is an M-O-C-A score?

20 A. I -- I -- I'm having trouble hearing --
21 hearing you.

22 Q. I see in your report that her M-O -- MoCA
23 score is 18 out of 30. What is that?

24 A. Yeah. She -- she had a MoCA score of 18.

25 Q. Can you explain to the Court what that is?



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1 What is a MoCA score?

2 A. That's a -- a screening test for Alzheimer's
3 disease. I did not perform the test, but I saw the
4 report from another examining member --

5 Q. Right. And --

6 A. -- member who had performed it.

7 Q. I see in your report that Stephanie Cheshire
8 and Brennan Cheshire were present when they --

9 A. Yeah. She did the -- she did the examination.

10 Q. So you did review a MoCA score regarding her
11 Alzheimer's?

12 A. Yeah, with Stephanie.

13 Q. Right. And what does a score of 18 out of 30
14 indicate?

15 A. It indicates there's --

16 MS. GARCIA: Objection. Foundation.

17 THE WITNESS: -- cognitive impairment. It's a
18 screening test, but it indicates -- above -- above
19 eight -- above 17 indicates moderately severe
20 cognitive impairment -- disability.

21 BY MR. SWEETAPPLE:

22 Q. And she had these conditions on May 5?

23 THE COURT: Hang on. There's an object -- hang
24 on. There's an objection to foundation.

25 THE WITNESS: Did she what?



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1 THE COURT: There's an objection to foundation.

2 The objection is overruled. Next question.

3 MR. SWEETAPPLE: Thank you.

4 BY MR. SWEETAPPLE:

5 Q. Did she have these conditions when you saw her
6 on May 5, 2023?

7 A. Yes.

8 Q. And did you consult with Dr. Cheshire or Mrs.
9 Cheshire regarding --

10 A. Yes, I did.

11 Q. All right. And I see that you did a
12 functional assessment. And did you find that Ms. Sahm
13 is able to travel alone on public transportation?

14 MS. GARCIA: Objection. Leading.

15 THE WITNESS: I did not think so.

16 THE COURT: Overruled.

17 THE WITNESS: No.

18 BY MR. SWEETAPPLE:

19 Q. Did you find that she was able to drive her
20 own car?

21 A. No.

22 Q. Did you find she was able to shop alone for
23 food and clothing?

24 A. No.

25 Q. Okay. Those were your findings, no?



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1 A. No.

2 Q. What did you find with regard to her ability
3 to take her own medication?

4 A. I thought she did not have the ability to
5 manage her medication.

6 Q. What did you find with regard to her ability
7 to manage her own or handle her own money?

8 A. I thought she did not have that ability as
9 well.

10 Q. All right. So you were asked in Section 6 to
11 indicate if you thought Ms. Sahm lacked the ability to
12 exercise the following rights:

13 Did you in fact find that she lacked the
14 ability to knowingly marry?

15 MS. GARCIA: Objection. Leading.

16 THE WITNESS: Yes.

17 THE COURT: Overruled.

18 BY MR. SWEETAPPLE:

19 Q. And what about the contract? Did she lack the
20 ability to contract?

21 A. Yes.

22 Q. Did she lack the ability to -- or to exercise
23 the right to have a driver's license?

24 A. Yes.

25 Q. And to travel?



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1 A. Yes.

2 Q. Did she lack the right to seek employment?

3 A. Yes.

4 Q. And to determine her own residence?

5 A. Yes.

6 Q. Did she lack the ability to consent to medical
7 treatment?

8 A. Yes.

9 Q. Did she lack the ability to apply for
10 government benefits?

11 A. Yes.

12 Q. Did she lack the ability to sue or be sued?

13 A. Yes.

14 Q. And what about manage or dispose of her
15 property?

16 A. Yes, lacked the ability.

17 Q. All right. And did you sign a report for the
18 Court on May 5th, 2023?

19 A. Yes.

20 Q. All right.

21 MR. SWEETAPPLE: And I can show him a copy on
22 the screen if needed, Judge, to see -- have him
23 authenticate it. Is that necessary?

24 THE COURT: Are you seeking to enter it into
25 evidence?



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1 MR. SWEETAPPLE: Yes.

2 THE COURT: How would it not be hearsay?

3 MR. SWEETAPPLE: Pardon?

4 THE COURT: How would it not be hearsay?

5 MR. SWEETAPPLE: All right, so I'm not -- I
6 won't move it in.

7 BY MR. SWEETAPPLE:

8 Q. So you did issue a report, correct?

9 A. Correct.

10 Q. And provided it to Judge Burton?

11 MS. GARCIA: Objection. Leading.

12 THE COURT: Overruled.

13 THE WITNESS: Say again?

14 BY MR. SWEETAPPLE:

15 Q. You did issue a report and provide it to Judge
16 Burton?

17 A. Yes.

18 Q. Were you asked to testify in any proceeding?

19 A. Yes.

20 Q. All right. And did you give testimony
21 consistent with that testimony you've given today?

22 A. I did what?

23 Q. Did you give testimony in the proceeding
24 before Judge Burton consistent with the proceeding --
25 with the testimony you gave today?



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1 A. You -- you're breaking up. I'm sorry.

2 Q. My -- I apologize. Did you give testimony in
3 the proceeding before Judge Burton that is consistent --
4 was consistent with that testimony you gave here today?

5 A. Yes.

6 Q. All right. And these conditions that you have
7 described here, could they have just occurred the day
8 before the meeting or the week before your examination?

9 MS. GARCIA: Objection. Calls for speculation
10 and foundation.

11 THE WITNESS: No.

12 THE COURT: Overruled.

13 THE WITNESS: Unlikely.

14 BY MR. SWEETAPPLE:

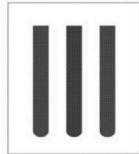
15 Q. All right. How long do you believe these
16 conditions were present?

17 A. Well, Alzheimer's disease is a slowly
18 progressive irreversible disease that occurs over time,
19 and it's not an acute disease.

20 Q. And so over how long of a period do you
21 believe she's progressed to this stage?

22 MS. GARCIA: Objection. Calls for speculation.

23 THE WITNESS: It's hard to say. It could --
24 it's been presumably some time, but I can't say when
25 it began.



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1 THE COURT: With respect to the speculation
2 objections, the doctor has testified -- he's a
3 licensed doctor for approximately 50 years in two
4 states. He's testified that he has, for the past 12
5 years, been appointed to inspect incapacitated
6 persons. He's inspected approximately 1,000
7 individuals in total. I find that he has
8 established that he's qualified to render an
9 opinion, so I'm overruling the speculation
10 objection.

11 BY MR. SWEETAPPLE:

12 Q. Based on a MoCA score of 18 out of 30, is --
13 has this been an acute case of Alzheimer and dementia?

14 A. That test is -- does not distinguish acute --
15 acute versus anything. It's just a screening test for
16 cognitive ability.

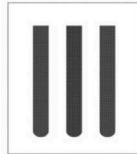
17 Q. All right. And you don't rely on that
18 exclusively, do you?

19 A. Huh?

20 Q. You do not rely on the MoCA test exclusively.
21 You interview the patient, correct?

22 A. I'm sorry, you're breaking up again. I'm
23 sorry.

24 Q. I take it you do not rely on the MoCA
25 screening test alone. You do a detailed interview of



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1 the patient, correct?

2 A. I don't rely exclusively on this free test to
3 render my opinion.

4 MR. SWEETAPPLE: If I could have one moment,

5 Your Honor?

6 THE COURT: You may.

7 MR. SWEETAPPLE: Thank you, Doctor. I have no
8 further questions at this time.

9 THE COURT: All right. Cross-examination.

10 THE WITNESS: Thank you.

11 THE COURT: Ms. Garcia, it might help if you --
12 if you're by that microphone. I think his audio is
13 coming from that phone.

14 MS. GARCIA: By the phone?

15 THE COURT: Yeah.

16 CROSS-EXAMINATION

17 BY MS. GARCIA:

18 Q. Good afternoon, Dr. Bloom.

19 A. Good afternoon.

20 Q. Nice to meet you, sir. When asked a question
21 on direct about your report and your findings, you
22 testified that you found that Ms. Sahm had dementia,
23 correct?

24 A. Can you lower the microphone? Maybe I can
25 hear you better. Not that low.



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1 Q. I'm short.

2 A. Ah. Okay.

3 Q. On direct, you testified that your report made
4 a finding that Ms. Sahm had dementia, correct?

5 A. I'm really sorry. You're breaking up. On the
6 report what?

7 THE COURT: You testified that Ms. Sahm had
8 dementia.

9 MS. MILLER: Maybe try speaking into the phone.

10 BY MS. GARCIA:

11 Q. In -- when you were asked a question about
12 your findings, isn't it true that you testified that
13 your report stated that Ms. Sahm had dementia?

14 MR. SWEETAPPLE: Objection.

15 THE WITNESS: Did my report state it in the
16 report? I'd have to read the report to see if it
17 was stated there.

18 BY MS. GARCIA:

19 Q. Do you have the --

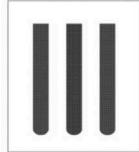
20 A. I can't tell you off -- off the top of my
21 head.

22 Q. Do you have the report in front of you, sir?

23 A. Yes, I do.

24 Q. Could you please refer to your report, Page 1?

25 A. Which report do you want? The 23rd? The year



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1 -- the first one or the second one?

2 Q. The first one, Your Honor. I'm sorry. The
3 first one, Dr. Bloom.

4 A. I don't have the third one. I have a first
5 and second one.

6 THE COURT: She said the first one.

7 BY MS. GARCIA:

8 Q. The report dated that you are -- that the
9 attorney had read the statements off the report to you,
10 and you were confirming what he was saying. Your report
11 dated May 5th, 2023.

12 A. Yeah, that's good. I can hear you now.

13 Q. Okay.

14 A. Yeah. What about it?

15 Q. Isn't it true that on direct you testified
16 that your report stated that Ms. Sahm had dementia?

17 A. No. Here I -- I testified that I believe she
18 had dementia. I didn't testify the report had dementia.

19 Q. Isn't it true that in your report, you only
20 stated she had long-term or short-term memory?

21 A. She has a loss of long- and short-term memory,
22 correct.

23 Q. How long -- first of all, how did you appear
24 at this --

25 A. How do I --



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1 Q. -- evaluation? Were you there in person or on
2 Zoom?

3 A. How do I -- I'm sorry?

4 Q. How were you there to analyze or to evaluate
5 Ms. Sahm?

6 A. I interviewed her.

7 Q. Did you do it in person or on Zoom?

8 A. I believe I did it on Zoom. My memory is a
9 little vague on it. It's a long time ago, but I believe
10 I did it on Zoom.

11 Q. And when you did this review of Ms. Sahm, was
12 Stephanie Cheshire and Brennan Cheshire present at
13 that --

14 A. You know, I -- I did two exams on her and
15 they're over a year ago. And I know I did one remotely.
16 And I know I recall, at least in one of them, that
17 Stephanie Cheshire was there. But I can't tell you
18 which one or, you know, when -- when they were there.
19 It's too long ago.

20 Q. Isn't it true that these reports and these
21 evaluations are supposed to be done independently of the
22 other committee members by law?

23 A. When we were trained -- when we were trained,
24 we were encouraged to review our reports with other
25 members of the examining committee.



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1 Q. But you can't rely on their findings?

2 A. I -- I do not rely on their findings.

3 Q. But you relied on the MoCA test score of 18
4 out of 30, correct?

5 A. I rely on my interview, any medical
6 information that I receive, any discussions I have with
7 members of the examining committee, the medical, past
8 history, the psychiatric report, which I have access to,
9 and any other information that is made available to me.
10 I do not rely on any one specific thing.

11 Q. Didn't you testify on your direct examination
12 that a MoCA score of 18 was --

13 A. Can you talk directly into the microphone?
14 Can you get real close? I can't hear you.

15 Q. On -- in your direct testimony, am I correct
16 when I --

17 A. Say again?

18 Q. -- in your direct testimony, you testified
19 that a MoCA score of 18 is an acute cognitive
20 deficiency, correct?

21 A. Incorrect. I did not say acute.

22 Q. So when the attorney told you it was acute and
23 you said, yes, that's not true, that an 18 is actually a
24 mild cognitive impairment function?

25 A. She had -- it indicates that there is



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1 significant cognitive impairment. That's what I stated.

2 And that's what I mean.

3 Q. So who conducted the MoCA test in this -- out
4 of the three of you?

5 A. Stephanie Cheshire. Stephanie Cheshire.

6 Q. And you were aware that she doesn't have the
7 ability to conduct MoCA tests legally, she doesn't have
8 the training or certificate?

9 MR. SWEETAPPLE: Objection. Predicate.

10 THE WITNESS: That's not true because I've done
11 other cases with her and in fact she is trained to
12 do it.

13 THE COURT: Overruled.

14 BY MS. GARCIA:

15 Q. You said Stephanie is the one that conducted
16 it. Mrs. Stephanie Cheshire, correct?

17 A. You have to get close to the microphone again,
18 please.

19 Q. Did you -- did you state that [REDACTED]
20 [REDACTED] is the person that conducted the MoCA test?

21 A. Stephanie Cheshire is the person that
22 performed the test, correct.

23 Q. And is Stephanie Cheshire the social worker?

24 A. I believe she is, but I -- I'm not intimately
25 familiar with her credentials. I'm sure they -- they're



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1 available to you if you wish to see them.

2 Q. Are you aware that Stephanie Cheshire allowed
3 her social worker status to expire and she's still
4 conducting MoCA tests illegally?

5 MR. SWEETAPPLE: Objection. Predicate.

6 THE COURT: Sustained.

7 THE WITNESS: I don't know if that's factual or
8 not. I can't tell you.

9 THE COURT: Speculation. And he doesn't know.

10 Next question.

11 BY MS. GARCIA:

12 Q. How long were you on the Zoom when you
13 conducted this evaluation?

14 A. How long was I? Say it again.

15 Q. How long were you on Zoom when you conducted
16 this evaluation of Ms. Sahm?

17 A. How long did it -- the time I conducted the
18 evaluation? I can't tell you. It's over a year ago.

19 Q. When you testified on direct that you didn't
20 ask Ms. Sahm if she remembered receiving copies of the
21 petition, is that true or is your report true?

22 A. I have a -- I didn't hear the question
23 completely, but I have a copy of the petition if that's
24 what you're asking.

25 Q. On direct you testified that you did not ask



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1 Ms. Sahm if she remembered receiving copies of the
2 petition, but your --

3 A. I didn't ask who?

4 Q. Mrs. Sahm. The --

5 A. Oh. Oh, I hear what you're saying. Yeah, she
6 -- she apparently did not remember. Right.

7 Q. Why is your testimony inconsistent with your
8 report?

9 A. I don't think it's inconsistent. If you point
10 out the inconsistency to me, I'll try to clarify it for
11 you.

12 Q. On direct you testified that you did not ask
13 her about receiving a petition. However, in your
14 report, you state that she doesn't remember receiving
15 the petition. Which statement is true?

16 A. I stated what?

17 Q. Let's go -- I'm going to move on. Let's go to
18 Page 2 of your report, sir.

19 A. Which report are we looking at, '23 or '24?

20 Q. '23.

21 A. May? The May report?

22 Q. Yes.

23 A. Okay. And what do you want to know?

24 Q. Page -- can you please look at Page 2? Look
25 at



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1 4.0.

2 A. Page 2, 4.0?

3 Q. Yes.

4 A. Right.

5 Q. Isn't it true that your recommended course of
6 treatment was that the AIP is in good physical health,
7 and she can continue to live independently?

8 A. Right. That's what I wrote.

9 Q. Where in this report does it say she has
10 Alzheimer's or severe mental cognitive issues?

11 A. I'd have to look at the report whether it says
12 it or not, but that's indeed what she has.

13 Q. Is that based on your May or on your second
14 report that wasn't used in court?

15 A. Say again, please?

16 Q. I'll move on. Can you please look at point --
17 5.0, functional assessment, on your report. It's on
18 Page 2.

19 A. You're saying -- you -- item 3? Is that what
20 you're asking me about?

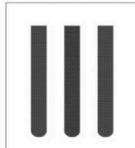
21 Q. Item 5.0, functional --

22 A. Yeah.

23 Q. -- assessment.

24 A. Yeah. Yeah, okay. Go ahead.

25 Q. Are you aware of Florida Statute 744.102 that



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1 discusses what determines whether an AIP is
2 incapacitated or not?

3 MR. SWEETAPPLE: Form. Calls for a legal
4 conclusion --

5 THE WITNESS: I couldn't cite it.

6 MR. SWEETAPPLE: -- he's not here as a legal
7 expert.

8 THE WITNESS: I couldn't review or state what
9 that says specifically. If you want to read it to
10 me, I will tell you whether of I'm aware of it or
11 not.

12 BY MS. GARCIA:

13 Q. Okay. Are you aware --

14 THE COURT: Hang on. There's an objection.

15 Overruled based on the question and answer.

16 BY MS. GARCIA:

17 Q. Are you aware that to find someone
18 incapacitated, you need to consider their healthcare of
19 themselves, their ability to feed themselves, their
20 appearance, and their ability to clothe themselves?

21 A. I've done over 1,000 evaluations. I'm quite
22 aware of the requirements that -- that you need to
23 determine whether a person is incapacitated. And based
24 on the evaluation I did, I rendered an opinion that
25 indeed she is incapacitated.



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1 Q. Okay. So let's look at Section 5.0. Isn't it
2 true that you found that she can shop alone for clothing
3 and food? You have a Y next to it.

4 MR. SWEETAPPLE: Your Honor, this calls for a
5 legal conclusion. Judge Burton made a legal
6 conclusion based on the statute --

7 THE WITNESS: That's a typo. It's no. It's Y,
8 no.

9 THE COURT: Overruled.

10 THE WITNESS: The Y is a typo.

11 BY MS. GARCIA:

12 Q. Isn't it true on the next line you said that
13 she, Mrs. Sahm, can prepare her own meals, correct?

14 A. I have to look at the report because I
15 certainly don't remember.

16 Q. Look at Page 2, 5.0, functional assessment.

17 A. Yes. Yeah.

18 Q. She --

19 A. Yes, she can prepare her own meals.

20 Q. And if you go to the next page.

21 A. Yes.

22 Q. It's the fifth one down. Isn't it true you
23 found that Ms. Sahm could take care of her own personal
24 appearance?

25 A. Yes.



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1 Q. And isn't it true you found Ms. Sahm could
2 socialize with her friends?

3 A. Yes.

4 Q. Isn't it also true that Florida has denied you
5 receiving your license to be a doctor here since 1984?

6 A. The Court has denied me what?

7 Q. The Florida Department of Health, where
8 doctors are licensed in the state, you have been
9 rejected to be a doctor in the state since 1984; isn't
10 that true?

11 A. No.

12 Q. You've applied to be a doctor in Florida and
13 were denied, correct?

14 A. Did I what?

15 Q. You applied to be a licensed physician or a
16 gynecologist, I think, in Florida?

17 A. I'm not a gynecologist. I'm not a
18 gynecologist. I'm a urologist.

19 Q. Urologist. Okay.

20 A. And I did not apply for a license in the state
21 of Florida.

22 Q. Ever?

23 A. Ever.

24 Q. Are you aware that I did a 119 request for
25 your application here and with the Department of Florida



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1 and there's proof --

2 A. Am I aware --

3 Q. -- that you were denied being a doctor in the
4 state?

5 A. Am I aware of the allegation? No, I'm not
6 aware of the allegation.

7 Q. Are you aware that when --

8 MR. SWEETAPPLE: Your Honor, I move to strike
9 the question and answer. There's no predicate for
10 any of this.

11 THE COURT: Overruled.

12 BY MS. GARCIA:

13 Q. Are you aware that there was -- there's a
14 relationship, a legal relationship, between the other
15 two committee members, Dr. Stephanie Cheshire and
16 Brennan Cheshire, and that's against the laws --

17 MR. SWEETAPPLE: Objection.

18 BY MS. GARCIA:

19 Q. -- for committee members?

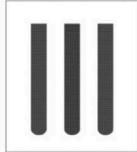
20 THE COURT: I'm going to sustain the objection.

21 It calls for --

22 THE WITNESS: I have no knowledge of what
23 the rules are, nor is it relevant to what I do.

24 THE COURT: But I'll allow his answer to stand.

25 BY MS. GARCIA:



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1 Q. You testified on direct that you gave
2 testimony in front of Judge Burton in relation to this
3 finding, correct?

4 A. Yeah, I believe I did. I believe I did, yeah,
5 but my memory is vague on it.

6 Q. Isn't it true that you actually did not
7 testify in Judge Burton because the parties --

8 A. It's quite possible. It's quite possible.
9 All of this happened over a year ago and I'm not sure of
10 times and dates, and who I testified in front of and who
11 I didn't testify in front of. So it's possible I'm
12 incorrect. I don't know.

13 Q. So your last statement wasn't true, then?

14 MR. SWEETAPPLE: Objection. Argumentative.

15 THE WITNESS: Same answer.

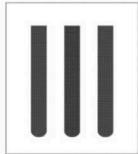
16 THE COURT: Overruled.

17 BY MS. GARCIA:

18 Q. Isn't it true that a MoCA score of 18 out of
19 30 only signifies a mild cognitive impairment?

20 A. Mild to moderate. And it's only one part of
21 the diagnosis. There are multiple factors that you
22 consider when making the diagnosis, one of which is the
23 MoCA test.

24 Q. Isn't it true that to have a moderate
25 cognitive impairment, the score must be between 10 and



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1 17, not 18 or above?

2 A. I beg your pardon?

3 Q. Isn't it true that according to the MoCA test,
4 that to have a -- to have a moderate cognitive
5 impairment, the score must be between 10 and 17?

6 A. There's a cutoff point. At 17 and 18 it's --
7 it's moot.

8 Q. Where is that in the MoCA testing protocols?

9 A. I'm giving you my opinion. My report is based
10 on my opinion.

11 Q. And your opinion was based partially on this
12 MoCA test, correct?

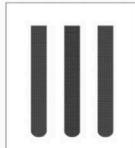
13 A. My opinion is based on my evaluation, the
14 report of the neurologist, my conference with my other
15 members of the examining committee, the medical
16 information that's available to me, the interviews that
17 I carry out, if I carry out any with a family member. It
18 is not based on a MoCA test.

19 Q. There's nothing in your report that refers to
20 you reviewing any medical records, sir. So did you --

21 A. There's nothing in my report what?

22 Q. There's nothing in your report that refers to
23 you reviewing medical records. Is your testimony
24 here --

25 A. Uh-huh.



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1 Q. -- today now that you reviewed medical records
2 to make your decision hearsay outside medical records?

3 A. When medical records are available, I review
4 them. The medical records that I have is the record
5 from the Neurological Disorders Clinic by a neurologist
6 who found that, "Patricia Sahm has Alzheimer's disease,
7 is unable to make any decisions about where she will
8 reside, lacks proper character judgment, cannot decipher
9 general -- genuine relationships from scams or tricks.
10 She is not able to determine who is safe to socialize
11 with. As a result, she is unable to handle her own
12 financial affairs or any legal contracting. If you have
13 any questions, you can call the office." That is the
14 report from Fernando Norono, neurologist.

15 Q. Date -- date, please?

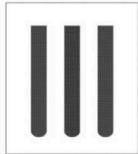
16 A. June 26th, 2024.

17 Q. Okay. June 26th, 2024. You're relying on a
18 report that's a year and two months after this to make
19 your findings, sir?

20 A. As I said before, I don't rely on any one
21 thing. I rely on all the information available to me
22 plus my own evaluation.

23 Q. Which was on Zoom for a time you don't
24 remember, a length of time you don't even remember?

25 A. Say again?



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1 MS. GARCIA: I'll withdraw that question, Your
2 Honor.

3 BY MS. GARCIA:

4 Q. Did you read Dr. Sugar's report?

5 A. Did I read whose report?

6 Q. Dr. Sugar, who gave an opinion for the AIP's
7 attorney. Did you read his report?

8 A. I don't have that. I don't have that in front
9 of me right now.

10 Q. But have you read it?

11 A. I don't recall reading it.

12 Q. Are you sure?

13 A. I don't recall reading it.

14 Q. Now you talk -- you keep talking about a
15 second report you did. Isn't it true that you -- the
16 three committee members were removed in 2024?

17 A. Isn't it -- isn't it --

18 MR. SWEETAPPLE: Your Honor, I'm going to
19 object.

20 THE WITNESS: -- isn't it true what?

21 MR. SWEETAPPLE: Your Honor, I'm going to
22 object going into the next year's report and
23 activities. Although it would be helpful in my case,
24 it's just not relevant.

25 THE COURT: Overruled.



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1 BY MS. GARCIA:

2 Q. You referred to the fact that you did a second
3 report in 2024, correct?

4 A. There was -- I'm sorry, I didn't hear you.

5 Q. You referred to the fact that you did a second
6 report in 2024, correct?

7 MR. SWEETAPPLE: Your Honor, outside the scope
8 of --

9 THE WITNESS: I evaluated her twice, correct.

10 MR. SWEETAPPLE: Outside the scope of direct.

11 THE COURT: Overruled.

12 BY MS. GARCIA:

13 Q. And isn't it true that that was not used by
14 the Court, and the Court appointed three new committee
15 members?

16 A. Isn't it true what?

17 Q. That those reports were not used in 2024 and
18 the Court appointed three new committee members.

19 A. You're breaking up. Something about 2024 and
20 2023.

21 Q. Isn't it true that after you wrote the report
22 in 2024, that they were not used because the Court
23 appointed three new independent committee members?

24 A. I -- I'm not aware of that. That's -- it's
25 possible.



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1 MS. GARCIA: Can I have a moment, Your Honor?

2 THE COURT: Sure.

3 MS. GARCIA: One second, Your Honor.

4 THE COURT: Okay.

5 MS. GARCIA: I have no other -- I have no other
6 questions of this witness, Your Honor.

7 THE COURT: Okay. Any redirect examination,

8 Mr. Sweetapple?

9 MR. SWEETAPPLE: I don't have any further
10 questions of this witness. However, I am going to
11 ask for leave to call Ms. Lewis for two minutes as
12 to why the parties stipulated to --

13 THE COURT: May I dismiss -- Dr. Bloom?

14 MR. SWEETAPPLE: Yes, I'm finished with Dr.
15 Bloom.

16 THE COURT: All right. Thank you very much,
17 Dr. Bloom. You can log off the Zoom.

18 MR. SWEETAPPLE: Thank you, Dr. Bloom.

19 THE WITNESS: Thank you. Am I dismissed?

20 THE COURT: Yes.

21 THE WITNESS: Thank you very much.

22 THE COURT: Thank you.

23 MR. SWEETAPPLE: I'd like to, if I could, Your
24 Honor, briefly call Attorney Lewis just with regard
25 to what happened with regard to the 2024 panel,



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1 since there's been an attempt to create some
2 impression that he was disqualified somehow.

3 THE COURT: All right. Is she on the witness
4 list?

5 MS. GARCIA: No.

6 MR. SWEETAPPLE: No, but this is by way of
7 rebuttal.

8 THE COURT: All right. Why don't we --

9 MS. GARCIA: I object, Your Honor. It's
10 prejudice. He could have reasonably understood that
11 when he was calling this witness, that there would
12 be issues as to the admissibility or lack of
13 admissibility testimony or use of these reports.

14 THE COURT: But his reports are not in
15 evidence.

16 MR. SWEETAPPLE: And 2024 was not a relevant
17 time period.

18 THE COURT: And my -- the decision that I have
19 to make is not whether or not she qualifies as an
20 incapacitated person. I have to -- I -- we're
21 getting way far-field. But you know what? I'll let
22 you call Ms. Lewis. I'll let you cross-examine her.
23 And I'll take the evidence for what it's worth,
24 which may not be germane to the Court's conclusion,
25 but --



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1 Come on up, Ms. Lewis.

2 MR. SWEETAPPLE: I don't think it is relevant
3 to the Court's conclusion. However, I think there's
4 been a misimpression created.

5 THE COURT: Would you raise your right hand?

6 THE CLERK: Do you solemnly swear or affirm
7 that the evidence you're about to give will be the
8 truth, the whole truth, and nothing but the truth?

9 THE WITNESS: I do.

10 THE COURT: All right. Watch your step on your
11 way up.

12 Mr. Sweetapple, whenever you and Ms. Lewis are
13 ready, you may inquire.

14 MR. SWEETAPPLE: Thank you, Your Honor.

TESTIMONY OF KATHRYN LEWIS

DIRECT EXAMINATION

BY MR. SWEETAPPLE:

18 Q. Would you please state your name?

19 A. Yes. My name is Kathryn Lewis.

20 Q. And how are you employed?

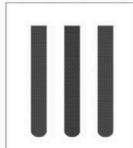
21 A. I am a partner at Kitroser Lewis & Mighdoll.

22 Q. And are you a licensed Florida attorney?

23 A. Yes, I am.

24 Q. How long have you been so licensed?

25 A. Since 2008.



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1 Q. And are you counsel for Charles Revard, the
2 guardian of Ms. Sahm?

3 A. I am.

4 Q. And were you involved with regard to
5 evaluations of Ms. Sahm again in 2024 after the 2023
6 that is the subject of this controversy?

7 A. In 2024, myself and Mr. Kitroser were
8 representing Mr. Revard at the time that those
9 evaluations were performed. We did not personally have
10 any involvement in the actual evaluations themselves.

11 Q. And did counsel for anyone request that there
12 be a reevaluation in 2024?

13 A. Yes. We filed a petition to determine
14 incapacity and a petition to expand the guardian's
15 powers in order to give the guardian control or ability
16 to make decisions regarding Mrs. Sahm's residence and
17 social environment, which were two rights that were not
18 removed in 2023.

19 Q. And did the Court grant that expansion?

20 A. Yes.

21 Q. All right. And did -- was there a new
22 examination committee appointed?

23 A. Originally, after we filed a petition to
24 determine incapacity in 2024, the Court reappointed the
25 committee from 2023 to evaluate Mrs. Sahm again.



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1 Q. And what happened?

2 A. They did their evaluations. They filed their
3 reports. Thereafter, Attorney Laura Burkhalter, who had
4 been court appointed to represent Mrs. Sahm in the 2024
5 incapacity proceedings, filed a written objection to
6 those committee reports. And as part of the grounds for
7 her objections, she stated that because this was the
8 original committee from 2023 that had previously found
9 Mrs. Sahm incapacitated, that it was an infringement on
10 Mrs. Sahm's presumption of capacity.

11 Q. And was a new committee appointed?

12 A. Yes. We actually agreed, Mr. Kitroser and I,
13 on behalf of Mr. Revard. We agreed to the appointment
14 of a new committee to remove that from being an issue.

15 Q. And that committee, did it also determine that
16 she was incapacitated?

17 MS. GARCIA: Object to relevance.

18 THE WITNESS: It did.

19 BY MR. SWEETAPPLE:

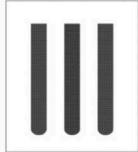
20 Q. And did they recommend an expansion of --

21 THE COURT: Sustained.

22 MR. SWEETAPPLE: No further questions, Your
23 Honor.

24 THE WITNESS: Okay.

25 THE COURT: Any cross-examination with respect



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1 to --

2 MS. GARCIA: Just brief on that.

3 CROSS-EXAMINATION

4 BY MS. GARCIA:

5 Q. Were you the attorney in May of 2023 in the
6 guardianship and mental health case?

7 A. I don't -- I -- I personally was not involved
8 in the case in May of 2023. I'm not sure whether or not
9 Mr. Kitroser had been retained by Mr. Revard at that
10 point in time. Personally, I'm not sure.

11 Q. Isn't it true that your law firm and Mr.
12 Revard weren't even brought into this case until June of
13 2023 by agreement?

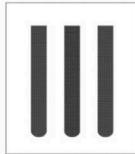
14 A. I don't know --

15 Q. -- of Ms. Amber -- Ms. Patwell?

16 A. I don't know why -- what standing Ms. Patwell
17 would have to agree as to whether or not Mr. Revard
18 retained my law firm.

19 Q. So you don't know if it was actually testimony
20 given to Judge Burton, do you, in May of 2023 or June of
21 2023?

22 A. Personally, I don't know. I believe there was
23 an agreement among the parties. Ms. Patwell withdrew
24 her objections to the committee reports. You, on behalf
25 of the Bernsteins, did not pursue an objection from what



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1 I understand. And because there was an agreement, the
2 Court entered an order adjudicating Ms. Sahm
3 incapacitated.

4 Q. Isn't it true that the order doesn't actually
5 have a date of adjudication and determination of the
6 incapacity? It's blank?

7 MR. SWEETAPPLE: Object to best evidence. Best
8 evidence.

9 THE COURT: How is it -- wouldn't the order be
10 the best evidence?

11 MS. GARCIA: I'm sorry?

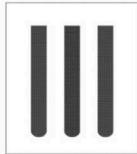
12 THE COURT: Wouldn't the order be the best
13 evidence?

14 MS. GARCIA: Well, since there's a lot of
15 issues here going to the mental impressions of the
16 capacity, non-capacity, and the ability to enter
17 into contracts at that time, I think it's very
18 relevant that there was no due process finding of
19 incapacity by the Court --

20 THE COURT: I --

21 MS. GARCIA: I could ask that question.

22 THE COURT: I guess I don't see how, with all
23 due respect to Ms. Lewis' knowledge of the date,
24 whether or not the order contained the date, is
25 relevant to the issues that we're here to decide so



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1 I'll sustain the objection as to best evidence. If
2 you want to provide the order, show me whether or
3 not it has a date, I can read it.

4 MS. GARCIA: I'll do that because it's in
5 evidence.

6 Okay. Thank you.

7 THE WITNESS: Thank you.

8 THE COURT: All right.

9 THE WITNESS: May I step down, Your Honor?

10 THE COURT: Any redirect examination?

11 MR. SWEETAPPLE: No, Your Honor.

12 THE COURT: All right. Yes, ma'am. You may
13 step down.

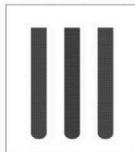
14 Any additional witnesses or evidence on behalf
15 of the plaintiff?

16 MR. SWEETAPPLE: I just want to read from the
17 party deposition if I could.

18 THE COURT: Okay.

19 MR. SWEETAPPLE: Briefly, and I don't think we
20 have copies of the transcript. I --

21 MS. GARCIA: No. Hold on, Your Honor. I
22 object fully. He cannot just use the depo. This is
23 improper impeachment. You want to use a deposition
24 for a witness, you can use it if you find that the
25 witness is dead, which he's not. He's greater than



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1 a hundred miles, which he's not. He's out of state,
2 which he's not. And it doesn't appear that he's
3 absent. He never gave proper notice prior to the --
4 to the -- to the trial. Of using a deposition, you
5 can't use a deposition to impeach a witness when
6 he's not here and he's available. He could have
7 been subpoenaed. So I believe it violates your
8 1.330, and basically he cannot use the deposition
9 under 1.330(a). And he hasn't given a proper
10 notice. It's a due process hurdle he has to
11 overcome, and I can cite all the case law if you'd
12 like, Judge.

13 THE COURT: Sure. Cite me a case that says he
14 can't use the deposition of a party upon it.

15 MS. GARCIA: As the way he wants to use it,
16 when the party's available and he didn't subpoena
17 him. He can't come in here now and just read the
18 deposition without proper notice.

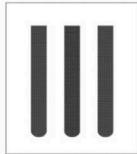
19 THE COURT: Okay. Cite --

20 MS. GARCIA: Proper --

21 THE COURT: -- cite me a case that says that.

22 MS. GARCIA: They said that basically -- let me
23 see. Okay, the Fourth District has a case that says
24 that the rule --

25 THE COURT: What's the name of the case? What's



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1 the citation?

2 MS. GARCIA: I'll get it. Give me one second.

3 First of all, there's a hearsay burden to overcome
4 under Rule 1.330, and basically they said that under
5 Dinter v. Brewer, 420 So.2d 932, Florida Third DCA,
6 1982, the Court found the hearsay was inadmissible
7 because it didn't satisfy the provisions of the
8 former testimony rule. In other words, the rule
9 itself is only exception to the hearsay rule --

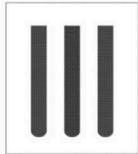
10 THE COURT: Isn't prior sworn testimony of a
11 party opponent taken at a deposition subject to
12 cross-examination specifically an exception of the
13 hearsay rule?

14 MS. GARCIA: Cross -- cross-examination, Your
15 Honor, but --

16 THE COURT: Subject to cross-examination. Not
17 cross-examination.

18 MR. SWEETAPPLE: I believe -- I believe the
19 rules, Your Honor, allow the party -- opposing
20 party's deposition to be used at any time for any
21 purpose. That's been my use of them for over 40
22 years, and I've never had anybody say I couldn't do
23 that so I -- I'm ready to be corrected if I'm wrong.

24 MS. GARCIA: I believe it's a due process
25 violation to allow him to use a rule against a party



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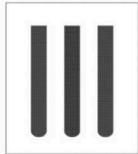
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1 who has not testified, who he's not subpoenaed, he's
2 not called as a witness, and he's coming in here
3 using the deposition without proper notice. The
4 rule does say you have to give me notice and a copy
5 of the deposition. My client never -- and it's also
6 he has to be unavailable if he wants to use the
7 deposition, or he would use it on proper cross-
8 examination. You can't use a deposition as direct
9 testimony, not the way he wants to use it. It's not
10 following the proper rules.

11 MR. SWEETAPPLE: Mr. Bernstein was here at our
12 last sitting and I have deposed him, and intended to
13 cross-examine him. He's not here today and I
14 believe I'm entitled to use his testimony from the
15 deposition as a party opponent for any purpose at
16 any time. She can call him if she chooses to. He's
17 a party.

18 THE COURT: Rule 1.330(a), Use of Depositions.
19 "Upon any hearing of a motion, any part or all of a
20 deposition may be used against any party who was
21 present or represented at the taking of the
22 deposition or who had reasonable notice of it so far
23 as admissible under the rules of evidence applied as
24 though the witness were then present and testifying
25 in accordance with any of the following provisions."



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1 Subsection (2), "The deposition of a party or of
2 anyone who is a person or agent designated may be
3 used by an adverse party for any purpose." So I am
4 overruling your objection.

5 MS. GARCIA: And also, Your Honor, (a) (1) does
6 discuss the fact that if you want to use it for the
7 purpose of contradicting or impeaching any testimony
8 of the deponent as a witness, you do have to follow
9 the evidence code. You do have to give proper
10 notice. You can't just come into the Court with a
11 deposition that hasn't even been read.

12 THE COURT: When was this deposition taken?

13 MR. SWEETAPPLE: This deposition was taken
14 October 2, 2024.

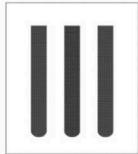
15 THE COURT: All right. And was it listed as a
16 potential exhibit or item of evidence?

17 MS. GARCIA: No, Your Honor.

18 MR. SWEETAPPLE: We took this -- we took this
19 after all that occurred. It -- we had -- it took us
20 forever to get Mr. Bernstein in for the deposition,
21 if you recall.

22 THE COURT: All right, when did you determine
23 that you were going to use your deposition?

24 MR. SWEETAPPLE: I was going to use it for
25 cross-examination today. However, I noted that for



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1 some reason, Mr. Bernstein, who sat next to her the
2 entire proceeding in August, is not here so I --

3 THE COURT: Is Mr. Bernstein present on Zoom?

4 If so, can you unmute yourself? Deputy, could you
5 sound the hall for Mr. Bernstein?

6 THE BAILIFF: Mr. Bernstein.

7 THE COURT: All right. Deputy has indicated
8 that Mr. Bernstein is not present, so I find that
9 he's not availed himself to be cross-examined here
10 in Court. So it would not be fair to the other party
11 to not allow that portion of his testimony to not be
12 provided to the Court, so I'm overruling your
13 objection.

14 MR. SWEETAPPLE: Your Honor. If I may, I'm
15 reading from Page 76, starting at Line 4.

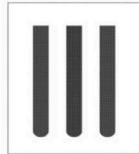
16 Question: "And how many times did you meet
17 with her before the guardianship was filed?"

18 Answer: "Probably most of the times."

19 Question: "Well, after the guardianship was
20 filed, did you still meet with her and try to get her to
21 sign a settlement?"

22 Answer: "I have to look at my notes and figure
23 that out, but -- "

24 Question: "Didn't you appear at her house on
25 more than one occasion before she signed the settlement



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1 agreement to meet with her?"

2 Answer: "I did."

3 Question: "Okay. You had the settlement

4 agreement in your hand when you met with her, right?"

5 Answer: "I did."

6 Question -- this is at Page 77, Line 3.

7 "Didn't you -- so you met with Mrs. Sahm after she had

8 been -- after the guardianship had been filed, right, at

9 her house?"

10 Answer: "Yes."

11 Question: "On more than one occasion,

12 correct?"

13 Answer: "Yeah, most likely."

14 Then on Page 88 at Line 2, "Okay. So we're

15 -- so you were helping -- you were helping Patricia

16 Sahm, Senior, find an attorney?"

17 Answer: "Yeah."

18 Question: "Okay. And you asked everybody in

19 the guardianship abuse group who you could get to

20 represent Patricia Sahm, Senior?"

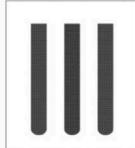
21 Answer: "Correct."

22 Question: "And so how did you learn that Ms.

23 Patwell had been hired after you recommended that

24 someone go find an attorney for Mrs. Sahm?"

25 Answer: "How did I learn? I think through



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1 Patty, Junior, or something."

2 That's all I'm reading, Your Honor.

3 THE COURT: All right. Is there any portion of
4 the deposition that you would like for me to
5 consider according to the rule of completeness, Ms.
6 Garcia?

7 MS. GARCIA: Your Honor, I would need time. I
8 will do that before the close of my case.

9 THE COURT: Okay. All right. Is there any
10 additional witnesses or evidence?

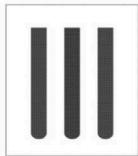
11 MR. SWEETAPPLE: Your Honor, I have no further
12 evidence with regard to our motion.

13 THE COURT: All right and then motion on behalf
14 of -- let me turn to Ms. Garcia first for your
15 motion, understanding that you had entered evidence,
16 but we just did that for expediency sake. This is
17 now the close of the plaintiff's presentation.

18 MS. GARCIA: Has -- I'm sorry. The plaintiff
19 has rested?

20 THE COURT: Yes, ma'am.

21 MS. GARCIA: Okay. Your Honor, I move -- I'm
22 moving for a directed verdict pursuant to Rule
23 1.480. The plaintiff has closed his case, and the
24 plaintiff has not proved the necessary elements of
25 the case. Firstly -- (coughs) excuse me, Your



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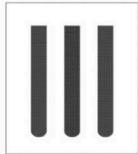
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1 Honor. The plaintiff has not proved by clear and
2 convincing evidence that Ms. Sahm was incapacitated
3 in May of 2023. The witness that testified was not
4 forthcoming as far as remembering what happened,
5 misrepresenting to the Court the cognitive based on
6 the MoCA test, misrepresented that he testified in
7 front of Judge Burton, which didn't happen. There's
8 testimony by missus -- I'm sorry, Ms. Lewis. She
9 wasn't involved in the case at the time so nobody
10 could confirm that there was any ever actually
11 hearing or determination by Judge Burton that the
12 client was incompetent.

13 Also, Ms. Sahm did not have her due process or
14 her right, the contract taken away by the Court at
15 the time of settlement was entered into. The
16 evidence that is in evidence is evidence is that the
17 settlement was entered into on May 22nd, and there
18 was no finding of incompetency by the Court, by any
19 Court order or by any due process hearing, until
20 June by agreement of the parties for a limited
21 guardianship for Charlie Revard, who's her cousin.
22 At the time -- there's no proof that at the time
23 that the settlement was issued, that there was any
24 nefarious conduct by either myself or Ms. Patwell or
25 the other attorneys, Morgan Weinstein.



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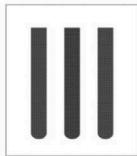
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1 There -- the -- simply put that the plaintiff
2 has not carried their burden for this Court to
3 determine, first of all, if there was any competency
4 or not at the time. Further, they haven't proved
5 pursuant to the law that -- or rebutted by clear
6 convincing evidence, like *Harmon v. Williams*, 596
7 So.2d 1139, a Florida Second DCA case. It says,
8 "The Court holds that a person is presumed competent
9 to contract unless incompetency is established by
10 due process of the law." So this Court basically
11 would have to make a proactive finding that prior to
12 any adjudication that you're going to take away,
13 retrospectively, a client's right to contract with a
14 lawyer. It's clear that she had a lawyer, Amber
15 Patwell, who was assigned and accepted by the Court,
16 and then there was a settlement that was entered
17 into. They waited 14 months to try to set it aside.
18 Then they tried to come in with allegations of the
19 exception to the rules.

20 So the Court determines by clear and convincing
21 evidence, he believes that the client, they did not
22 prove incompetency sufficient for you to
23 prospectively negate a legitimate contract, that the
24 -- that the guardianship court didn't negate, and
25 nobody had even thought for the year, then you'd



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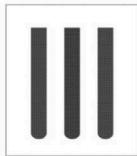
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1 have to get to the next level of the argument which
2 would be that there had to be some undue influence
3 or some fraud. None of that has been proven as far
4 as this settlement that was entered into that's --
5 that was validly entered into with her having an
6 attorney present, and the evidence that is in the
7 other committee report that is in evidence, Your
8 Honor, does say that she can contact -- she can
9 contract with the help of an attorney, which she
10 did.

11 So there's nothing that has been proven here in
12 his case in chief that would give Your Honor the
13 ability to take away her presumed competency to
14 contract. And there's nothing in the evidence so
15 far that proves any fraudulent activities or undue
16 influence related to the execution and timing of the
17 contract. In fact, the evidence that was presented
18 through the court orders in the dates and times show
19 that as soon as Weinstein was hired April 12th, and
20 then there was no stipulation done and no
21 settlements were negotiated. Mr. Weinstein had
22 nothing to do with it at that point. The evidence
23 shows that in May, there was a hearing in the
24 bankruptcy court wherein -- and the attorney the
25 retainers in evidence represented the estate that



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1 they admit has no rights.

2 At one point -- a dead man who they never told
3 the Court was dead. And then Ms. Sahm that,
4 according to Mr. Sweetapple's testimony at the last
5 hearing, or his proffers, were that she was
6 incompetent. He was traveling with her under Power
7 of Attorney, but in the meanwhile, they're still
8 moving forward hiring lawyers and filing defenses
9 that are not legally proper. Filing a -- filing a
10 claim in a federal bankruptcy court for an estate
11 that you've admitted has no rights is an affront of
12 the Court. Filing claims for dead people for years,
13 including the affidavits or evidence for dead
14 people, is improper. So I don't believe that he's
15 met his burden according to the law for either the
16 declaration of an incompetency and/or fraud or undue
17 influence to set aside the agreement.

18 So those are some of the specific reasons, Your
19 Honor. You have in evidence basically that we would
20 ask the settlement to stand as is because the
21 plaintiff has clearly not proven his case.

22 THE COURT: Okay. Ms. Garcia. Sorry. Mister
23 Apple -- Mr. Sweetapple?

24 MR. SWEETAPPLE: May it please the Court, the
25 evidence in this case is clear that the Bernsteins



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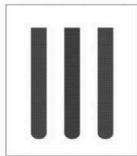
1 knew at all times that Ms. Sahm had declined into
2 incapacity, and of that there could be no doubt.
3 Ms. Garcia knew the same thing, because, as you
4 noted, she tried not to put in a signed settlement
5 agreement that she forwarded to Mr. Raymond and --
6 in March of 2024, and that agreement signed --
7 prepared by her and signed by all of her clients
8 repeatedly recites that Mrs. Sahm, Senior, is
9 incapacitated. And I'll read to you some of those
10 quotes. I had my -- I had my highlighted copy, and
11 the unhighlighted copy, but --

12 THE COURT: Page 2 of Plaintiff's 12, "Whereas
13 Walter Sahm, Junior, is now deceased and his estate
14 is pending in Marion County, and his now
15 incapacitated wife, Patricia Sahm, as a Power of
16 Attorney, trust bringing guardian with her daughter,
17 Joanna Sahm, whereas the estate, the trust, and the
18 incapacitated surviving spouse --

19 MR. SWEETAPPLE: Exactly.

20 THE COURT: -- on Page 3.

21 MR. SWEETAPPLE: This is -- this is -- this is
22 an admission of their knowledge of her incapacity.
23 They signed this in March. It's an admission of Ms.
24 Garcia's knowledge of her incapacity, and yet what
25 do we see? We see Patty Sahm, Junior, the same



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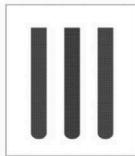
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1 person Judge Burton found was taking advantage of
2 her mother, and allowing a signature or a
3 notarization of a revocation for Power of Attorney
4 to occur using the Bernstein's agent that Mr.
5 Bernstein admits he's helping, through Patty,
6 Junior, to get an attorney for his opponent, Mrs.
7 Sahm. There's always the suggestion throughout this
8 case, including cross examination, Ms. Inger, that
9 somehow I was substituted in this case, but Patty
10 worked with Mr. Weinstein. You can see through the
11 communications, had Mr. Weinstein come in, a friend
12 of Mr. Hall's, to try to take over so they can
13 backdoor a settlement taking advantage of Mrs. Sahm,
14 Senior.

15 MS. GARCIA: Objection. Facts not in evidence.

16 THE COURT: Overruled.

17 MR. SWEETAPPLE: So Mr. Weinstein lasts a few
18 days. He never -- he never sends me a stipulation
19 for substitution of counsel. I've represented Mr.
20 and Mrs. Sahm since the beginning in this case. I
21 represented Mrs. Sahm individually, and then when
22 her daughter told me she had a Power of Attorney and
23 Mrs. Sahm told me she had a Power of Attorney, I
24 initially was authorized to deal with Joanna Sahm.
25 But the bottom line is they knew that I was the



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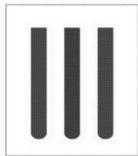
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1 attorney in this case, and all of this is occurring
2 without any attempt to have me join in on either of
3 these settlements. And you're going to see if --
4 and this is not appropriate at this time, but you're
5 going to see I was not copied at my e-mail address
6 with communications that had been represented that I
7 didn't respond to.

8 So what happens? Well, this fraud that's
9 occurring involving Patty, Inger Garcia, and the
10 Bernsteins and Ms. Patwell, who was brought in by
11 the Bernsteins, is just --

12 MS. GARCIA: Objection. Facts not in evidence.

13 MR. SWEETAPPLE: -- a continuation of a fraud
14 that the bankruptcy court already occurred by Ms.
15 Garcia, and the State court and three days before
16 the guardianship is filed, the Federal court grants
17 interim relief from an automatic stay that Ms.
18 Garcia obtained. And if you look at Paragraph D --
19 attached to the motion as Exhibit D is a copy of the
20 suggestion of bankruptcy for defendant and notice to
21 cancel sale set for April 4th, 2023,
22 parenthetically, the suggestion of bankruptcy, filed
23 on April 3 by attorney Inger Garcia on behalf of
24 certain defendants, including debtor, Elliot Ivan
25 Bernstein of the State court case.



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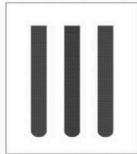
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1 The suggestion of bankruptcy is factually false
2 and legally incorrect, and was designed to mislead
3 the State court and/or the clerk of the State court
4 that the canceling -- the April 4th, 2023,
5 foreclosure sale of the real property scheduled in
6 the State court because the suggestion of bankruptcy
7 stated that, "This action is founded on the claim
8 from which a discharge would be a release and that
9 seeks to impose a charge on the property of" -- this
10 is the second fraudulent bankruptcy. The first one,
11 the boys are -- the sons are all assessed \$43,000.
12 This is the second fraudulent bankruptcy, but Ms.
13 Garcia is representing the Bernsteins. They're
14 fully aware of the guardianship, as is she, because
15 watching all of this occurring, the first thing I do
16 when I hear for the first time that there's been
17 some alleged revocation of a Power of Attorney,
18 which would not have in any way affected my direct
19 representation of Mrs. Sahm, who was my client and
20 always competent, the entire time I knew her, but
21 I'm dealing now with Joanna for the last couple of
22 years at Mrs. Sahm's direction.

23 So when I call Mrs. Sahm, and I put this in a
24 notice so that all counsel would be alerted that we
25 are watching you, don't continue with your



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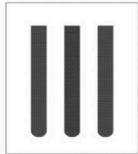
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1 fraudulent conduct. What do I do in my request for
2 judicial notice? "One, Plaintiff is the surviving
3 spouse and owner of the note, which was the subject
4 of the incident matter. Two, undersigned counsel
5 has been advised that a revocation of the current
6 Power of Attorney held by Mrs. Sahm's daughter,
7 Joanna Sahm, has recently been executed. Three,
8 undersigned counsel spoke directly with plaintiff,
9 Patricia Sahm, yesterday. Mrs. Sahm indicated she
10 was unaware of any such revocation and still wanted
11 undersigned counsel to represent her in this matter.
12 Four, the Court is further advised and requested to
13 take judicial notice of the pending guardianship
14 matter," and I cite them. So while on May 5th, all
15 three committee members find that she's unable to
16 manage her litigation, and miss -- and Ms. Patwell
17 is not counsel of record. There are attempts by --
18 documents prepared by Mrs. Garcia, Mr. Bernstein is
19 going to the alleged incapacitated person's house,
20 and on the 22nd of May obtains her signature when no
21 one else is there.

22 MS. GARCIA: Objection. Facts not in evidence.

23 THE COURT: So I don't mean to cut you off, but
24 this is a motion for directed verdict.

25 MR. SWEETAPPLE: And so what I -- what I'm



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1 going to show is the evidence --

2 THE COURT: Which means --

3 MR. SWEETAPPLE: -- in this case --

4 THE COURT: -- I draw -- I draw all inferences
5 and conclusions in the light most favorable to the
6 non-moving party.

7 MR. SWEETAPPLE: Exactly. And this is not a
8 motion. This isn't a properly directed verdict
9 application anyway. It's not a trial.

10 THE COURT: I --

11 MR. SWEETAPPLE: This -- and I -- you need to
12 hear the entire case, but when I got to the end of
13 the case, what I'm going to show you --

14 THE COURT: I thought you've rested your case.

15 MR. SWEETAPPLE: Yeah. But I'm saying when you
16 hear her case, there's going to be more coming out
17 that's going to --

18 THE COURT: So --

19 MR. SWEETAPPLE: -- implicate them in the fraud
20 on the sanctions.

21 THE COURT: -- so I find, based on what I've
22 heard so far, in the light most favorable to the
23 non-moving party, a reasonable fact finder could
24 find that you've established your claim. And I'm
25 going to respectfully deny the motion for directed



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1 verdict, so let me turn now to Ms. Garcia to call
2 any witnesses or evidence that she would like to
3 produce.

4 MS. GARCIA: Your Honor. I'm sorry, Your
5 Honor. I thought you said after this witness that
6 you were calling a lunch break.

7 THE COURT: I would like to get this case
8 concluded today. We've really spent a lot of time,
9 so -- you have a witness, I think, that's on Zoom.
10 I'll give you -- I can give you a short break, but
11 we're going to conclude today. So how -- you have
12 Mr. Stransbury, I think you said you were going to
13 call, and who else?

14 MS. GARCIA: And myself.

15 THE COURT: And yourself?

16 MS. GARCIA: And potentially Ms. Bernstein.

17 THE COURT: Okay. So --

18 MS. GARCIA: And now that he's done that to Mr.
19 Bernstein, I have to see if I can find him.

20 THE COURT: He's done what to Mr. Bernstein?

21 Since --

22 MS. GARCIA: Now that he read his deposition
23 testimony with no proper notice, and --

24 THE COURT: Okay. When we took a ten minute
25 break, you said you had perhaps one witness, Mr.



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1 Stransbury, who's on Zoom. Now you're telling me
2 you have four witnesses.

3 MS. GARCIA: Well, I -- I'm testifying,
4 definitely.

5 THE COURT: Okay. All right, what we'll do is
6 -- Madam Court Reporter and Madam Clerk, how long do
7 you all need for a break? You're in charge. 30
8 minutes?

9 THE CLERK: No, I just need ten, Your Honor.

10 THE COURT: Ten? Madam Court Reporter?

11 THE REPORTER: I just need a restroom break.

12 THE COURT: All right. Why don't we take --
13 we'll take 20 minutes. There's snacks downstairs, I
14 think. There's restrooms. We'll pick back up.

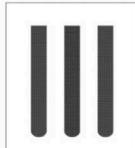
15 (OFF THE RECORD)

16 THE COURT: All right. Looks like everybody's
17 present. So let me turn to Ms. Garcia.

18 Who's your first witness?

19 MS. GARCIA: Your Honor, what I'd like to do
20 under the rule of completeness, I'd like to move in
21 the entire deposition of Mr. Bernstein. I have a
22 copy provided to counsel, but they need to make a
23 copy because I don't have an extra one.

24 THE COURT: Okay. Do you have any legal
25 objection?



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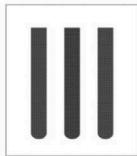
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1 MR. SWEETAPPLE: Your Honor, I showed her my
2 copy of the transcript. The -- you -- the rule of
3 completeness allows you to read portions that relate
4 to the testimony. I object to her putting in her
5 client's testimony. It's an opposing party that has
6 the right to use the transcript, not the party. She
7 needs to call in what she wants --

8 THE COURT: The rule of completeness allows if
9 you publish a portion for them if they wish to
10 publish portions that provide context, so what
11 additional portions that provide context are you
12 seeking to admit?

13 MS. GARCIA: The entire deposition goes into
14 the whole theory of him supposedly manipulating and
15 being involved to an excess of undue burden. And if
16 you read the deposition in and of itself in its
17 completeness, you'll see that that's not true.
18 You'll see what his actual testimony is, not just
19 portions. And the document of the doctrine of
20 completeness allows if one party introduces in
21 trial, the adverse party may require the
22 introduction of the other parts of any other writing
23 or recorded statements which ought in fairness be
24 considered. And it ensures that the judge and the
25 jury, the fact -- finder of fact is to view the



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1 incomplete statement in its full context. So you'd
2 have to hear his deposition to have the proper full
3 context of his testimony.

4 It's also an explanatory evidence rule, and it
5 allows otherwise inadmissible hearsay to be
6 admissible under the rule to correct any confusion
7 or wrong impression created by the admission of the
8 original evidence.

9 MR. SWEETAPPLE: Your Honor, I don't dispute
10 that's the law. I read brief portions showing that
11 Mr. Bernstein was involved with the alleged
12 incapacitated person repeatedly at her house
13 bringing a settlement agreement, and that he was
14 involved in obtaining her counsel, Ms. Patwell.
15 Anything that she wants to read or introduce that in
16 any way deals with those topics, I have no objection
17 to.

18 MS. GARCIA: That's true.

19 MR. SWEETAPPLE: She clearly has a right. She
20 has somewhere where this -- someone can show that
21 that didn't happen the way he described it, or I
22 didn't read everything that was relevant, by all
23 means, but the idea she's going to read 80 pages of
24 testimony --

25 THE COURT: Well, I don't think she's going to



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1 read it. I think she's going to submit it to the
2 Court to allow --

3 MR. SWEETAPPLE: Yeah. But I don't think
4 that's permissible either.

5 MS. GARCIA: It is the one -- third, Rule
6 109 --

7 MR. SWEETAPPLE: She hasn't shown he's
8 unavailable. He's not dead. He's not outside the
9 jurisdiction --

10 THE COURT: That's not the rule of
11 completeness. The rule of --

12 MR. SWEETAPPLE: The rule of completeness deals
13 with what I just said, the topic.

14 THE COURT: It would deal with an otherwise
15 inadmissible hearsay statement such as her offering
16 her own client's statement, if it needs to be
17 provided to give context.

18 MR. SWEETAPPLE: Right.

19 MS. GARCIA: And it promotes the transparency
20 since only one part of the statement was shown. It
21 prevents you from having a biased view of the entire
22 situation. It allows a level playing field. It
23 ensures both sides have an equal opportunity to
24 present her case.

25 THE COURT: Over the plaintiff's objection, I



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1 will receive it as -- what -- we have --

2 THE CLERK: 27.

3 MR. SWEETAPPLE: -- Defense Exhibit number 27.

4 The entire transcript?

5 MS. GARCIA: Yes.

6 THE COURT: The entire transcript as --

7 according to the rule of completeness. 90.108.

8 (DEFENSE EXHIBIT 27 RECEIVED INTO EVIDENCE)

9 MS. GARCIA: So we'll send you a copy?

10 MR. SWEETAPPLE: Do you have --

11 MS. GARCIA: I have one copy so --

12 MR. SWEETAPPLE: That's my copy that's
13 highlighted.

14 MS. GARCIA: -- so I can provide one to the
15 Court --

16 THE COURT: Can --

17 MS. GARCIA: I don't have a certified copy.

18 MR. SWEETAPPLE: We can print out a copy and
19 give it to you.

20 MS. GARCIA: Okay.

21 UNIDENTIFIED SPEAKER: I can try to do that. I
22 could e-mail it to the Court and --

23 THE COURT: If you e-mail it -- if you e-mail
24 it to me, I can get it printed out. If you e-mail
25 it to the county.



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1 MS. GARCIA: So I have a procedural question,
2 Your Honor. Since I plan on testifying and I need
3 to refer to the different exhibits while I'm
4 testifying to either refresh my recollection or to
5 talk about my mental process, do I sit in the
6 witness stand with my exhibits, or -- I'm not sure,
7 Your Honor. Do I sit at the table --

8 THE COURT: It may -- it may be easiest for you
9 to sit at the table as long as you're by a
10 microphone so that we can pick you up because I'm
11 not going to be able to -- I'll probably be able to
12 see you at the table better than I can see you up in
13 the witness stand.

14 MS. GARCIA: Right. I could stand here too, if
15 you'd like, Your Honor. It's up to you.

16 THE COURT: You could be seated so you can go
17 through your exhibits.

18 MS. GARCIA: Okay. So I call my first witness,
19 myself, Your Honor.

20 THE COURT: All right. Would you raise your
21 right hand? Do you swear or affirm the testimony
22 you're about to give is the truth, the whole truth,
23 and nothing but the truth?

24 THE WITNESS: I do.

25 THE COURT: All right. You can put your hand



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1 down now.

2 Go ahead, Ms. Garcia.

3 MS. GARCIA: Good afternoon.

4 THE COURT: Good afternoon.

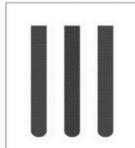
5 MS. GARCIA: My name is Inger Garcia. I've
6 been an attorney since 1991 in Georgia. In Florida
7 I was licensed in '97. However, in 1989 I worked
8 under Judge Kastrenakes' prosecutor's office for
9 Janet Reno in an internship and for chief judges.
10 I've been litigating since the late '80s. I'm aware
11 of the rules and the procedures in Court as well as
12 testimony, impeachment, and honesty and integrity to
13 the Court.

14 MR. SWEETAPPLE: So Your Honor, at some point
15 after we complete the background, I'm going to
16 request that she ask her question about herself and
17 then answer it so I can make objections when we get
18 into the relevant evidence.

19 THE COURT: All right.

20 MR. SWEETAPPLE: Or do you want me just to
21 interrupt and object if it's irrelevant or improper?

22 THE COURT: I think asking her to ask herself
23 questions is -- it's not going to work. So yes,
24 just interrupt if you believe that she's providing
25 testimony that is not permissible under the evidence



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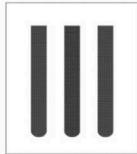
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1 code.

2 MR. SWEETAPPLE: Okay. Thank you.

3 MS. GARCIA: Okay. Your Honor, this is a case
4 of a fairly long term foreclosure between the Sahms
5 and the Bernsteins, and BFR, the company. I came
6 into this case in January of 2023 to file a motion,
7 a 1.5 for a motion and a motion to continue a sale.
8 When I was -- prior to that, there had been a
9 bankruptcy filed by BFR -- involuntary bankruptcy
10 filed in Palm Beach County. You have the retainer
11 agreement from Mr. Shraiberg in evidence, Your
12 Honor, as Defense Exhibit 13. I attended those
13 Court hearings. First of all, I analyzed this case
14 and determined very quickly during many, many
15 foreclosure cases because I've done a lot of
16 foreclosure litigation over the years in real
17 estate. I've been involved in real estate since I'm
18 18 years old, worked for John Ritter as a -- who was
19 a real estate attorney back in the late '80s. I'm
20 very familiar with foreclosures and the requirements
21 and a proper protocol for a plaintiff to get a final
22 judgment. I'm also fully aware of when someone
23 dies, you have --

24 MR. SWEETAPPLE: Your Honor, I'm going to
25 object to any legal conclusions, legal opinions



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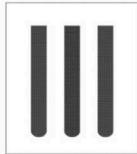
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1 here. She's here as a fact witness.

2 THE COURT: So a witness, no matter how
3 qualified or skilled, is not able to testify as to
4 legal conclusions. That's for me to decide, so --

5 MS. GARCIA: Okay. So I'm here to testify to
6 my mental impressions that I've gained as a
7 litigator in this case by observing the bankruptcy
8 in the initial involuntary bankruptcy over the
9 summer of 2022 and over the course of representing
10 the Bernstein's in the foreclosure case. And then
11 subsequently as of August 2023, representing Patty
12 Sahm, Junior based on an injunction that was filed
13 against her in the mental health and the
14 guardianship cases. So I've been able to have --
15 and then I also was at the hearing in April or May
16 -- no, April of 2023, where Mr. Bernstein had filed
17 individual bankruptcy. And I was at that hearing.
18 So I've been able to observe by analyzing all the
19 cases as a united. There's a trust case, Your
20 Honor, also where the funds are being held --
21 \$277,000 has been held to pay this settlement, to
22 pay for this foreclosure. There's a court order that
23 money's been available?

24 MR. SWEETAPPLE: Objection. It's not -- that's
25 -- it's outside of the evidence.



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1 THE COURT: She's testifying. She's providing
2 evidence, right?

3 MS. GARCIA: Yes.

4 MR. SWEETAPPLE: Have you given that court
5 order to the judge?

6 MS. GARCIA: I'm testifying from my knowledge
7 as an opinion attorney.

8 MR. SWEETAPPLE: You said there's a court
9 order. That's evidence, Your Honor.

10 MS. GARCIA: I can move the Court order in,
11 Your Honor, from that case. We can do judicial
12 notice. The Shirley Bernstein Trust case. I can get
13 the citations. We can -- I'd be happy --

14 MR. SWEETAPPLE: You said that --

15 MS. GARCIA: -- to do --

16 MR. SWEETAPPLE: Your Honor, she said there's a
17 court order reserving \$277,000 to pay this
18 settlement.

19 THE COURT: Right.

20 MS. GARCIA: This -- the Court order reserving
21 funds. The Court order specifically states that the
22 funds that are in the trust -- that -- the Court
23 registry, to be used to satisfy the mortgage.

24 THE COURT: Okay. And do you have a copy of
25 that order?



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1 MS. GARCIA: I don't, but I can pull it off the
2 docket, Your Honor, and do judicial notice.

3 THE COURT: Are you objecting to the judicial
4 notice of the Court?

5 MR. SWEETAPPLE: I -- I'd like to see it. I'm
6 not involved in that case. That involves other
7 family members and --

8 THE COURT: Okay. I'm overruling the
9 objection.

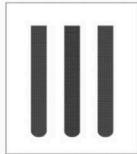
10 MS. GARCIA: Actually, Mr. Sweetapple is
11 involved in that case because he filed a motion
12 recently to release those funds for other purposes.

13 MR. SWEETAPPLE: Okay. I garnished --

14 MS. GARCIA: For the purposes --

15 MR. SWEETAPPLE: I garnished monies. I went to
16 the jeweler based on a federal judgment that's
17 pending.

18 MS. GARCIA: So he is aware of the case, and he
19 is aware of the Court order and there have been e-
20 mails back and forth. But by looking at the overall
21 picture, Your Honor, what I gleaned, my knowledge,
22 is that when I came into this foreclosure case in
23 January of 2023, I saw massive, massive legal
24 technical and fraud issues on the Court. I had
25 brought it up to Judge Bell who came in, Kastrenakes



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1 resigned, I believe, like the day before the
2 hearing. So Judge Bell came in for a short time
3 frame, continued the hearing -- continued the sale
4 from January, 2023 to April of 2023.

5 And then at that point, then BFR filed. It was
6 -- it was an involuntary bankruptcy filed. When it
7 got converted to Chapter 7, the clients couldn't
8 afford an attorney, so they just let it get
9 dismissed and then sanctions were moved forward.
10 But in that court, again, I determined by looking at
11 the retainer that's in evidence and looking at the
12 notice of appearance that was filed with Mr.
13 Shraiberg for a dead man, and I brought it up to
14 federal court. I said Judge, they're filing still
15 for Walter Sahm, who's dead. And you have his birth
16 certificate and his death certificate in the record
17 stipulated to as Exhibit --

18 MR. SWEETAPPLE: I'll stipulate it. It's in
19 the record.

20 THE COURT: I think it was seven or eight.

21 MS. GARCIA: He died in -- he died in 2021, I
22 think, I believe January 2021. And after Mr. Sahm
23 passed away, there was no substitution of counsel of
24 the estate. And also in evidence is proof that the
25 estate, when they did their notice of inventory,



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1 they did not list this --

2 MR. SWEETAPPLE: I'm going to object to the
3 predicate. On what basis should there have been a
4 substitution of the estate in a joint note?

5 THE COURT: I guess the problem that I'm having
6 is, I don't understand why if we keep wanting to
7 talk about the 1.540 motion, we haven't done both of
8 them at the same time.

9 MR. SWEETAPPLE: Well, Your Honor, I think when
10 you look at the Court file, with all due respect,
11 you're going to notice that Ms. Garcia has never
12 noticed one motion for hearing ever. She never
13 moved to set the 1.54. She never moved to enforce
14 the settlement. She's never set anything because
15 her whole conduct is dilatory.

16 THE COURT: Okay. But that's not a legal
17 objection to her testimony right now.

18 MR. SWEETAPPLE: I know. But --

19 THE COURT: My question is --

20 MS. GARCIA: It goes --

21 THE COURT: -- how is the 1.540 --

22 MR. SWEETAPPLE: I'm happy to hear that now.

23 THE COURT: -- issues relevant.

24 MR. SWEETAPPLE: I'm not.

25 THE COURT: No, but how is it relevant to what



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1 we're here for?

2 MS. GARCIA: It is it's relevant here because I
3 believe that when they're accusing me and Mrs.
4 Patwell, my client, of fraud on the court, there's a
5 reason this case was settled. And I'm trying to
6 explain the mental process and the reason, legally,
7 of why observing the different inconsistent
8 behaviors and inconsistent filings in court orders
9 that are not accurate that are inconsistent with
10 transcripts. And --

11 MR. SWEETAPPLE: Your Honor, she asked to
12 bifurcate --

13 THE COURT: I asked -- I asked the -- I asked
14 the question. So I'd like -- so she's answering my
15 question.

16 MS. GARCIA: It's relevant to the issue of
17 this, what is the fairness to put to Patricia Sahm
18 for settling a case for an amount less than a final
19 judgment and to make a decision in the settlement.
20 What you do is you look at the facts of the case and
21 you look at the potential defenses and the cost and
22 the expenses, and you look at what is pending and
23 what has happened where so you know. So I'm trying
24 to explain to the Court my mental process and what I
25 see is the reason this case was settled. So the



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1 Court understands, this wasn't a rush to go settle a
2 case for an amount that wasn't fair and reasonable
3 and understandable based on the affidavits of
4 summary judgment, based on the final judgment, based
5 on the pending pleadings, based on the different
6 frauds that I can explain to the Court.

7 THE COURT: But how is your -- the -- how is
8 the -- your intent as to why you wanted to settle
9 the case relevant to the issue of whether or not the
10 settlement agreement should stand?

11 MS. GARCIA: One of the factors to determine if
12 you're going to set aside a settlement, you have to
13 find by clear and convincing evidence it was undue
14 influence or fraud. So I'm explaining to the Court
15 why there was no undue influence or fraud by the
16 facts of the case and explaining to the Court that
17 the actual behavior of Ms. Sahm's attorneys, the
18 different attorneys in the different courts with the
19 inconsistent misrepresentations, is one of the
20 reasons why this case was settled by Ms. Patwell and
21 I, is that we saw the risk as far as the damage and
22 the costs and expenses, and it wasn't worth it to
23 either client to not resolve it how they resolved
24 it.

25 THE COURT: Are you trying to testify as to why



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1 Ms. Patwell decided to settle the case?

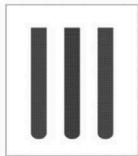
2 MS. GARCIA: I can tell you based on my
3 conversations with her of why we both agreed that
4 this was a fair and reasonable settlement, and it
5 was proper.

6 THE COURT: So how is that not hearsay, I
7 guess?

8 MS. GARCIA: Because I'm testifying in my
9 mental impressions of -- based on conversations --

10 THE COURT: We're in a loop. I understand that
11 the defendants want to settle the case. Obviously,
12 the defendants want to settle the case, but I -- the
13 issue really for the Court is whether or not the
14 settlement agreement that the plaintiff, Ms. Sahm,
15 ended up signing, with Ms. Patwell's assistance,
16 with the defendant's assistance, whoever. Whether
17 or not there was undue influence, fraud, coercion,
18 anything like that, how is your intent relevant to
19 that?

20 MS. GARCIA: I believe that the actions of Mrs.
21 Patwell and I, and prior to her, Mr. Morganstein
22 [sic], who was retained specifically to settle the
23 case independent of me and independent of anyone
24 else prior to any thought process of a guardianship
25 appearing in April 13th. He was retained by Mrs.



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1 Sahm independent. I've never met Mr. Weinstein.

2 He's not a friend of Kevin's. The representations
3 are that we somehow or another brought in this
4 attorney to nefariously settle a case. She
5 independently found --

6 MR. SWEETAPPLE: I'm going to object. I --

7 MS. GARCIA: -- Mr. Weinstein, entered to an
8 agreement with him on April 12th and my testimony
9 from personal knowledge, and from reviewing the
10 different documents and speaking to my clients is
11 that he left quickly after Mr. Sweetapple would not
12 cooperate with the substitution and because a phone
13 call was made to him claiming to be --

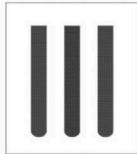
14 MR. SWEETAPPLE: I'm going to object to
15 hearsay.

16 MS. GARCIA: -- Ms. Sahm to terminate him when
17 that's not who made the phone call. So he was run
18 off just like Ms. Patwell was run off.

19 THE COURT: And what is your basis for that
20 knowledge? Is it not hearsay? Were you there for
21 the phone call? Did you hear the phone call?

22 MS. GARCIA: I did not hear the phone call, but
23 from speaking to Mr. Weinstein and speaking to --

24 THE COURT: Somebody told you something out of
25 Court and you want me to consider it for the truth



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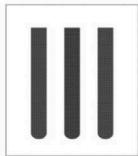
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1 of the matter asserted. That is hearsay.

2 MS. GARCIA: Not necessarily, Your Honor. I
3 want you to consider it to understand our frame of
4 mind that we were attempting to do this in good
5 faith. We weren't nefariously running to settle a
6 case after guardianship was filed. We -- there was
7 prior settlement negotiations, which does go to the
8 elements and the facts of the case. Is --

9 THE COURT: So then why don't you focus on what
10 role you have taken as opposed to what you've heard
11 other people do or what you believe Ms. Patwell
12 wanted to do or what the conversations Ms. Patwell
13 had with you as opposed to things that are clearly
14 hearsay.

15 MS. GARCIA: Okay. The role I took was when I
16 was informed that there was -- Mr. Weinstein was
17 going to be the attorney, I contacted him and asked
18 him if he was going to be jumping in as her
19 attorney. And he said, yes. And the day before the
20 bankruptcy hearing, he couldn't come to the
21 bankruptcy hearing to tell the bankruptcy court that
22 Ms. Sahm had hired him to settle. So I told the
23 bankruptcy court as an officer of the Court that day
24 in April of 2023, that Mr. Weinstein had been
25 hired and that the Power of Attorney of which the



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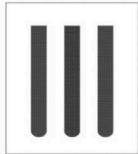
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1 claim in his case was made was revoked. And I told
2 the Court, I said -- and I had the transcript, and I
3 told the Court, I said, Judge, I don't believe that
4 they know -- Mr. Shraiberg knows that the Power of
5 Attorney was revoked, but he's traveling.

6 If you look at his first retainer that's in
7 evidence, that was in 2022, what he said, he
8 represented the estate, which now we know has no
9 rights, which I was misled the entire time about the
10 state having rights. That's why I negotiated with
11 Mr. John Raymond for months, for the whole month of
12 March. So they filed claims in the -- in the
13 bankruptcy court based on a Power of Attorney that
14 didn't exist and based on a claim for a party that
15 doesn't have any rights, which he'd admitted over
16 and over again in this case and in e-mails, that the
17 estate of Walter Sahm never substituted in. The
18 estate did not -- Walter Sahm was never a creditor,
19 but they're going into federal court and
20 representing that the estate has rights and secure
21 judgements against my clients and securing orders
22 that are simply not based on truth.

23 MR. SWEETAPPLE: Your Honor, I'm going to
24 object to this. The best evidence is the bankruptcy
25 court, a file, and the retainer shows that Mr.



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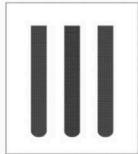
1 Shraiberg represented Mrs. Sahm individually as well
2 as the husband's estate. There has never been a
3 claim in this case that the estate has any rights.
4 The only ones that have been adjudicated to have
5 committed fraud in the bankruptcy court are in the
6 first instance, the Bernstein's children, and in the
7 second instance, Ms. Garcia. So to sit here and
8 delusionally respond to -- with her view of what's
9 happening, whether -- what she did, in fact, she's
10 involved in -- like when did she learn that the
11 committee had found universally that Mr. Sahm was
12 incompetent? And what did you do after that? And
13 why didn't you contact me when I was counsel of the
14 record? Why didn't Ms. Patwell substitute --

15 THE COURT: Okay. We -- we've gone beyond --
16 we've gone beyond legal objection. I'm sustaining
17 the objection. If you want to argue the case, you
18 could argue the case. If you want to testify to
19 facts that you want me to consider subject to cross-
20 examination, stick to the facts --

21 MS. GARCIA: Okay.

22 THE COURT: -- that you want me to consider.

23 MS. GARCIA: So I will testify that, Your
24 Honor, that in the month of March, 2023, I was
25 negotiating a settlement of this matter with John



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1 Raymond who represents the estate and represents
2 Joanna Sahm as the trustee. The trustee is the one
3 that owns most of the assets and controls the
4 assets.

5 During that time frame when we were
6 negotiating, I was led to believe that the estate
7 had rights, and that Ms. Sahm was incapacitated
8 because Joanna Sahm had testified in bankruptcy
9 court in 2022 that she was representing her mom
10 under Power of Attorney under pre-guardian. Her
11 mother had mild cognitive issues that she had been
12 asked by her dad to handle the financial affairs.
13 So under the belief of filings in federal court by
14 an estate that really had no rights and by Patricia
15 Sahm, Senior, who had no idea that her daughter was
16 signing her name on retainers and hiring lawyers in
17 court. I began negotiating with the parties that
18 appeared to be the correct parties, which was the
19 estate and Patricia Sahm under the Power of
20 Attorney. So at the time I asked numerous questions
21 -- and it's in my e-mail that's in evidence --

22 THE COURT: Can I ask a question?

23 MS. GARCIA: Uh-huh.

24 THE COURT: Wasn't Patricia Sahm represented by
25 counsel? Why were you negotiating with her



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1 directly?

2 MS. GARCIA: I wasn't. I was negotiating with
3 John Raymond directly, but he represents -- his law
4 firm, Nelson Mullins, represents Joanna Sahm and
5 Joanna Sahm is the only person who really has been
6 participating in this. Patricia Sahm has had
7 nothing to do with the case.

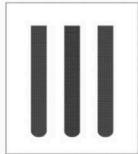
8 THE COURT: But didn't Mr. Sweetapple represent
9 Patricia Sahm throughout the -- this proceeding?
10 Not the -- I'm not talking about the bankruptcy
11 proceeding. Wasn't she representing Patricia Sahm,
12 and then wasn't Joanna Sahm in agreement with that
13 representation?

14 MS. GARCIA: Joanna -- he was representing
15 Patricia Sahm through supposedly Power of Attorney
16 for Joanna Sahm.

17 MR. SWEETAPPLE: I'm going to object, Your
18 Honor, to her concluding that I represented Mrs.
19 Sahm individually and her husband from the beginning
20 of this case.

21 THE COURT: So that's kind of my question is
22 why is it that you are -- why are you having
23 communications with someone that is represented by
24 counsel without communicating through counsel?

25 MS. GARCIA: He was in -- Mr. Sweetapple was



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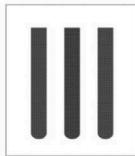
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1 included in some of the communications. And Mr.
2 Raymond told me to send him the settlements and to
3 negotiate there. And then he told me -- he was
4 answering my questions about who was the actual
5 parties of interest. There was a confusion as to who
6 the party of interest was because they're telling
7 the bankruptcy court the estate is a party of
8 interest. Raymond -- Mr. Raymond is the estate
9 attorney in the probate case.

10 THE COURT: Okay.

11 MS. GARCIA: And in his law firm, Eileen
12 O'Malley, also was Joanna's attorney who filed the
13 guardianship petition three days after they found
14 out that the mom had hired Mr. Twig -- I mean, Mr.
15 Morganstein [sic]. So I went to Mr. Raymond, and
16 they asked me to send them purported -- proposed
17 settlements. So we were going back and forth with
18 the settlement and the language, and then as we were
19 going through it and there -- I was led to believe
20 that Patricia Sahm was in incapacitated. So Joanna
21 Sahm was the decision maker under the Power of
22 Attorney and the estate had rights because they
23 filed a creditor's claim in bankruptcy court, which
24 was at the time, I believe pending, we were -- we
25 were trying to resolve it with the attorneys who



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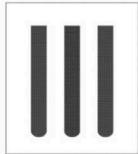
1 told me to resolve it with them. All these
2 attorneys were working together in different courts.
3 So at that point we started drafting the language
4 based on the representations that were made to them.
5 But as I found out after 20 days and 20, 30 hours of
6 drafting this, then I was told and I was informed
7 that Ms. Sahm didn't need a guardian and she wasn't
8 in a guardianship, therefore she is capacitated. So
9 therefore, then I could settle it with her through
10 her lawyer.

11 THE COURT: Mr. Sweetapple, right? Because
12 then she would be represented directly by Mr.
13 Sweetapple?

14 MS. GARCIA: Through her lawyer. So what
15 happened is, there was a bankruptcy pending. So the
16 case stopped, Mr. Sweetapple filed his notice in --
17 on April 17th, right? Because between the time
18 frame that I was told, March 31st, that we're not
19 the right party, the state has no rights, and
20 Patricia Sahm doesn't need a guardian, and Joanna
21 has a private attorney. Okay. So I'm told this by
22 one attorney.

23 THE COURT: Who?

24 MS. GARCIA: I'm told different things by
25 different attorneys.



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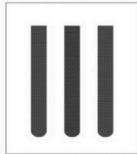
1 THE COURT: Who?

2 MS. GARCIA: Mr. Raymond, who is the estate
3 attorney with the most knowledge of the estate's
4 rights.

5 MR. SWEETAPPLE: If I can just say something.

6 First of all, I really think that Ms. Garcia should
7 get an attorney based on the things she's saying.
8 I'm looking at the e-mail from Mr. Raymond to her
9 that says, my -- this is Mark. My reading of the
10 note makes it clear to me what the note and mortgage
11 -- that the note and mortgage passed the Wi-Fi by
12 operation of the law. Again, Mr. Sweetapple speaks
13 for her, the estate has no say in the matter. And
14 these series of e-mails are sent to me at R.
15 Sweetapple at sweetapple.com, which is an e- mail
16 that doesn't exist. So she's told repeatedly by Mr.
17 Raymond, contact Mr. Sweetapple. He's the one who's
18 handling this. And yet there's no communication
19 with me from Ms. Garcia or Ms. Patwell and all of
20 these things she's talking about are orchestrated by
21 Patty Junior. So I -- as an officer of the court, I
22 have to caution her that this dialogue she's
23 engaging in may not be helpful to her.

24 MS. GARCIA: So what happened, Your Honor is
25 from March 13th to March 30th, I was led to believe



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1 I was negotiating with the right parties. I was
2 then told the state has no rights.

3 THE COURT: Based on what? What led you to
4 believe that? You introduced that e-mail, that Mr.
5 Sweetapple is directing me to, into evidence.

6 MR. SWEETAPPLE: I'm --

7 THE COURT: That was the first -- the first e-
8 mail that we talked about where I had the
9 highlighted copy of it. What about that leads you
10 to believe that you shouldn't have talked to Mr.
11 Sweetapple?

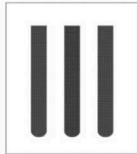
12 MS. GARCIA: At this point in time from March
13 13th to March 30th, I was led to believe and asked
14 to negotiate with Mr. Raymond.

15 THE COURT: I hear you saying that.

16 MS. GARCIA: Then what happened --

17 THE COURT: I'm asking you what led you to
18 believe that?

19 MS. GARCIA: The fact that they -- that Walter
20 Sahm had passed, and that Mr. Shraiberg and Joanna
21 testified in the federal court, not once but twice,
22 that the estate was the creditor, and the estate
23 owned this judgment. So therefore there's a
24 bankruptcy and there's an estate involved. I'm
25 allowed to negotiate with the bankruptcy attorney in



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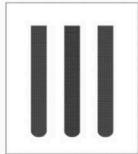
1 the estate versus filing an adversary to see if we
2 can get to some agreement at some point, which I
3 understand at that point had the bankruptcy step
4 pending at that point, then if it was done in March
5 and we settled it in March, there was -- there were
6 signature -- the -- that particular agreement, there
7 were signature lines for all the different parties
8 and cooperation language that if the estate has
9 rights, we'll do it here. If we need the
10 foreclosure rights. We'll do it here. So everybody
11 was included. It was supposed to be a global
12 settlement, Your Honor. It wasn't like we were
13 going around the judgment.

14 THE COURT: But not the person that represented
15 her in the case that you were trying to settle?

16 MS. GARCIA: They were -- they were going to be
17 part of the settlement, Your Honor. And he was
18 copied on some of these e-mails, and he was included
19 in some of these conversations, and he knew this was
20 ongoing.

21 THE COURT: Okay.

22 MS. GARCIA: So what happened in -- at the end
23 of March while you know this step, the bankruptcy
24 pending, I believe, then come April 11th, Ms. Sahm
25 decided she wanted to terminate Mr. Sweetapple and



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1 hire mister -- sorry, you were saying --

2 MR. SWEETAPPLE: Your Honor.

3 MS. GARCIA: Morgan Weinstein. Okay.

4 MR. SWEETAPPLE: Your Honor.

5 MS. GARCIA: Nothing came of that.

6 MR. SWEETAPPLE: Your Honor. Ms. Garcia has
7 testified under oath that she has tremendous
8 experience and foreclosed with her notes, and it was
9 obvious to her that this note passed by operation of
10 law and was not an estate asset. And she's sitting
11 here telling you that she had to deal with an estate
12 lawyer. Here's March 27th. Again, that's sent to
13 the wrong e-mail address to me. That -- to her from
14 Mr. Raymond, as I informed you before, this is just
15 Sweetapple that's representing the party --
16 plaintiffs in this matter, and all responses should
17 come from his office.

18 THE COURT: Right.

19 MR. SWEETAPPLE: This idea that -- this idea
20 that because there's a state claim that's mentioned
21 in a bankruptcy, that somehow now she can go deal --
22 that she can go behind my back, go to the bankruptcy
23 court, get miss -- get Mrs. Patty to find another
24 lawyer, Mr. Weinstein. She -- she's very familiar
25 with all these other lawyers that they're trying to



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1 bring in and no communication with me by anybody.
2 This is all being done to subvert a judgment that's
3 worth three times what they're settling for, and her
4 settlement, which she told you in court under oath,
5 they're identical. The March settlement is
6 \$375,000. When they go see Mr. Sahm, it's now 225.

7 THE COURT: Okay.

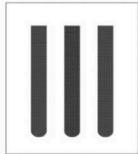
8 MS. GARCIA: Okay.

9 THE COURT: I don't understand what the legal
10 objection is. I hear --

11 MR. SWEETAPPLE: Well, it's hard in this
12 context.

13 THE COURT: I know it's hard in this context
14 for -- Ms. Garcia has already testified. For
15 whatever reason, she's decided that she'd like to
16 testify again. She's a member of the bar. She's got
17 plenty of experience. This is how she chooses to
18 proceed. This is how she chooses to proceed, and
19 we'll take it as it comes. But I can't have you
20 interrupting her testimony with your argument why
21 her testimony is wrong. You'll get a chance to
22 cross examine her when she's done testifying.

23 MR. SWEETAPPLE: Well, it's -- when she tells
24 the story and it's always got hearsay that Mr.
25 Raymond did this, then instead of me saying, it's



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1 hearsay, please stop, I'm now showing you the
2 hearsay she's telling you -- what she's just telling
3 you, is not true. Okay. It is not -- it's -- and so
4 I'll reframe myself.

5 THE COURT: It not being true is not a legal
6 objection.

7 MR. SWEETAPPLE: True. And I'm trying -- I'll
8 just interrupt her in the middle of her story when
9 she starts saying, this was my mental impression,
10 based on what A, B, and C told me.

11 THE COURT: Or you could just wait until your
12 cross examination.

13 MR. SWEETAPPLE: I can do that.

14 THE COURT: And let her testify in the form of
15 narrative.

16 MR. SWEETAPPLE: Let all the hearsay come in
17 and do it later.

18 THE COURT: I don't -- whatever you want to do,
19 but what you can't do is interrupt her and argue
20 your side of the story while she's testifying.

21 MR. SWEETAPPLE: But in all --

22 THE COURT: So either object with a legal
23 objection or don't and cross examine her.

24 MR. SWEETAPPLE: In all deference of the Court,
25 as awkward as it is, I have -- we never had a time



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1 where the Court has refused my request to make a
2 witness who is pro se or a lawyer ask the question
3 of themself and answer it. There's no way I have
4 any idea what she's going to say, what she's
5 responding to, how I should object, and I -- there's
6 nothing I can do either -- that either interrupt her
7 or correct her because this is not the way you take
8 evidence. So I --

9 THE COURT: I have never -- I have never -- and
10 with all due -- I have never had a witness say,
11 please state your name. My name is John
12 Parnofielo. And what do you do? For I've never
13 seen that before.

14 MR. SWEETAPPLE: After background, I've done it
15 all the time because otherwise --

16 THE COURT: I've never seen that.

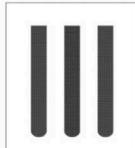
17 MR. SWEETAPPLE: -- otherwise I can't do my
18 job.

19 THE COURT: I -- okay. I've ruled. Go ahead,
20 Ms. Garcia.

21 MS. GARCIA: Okay. So

22 MR. SWEETAPPLE: I'll just wait until she's
23 finished and I'll --

24 THE COURT: I'm not telling you what to do. You
25 either say objection. You state your legal basis,



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1 three words or less, I will rule. Or you wait until
2 the end, and you can cross examine.

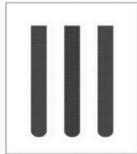
3 MR. SWEETAPPLE: Understood.

4 MS. GARCIA: So after negotiations failed in
5 March, that settlement agreement was not entered
6 into. A bankruptcy was filed by Mr. Bernstein
7 individually. Now, Mr. Bernstein filed an, in
8 evidence Exhibit 18 -- Defense Exhibit 18, is
9 clearly a suggestion of bankruptcy filed by Mr.
10 Bernstein pro se. That suggestion of bankruptcy was
11 delivered to the Court personally by Mr. Bernstein
12 and Ms. Bernstein, and they went to the clerk, and
13 the clerk canceled the sale based on that suggestion
14 of bankruptcy. The -- in the bankruptcy hearing
15 that resulted in that order, which I will be
16 contesting, they decided to use a strategy of saying
17 that my bank -- that my suggestion of bankruptcy was
18 a fraud, but my suggestion bankruptcy was not used.

19 MR. SWEETAPPLE: Objection. Speculation.

20 THE COURT: I don't understand. If you wanted
21 to refer to all of these hearings, why didn't you
22 all just provide me with the transcripts of these
23 hearings?

24 MS. GARCIA: I did move into evidence all the
25 transcripts for the -- from the -- well, not just



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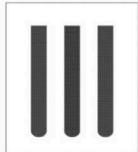
1 for a file that Your Honor did the last hearing, all
2 the -- all the --

3 THE COURT: This has been pending for I don't
4 know how long, and this -- I will agree with Mr.
5 Sweetapple, this is one of the most awkward ways of
6 taking testimony or evidence. And if you're going
7 to just tell me what happened in different hearings
8 that you were a part of, the -- isn't the record the
9 best of evidence? Couldn't you just provide me the
10 record and let me know what was said in the
11 different hearings? As far as why they did these
12 things, that's -- you're just speculating as to
13 that. That's not something I can consider as
14 evidence. That's your legal argument. I'm really,
15 really not sure of what we're doing here with
16 respect to the motion, but I want to give you your
17 due process, so --

18 MS. GARCIA: What I what I'm explaining to the
19 Court is that, again, they go into court to file a
20 motion to lift the stay again for a party that
21 they've now admitted does not have any rights.
22 Under any Power of Attorney.

23 MR. SWEETAPPLE: Objection. Hearsay.
24 Speculation.

25 THE COURT: Sustained.



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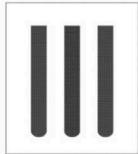
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1 MS. GARCIA: Okay. The bankruptcy hearing
2 speaks for itself as far as the order, when you see
3 the order's entered in the name of the estate. So
4 you can consider that to see that's now a party that
5 had has no legal rights based on everything that's
6 been testified to in this Court. The suggestion of
7 bankruptcy that they're claiming that I filed that
8 was fraudulently and entered an order that I was not
9 a party and never saw this order until months and
10 months later, is not true. And there's an evidence
11 that the suggestion of bankruptcy to cancel the sale
12 was done by Mr. Bernstein, not me. Mine was filed
13 as a courtesy. It contained one sentence that had
14 no intentions or no misrepresentations in my
15 opinion, but they're trying to make -- they're
16 trying to use that fraud here to infer that we did
17 other nefarious things when it comes to the
18 settlement. That's why it's important and relevant
19 because there's been numerous times and that will be
20 into 1.540, that deal with the transcripts from the
21 guardianship and the mental health case, which I did
22 provide to the Court. I filed it all in court and I
23 asked them if they would stipulate to it, but they
24 didn't. But I will deal with that in the 1.540. So
25 you'll see why it's so frustrating to me that



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1 there's orders entered that I firmly believe as an
2 attorney are not appropriate.

3 MR. SWEETAPPLE: I'm going to object, Your
4 Honor, to her feelings and her opinions.

5 THE COURT: And it's not relevant.

6 MR. SWEETAPPLE: The document speaks for
7 itself.

8 THE COURT: Sustained. The objection is
9 sustained.

10 MS. GARCIA: Okay. So what happens then, Your
11 Honor, during the bankruptcy, the daughter, Joanna
12 Sahm, files within three days of finding out that
13 Mr. Morganstein [sic] was hired to settle the case,
14 files a guardianship to be appointed, which she
15 wasn't appointed in the end. Charlie was -- Charlie
16 Revard was appointed by agreement by Amber Patwell
17 in June.

18 MR. SWEETAPPLE: I'm going to object. Hearsay.
19 Speculation.

20 MS. GARCIA: It's in the Court file. It's been
21 stipulated to Your Honor.

22 THE COURT: It is. So I -- I'm not really sure
23 why you're testifying to it.

24 MS. GARCIA: Okay. So what happened then, Your
25 Honor, I didn't deal with Mr. Sweetapple directly



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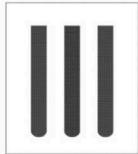
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1 because my understanding was he was terminated when,
2 first of all, when Twig came in, then there was a
3 bankruptcy pending. And then Mr. Sweetapple himself
4 filed a notice in court that he has in evidence, on
5 April 18th, that basically he doesn't have any more
6 jurisdiction, that there's a pending guardianship.
7 So basically there he's admitting that there's
8 nothing he could do here. His hands are tied. So
9 at that point in May, Ms. Patwell is retained on May
10 1st. Ms. Patwell is approved by the Court through
11 the stipulations and substitutions that are all in
12 evidence. So come --

13 MR. SWEETAPPLE: Objection. That's a lien of
14 the guardianship case.

15 MS. GARCIA: Ms. Patwell's retainer that as in
16 evidence also states very specifically she was
17 retained for the foreclosure case. So it was
18 represented to me that we would attempt to resolve
19 the foreclosure case through the guardianship case
20 with the approval of Judge Burton, because when a
21 contract is then entered into after reports, which
22 of course we'll get into the contestations of those,
23 but prior to the adjudication, those contracts are
24 presumed valid. And I firmly believed that we had a
25 good basis to do it, and that Ms. Sahm was actually



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1 competent enough to enter into the contract. She
2 had an attorney's advice. The attorney reviewed it.
3 The retain -- the settlement was given to Ms.
4 Patwell in early May, I think, May 5th or May 8th.
5 She had until May 22nd --

6 MR. SWEETAPPLE: I'm going to object. Best
7 evidence of that.

8 MS. GARCIA: My testimony. I'm the one that
9 gave it to her.

10 MR. SWEETAPPLE: Where's the document?

11 Where's --

12 THE COURT: You gave Ms. Sahm --

13 MS. GARCIA: No. Miss -- Ms. Patwell --

14 THE COURT: Okay.

15 MS. GARCIA: -- on behalf of -- after she was
16 hired by Ms. Sahm, her retainer -- retained her for
17 the foreclosure and for the guardianship and mental
18 health case. So she's officially her attorney.

19 THE COURT: Is that in evidence?

20 MS. GARCIA: Yes. It's in evidence. It's in
21 the retainer. The retainer --

22 MR. SWEETAPPLE: No. It's under objection --

23 MS. GARCIA: -- says specifically for
24 foreclosure.

25 MR. SWEETAPPLE: -- she's testified previous



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1 under her argument. Where's the -- where's the
2 document where she transferred the settlement or
3 anything to Ms. Patwell?

4 MS. GARCIA: It's in evidence, Your Honor, as

5 Exhibit -- let's see. 26. Defense 26 is the
6 Retainer. Defense 25 is the Stipulation for
7 Substitution, the guardianship case with Laura to --

8 MR. SWEETAPPLE: Ms. Garcia testified she
9 transmitted the settlement agreement to Ms.
10 Patwell --

11 THE COURT: Defense Exhibit number 26.

12 MS. GARCIA: 26 is Ms. Patwell's retainer.

13 THE COURT: Yes.

14 MR. SWEETAPPLE: The testimony, Your Honor, was
15 that she transmitted the settlement agreement to Ms.
16 Patwell on the 8th of March -- or May. And there's
17 no writings between Ms. Garcia and Ms. Patwell
18 transmitting any settlement agreement ever. And she
19 submitted that. And she says they were all hacked
20 from her computer in her depo.

21 MS. GARCIA: I don't know if I'm supposed to
22 respond, but --

23 MR. SWEETAPPLE: So I object -- I object to her
24 statement. The best evidence of any transmission of
25 the settlement agreement on May 8th would be a



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1 scanned document, an e-mail, some writing. Ms.

2 Patwell was on the West Coast of Florida.

3 MS. GARCIA: It was transmitted --

4 THE COURT: I'm just reviewing --

5 MS. GARCIA: Yes.

6 THE COURT: -- the Exhibit number 26. So --

7 MS. GARCIA: The settlement agreement was
8 transmitted to Ms. Patwell. I have text messages
9 which I had produced and from my point of view, it's
10 when I'm talking to her.

11 Are you hired?

12 Yes.

13 You know, here's a settlement, go over it with
14 your client --

15 MR. SWEETAPPLE: And I --

16 MS. GARCIA: -- whatever you decide.

17 MR. SWEETAPPLE: -- I -- any writing where
18 she's -- I object. Best evidence would be the text
19 message that shows that she scanned a settlement
20 agreement with Ms. Patwell.

21 THE COURT: So are you withdrawing your
22 objection to the hearsay of the text messages?

23 MR. SWEETAPPLE: No, not as to Ms. Patwell, as
24 to her. She says she sent in a text message, the
25 settlement agreement to Ms. Patwell. And first I



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1 heard it's May 8th and now it's in the text message.

2 Show me where, please, best evidence would be.

3 Where is this -- where and when is this settlement
4 agreement sent to Ms. Patwell?

5 THE COURT: Do you have --

6 MS. GARCIA: I don't --

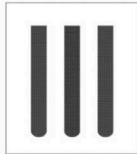
7 THE COURT: -- an e-mail or is it through your
8 text messages that you sent --

9 MS. GARCIA: No, I transmitted through an e-
10 mail, Your Honor, but my e-mail that I was using at
11 the time lost over a million e-mails. I had been
12 constantly hacked, and I've had to transfer vendors.

13 I could -- I have not been able to recover those.

14 Ms. Patwell moved from one e-mail to another. She
15 couldn't recover it. But I have text messages with
16 her and her acknowledgement that she showed it to
17 her client, talked to her client independent.

18 And I also have here proof, just, Your Honor,
19 so you know, that at one point I'm working with the
20 FBI and with investigators and private investigators
21 to determine the source of the people who keep
22 showing up to my house and the source of the
23 hacking. At one point I received an e-mail that's
24 described as Kevin Hall, but when you look at the
25 real address, it says, johnraymond@nelsonmullins.com



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1 via Gmail at some gibberish.

2 So I've given this to the investigators to try
3 to figure out where my e-mails are going, who's
4 erasing them, who's --

5 THE COURT: Okay.

6 MS. GARCIA: -- erasing my calendars, but it
7 was transmitted to her. She obviously had it. And
8 she agreed in writing to -- on May 22nd after going
9 over it with her client numerous times --

10 MR. SWEETAPPLE: Move to strike.

11 MS. GARCIA: -- independent --

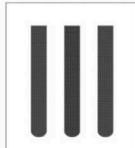
12 MR. SWEETAPPLE: Move to strike. Best evidence
13 with your writing.

14 THE COURT: With respect to the best evidence
15 rule objection. The best evidence rule only applies
16 if there is a writing.

17 MR. SWEETAPPLE: She said there is.

18 THE COURT: She's testified that there is not
19 because she's been hacked, and she's lost her e-
20 mails, and Ms. Patwell has lost her e-mails. I'm
21 overruling your objection. Go ahead.

22 MS. GARCIA: So what happened during that time
23 frame, Your Honor, from May 5th to May 22nd,
24 basically Ms. Patwell was -- had the -- had the
25 settlement that -- I basically took the one I had



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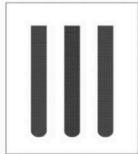
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1 done with Mr. Raymond and updated it to change it to
2 the right parties, which I realized at that point
3 was not the estate and otherwise, based on what I
4 learned, and changed it to include protections and
5 for release of funds. And also the clients had
6 determined the price of 225.

7 THE COURT: Had you had any communication with
8 Ms. Patwell prior to -- prior to Ms. Sahm signing
9 the engagement form?

10 MS. GARCIA: No. I never even heard of her.
11 Just like I never even heard of Mr. Weinstein. I
12 had nothing to do with the representation. In fact,
13 I refused to talk to Ms. Sahm or do anything
14 throughout the records or anything without her
15 having a lawyer. There was no way that I was going
16 to talk to her or have any communication directly
17 with anyone without her having a lawyer that would
18 look at it. And I told those lawyers in writing and
19 in the phone many a times, this is your client, you
20 do what you want. If it's not acceptable, let me
21 know. If you want to make changes, make your
22 changes. I had zero to do with the approval of it
23 on that side.

24 What happened? Come May 22nd when it was
25 executed, the clients came to my house. They signed



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1 it at my house. Then with Ms. Patwell's knowledge
2 and permission, which is also in my e-mails, she
3 allowed me to send my clients to the house to sign
4 it because it had already been negotiated and
5 finalized. And then my understanding is she also
6 got on the phone with the client again and made
7 sure. And the client signed it.

8 So once that happened, Ms. Patwell and I
9 immediately informed the guardianship court because
10 she was the guardianship attorney, and she also had
11 the retainer for this case. But because Mr.
12 Sweetapple apparently did not receive the DocuSign
13 for the stipulation, which is in evidence for
14 signage --

15 MR. SWEETAPPLE: Objection. This is all
16 speculation.

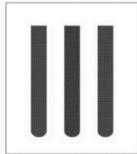
17 MS. GARCIA: You -- he testified that he did
18 not receive the stipulation, so --

19 THE COURT: He hasn't testified.

20 MS. GARCIA: -- I'm saying -- maybe he didn't.
21 I don't know.

22 THE COURT: He hasn't testified.

23 MS. GARCIA: Okay. So the bottom line is that
24 the stipulation was never entered into. So at that
25 point, Amber Patwell -- well, let's -- let me file



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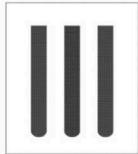
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1 my -- let me go ahead and file my appearance in the
2 foreclosure case now because I've been retained to
3 represent it -- represent her in the foreclosure
4 case also.

5 So the case was settled. And at that point, I
6 firmly believe that they -- when they filed the --
7 they filed the guardianship, the timing of it was
8 during the bankruptcy. When I disclosed to the
9 Court that the case was being settled with another
10 lawyer, this guardianship happened. So the
11 settlement had already been pretty much communicated
12 and agreed to as far as the concepts prior to the
13 bankruptcy being dismissed and prior to the
14 guardianship being filed.

15 But because of the delays in Ms. Sahm being
16 able to have her attorneys with Mr. Morgan Weinstein
17 leaving and then Amber coming in and then them
18 filing the guardianship and her stipulating in with
19 Laura and everything he had to do with the timing,
20 it took a few, you know, weeks to get it finalized
21 and to get it executed.

22 So that settlement was executed in good faith,
23 and it was settled in, not only my client's favor,
24 but significantly in Ms. Sahm's favor. Because if
25 you look at the risks, if you look at the rewards of



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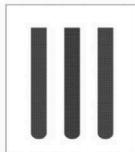
1 settlement and Judge Burton and the transcripts are
2 there -- I don't know if you'll stipulate to the
3 transcripts, but I'd love to have you have all the
4 transcripts. I can -- I'll move them into evidence
5 today if you'll take them -- take judicial notice.
6 They've been filed in a court file for months.

7 I had ordered all the transcripts and analyzed
8 them to determine for the guardianship case and the
9 mental health case. So Judge Burton started looking
10 into the settlement because there were allegations
11 made immediately over there, including in the
12 answer, and I think the response is that the case is
13 settled, Judge, we settled the foreclosure case and
14 we're contesting these three committee members.
15 Okay. So at that point, the settlement is entered
16 into, there's an objection pending on the
17 committee --

18 MR. SWEETAPPLE: She testified she settled on
19 the 22nd.

20 MS. GARCIA: -- after the settlement was
21 entered into, Ms. Patwell and her client obviously
22 made the decision to agree to do a limited
23 guardianship, because --

24 MR. SWEETAPPLE: Under speculation. The
25 document speaks for itself.



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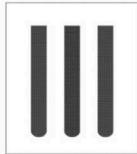
1 THE COURT: Sustained.

2 MS. GARCIA: So the guardianship was entered
3 into by agreement in July -- I mean, sorry, June
4 27th, to bring in Charlie Revard. Mister -- Judge
5 Burton held numerous hearings and ordered Ms.
6 Patwell to turn over all of her notes, which was one
7 of the documents I was trying to get into evidence
8 that the judge didn't take in because it was
9 hearsay. It was everything that Ms. Patwell turned
10 over to the Court, all of her notes and notations
11 that he read into the transcript and basically told
12 us all at the hearing when Ms. Sahm was saying the
13 house is worth \$850 and I want -- you know, we can
14 make money selling the house and he's explained to
15 her in foreclosures how it works and how you can
16 have appeal after appeal and bankruptcy. The
17 bankruptcy, you guys need to --

18 MR. SWEETAPPLE: This is hearsay, Judge.

19 MS. GARCIA: -- you guys need to settle -- or
20 not settle, but talk about what you want to do. And
21 then he decided to throw it out of his court, and he
22 threw it back to the -- to you, to the foreclosure
23 court said, go handle it over there. I'm done.

24 THE COURT: Okay. The -- whatever happened in
25 that action would be in the transcript of that



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1 action. Whatever Judge Burton said to explain is not
2 hearsay because it's not off the truth of the matter
3 asserted. It's the effect on the listener. But be
4 that as it may it doesn't really matter. It has no
5 moment to what we're doing here.

6 MS. GARCIA: Okay. So I -- and I firmly
7 believe Ms. Patwell believed this was in everybody's
8 best interest to resolve this case. The money was
9 sitting in the Court registry ready to pay. And
10 instead, here we sit a year and a half later. It
11 took him over a year, I believe, to file the motion
12 to set aside the settlement. I had tried to get the
13 funds released literally within days, and I was
14 blocked, but the attorney in the Bernstein -- in the
15 -- in the Shirley Bernstein Trust released the
16 funds. So basically the settlement was entered into
17 voluntarily at the advice of Counsel.

18 MR. SWEETAPPLE: Objection. Legal conclusion.

19 THE COURT: Sustained.

20 MR. SWEETAPPLE: Move to strike.

21 THE COURT: Sustained.

22 MS. GARCIA: So speak of the reports, Judge,
23 there's three reports and one of the people
24 obviously testified today --

25 MR. SWEETAPPLE: Objection. This is argument.



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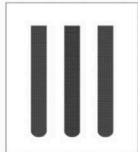
1 She has no personal knowledge.

2 THE COURT: I don't know what she's about to
3 say. I need to hear what she says before --

4 MS. GARCIA: We reviewed the reports,
5 specifically back at the time when they were -- when
6 they were brought in. And then it was an
7 independent report after the fact, by Dr. Sugar,
8 which was relied on, without saying what was
9 happening, that I felt comfortable up there looking
10 at the reports, looking at the law, looking at the
11 misrepresentations, looking at the 119 request I had
12 put out, that today, even, when I saw the testimony
13 about the MoCA test and mild cognitive, and
14 testimony that didn't happen. And we felt
15 comfortable that because one of the reports that's
16 in evidence said that Ms. Sahm can enter into
17 contracts with her attorney, and that's in evidence,
18 Amber and I felt comfortable that we were doing the
19 right thing and disclosed it to the guardianship
20 court immediately. So there was no finding of
21 incapacity at the time --

22 MR. SWEETAPPLE: Objection. Move to strike. No
23 evidence they disclosed this to the guardianship
24 court.

25 THE COURT: Is there any document that



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1 indicates that this is the case?

2 MS. GARCIA: Yes, Your Honor. Can I mark as
3 Exhibit NN the transcripts that have been previously
4 filed, and have you take judicial notice? I can
5 tell you --

6 MR. SWEETAPPLE: I've never seen -- I've never
7 seen them or been provided with them.

8 MS. GARCIA: You have been. It's been filed in
9 court, and you were served with them, sir. I can
10 tell you the docket entry numbers --

11 MR. SWEETAPPLE: Okay.

12 MS. GARCIA: -- and we're taking judicial
13 notice of the entire file.

14 MR. SWEETAPPLE: Tell us when we've got
15 transcripts of hearings.

16 MS. GARCIA: Hold on.

17 MR. SWEETAPPLE: And this --

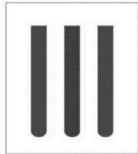
18 MS. GARCIA: I'll tell you right now. Let me
19 log in.

20 MR. SWEETAPPLE: -- it's got her list of --
21 and --

22 MS. GARCIA: And I have a -- I have a copy that
23 I've already provided --

24 MR. SWEETAPPLE: And I just want to make --

25 MS. GARCIA: -- a copy --



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1 MR. SWEETAPPLE: -- okay. I want to make sure
2 that, Your Honor, something that was said is
3 accurate and noted. But I believe Ms. Garcia
4 testified that she settled this case before the
5 guardianship was filed -- the foreclosure case, it
6 was settled before the guardianship was filed, is
7 what she testified to.

8 THE COURT: Are you asking me that, or --

9 MR. SWEETAPPLE: I just want to make sure Ms.
10 Garcia is not correcting that testimony because
11 that's what she testified to.

12 MS. GARCIA: The settlement was obviously
13 signed on May 22nd after the advice of Counsel on
14 May 1st. But the concept between the parties and
15 their discussions were -- I think began in January
16 because they're family friends forever. And I had
17 -- Ms. Bernstein had testified to that, that there
18 were conversations had and there was a decision made
19 already back then that they wanted to start to
20 resolve it. And that's why in March I was trying to
21 negotiate, and we had a bankruptcy, and then --

22 THE COURT: Okay. I don't --

23 MS. GARCIA: -- two attorneys later --

24 THE COURT: -- I'm not seeing any transcripts
25 in the Court file.



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1 MS. GARCIA: Okay. The transcripts were filed,
2 DE 264 through 275. I believe that's the
3 transcripts. I filed them immediately after the last
4 hearing. Let me see. No, that's not it. If I can
5 find it.

6 THE COURT: 265 is a --

7 MS. GARCIA: No.

8 THE COURT: -- 22-page long transcript.

9 MS. GARCIA: Your Honor, it's -- no, 263. I
10 filed a Notice of Filing for all purposes of the
11 transcripts. I'm trying to see. So I think it -- I
12 believe it starts --

13 THE COURT: It's a Notice of Filing, but
14 there's nothing attached.

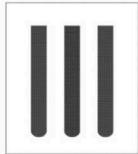
15 MS. GARCIA: Well, because it was large. So I
16 think 265 is the first -- is one of the transcripts.
17 It was a transcript in front of Judge Ferrero
18 (phonetic) in the guardianship case from April 23rd,
19 2024.

20 THE COURT: Right.

21 MS. GARCIA: And that's one. Then the next one
22 is 266. And that was the proceeding in the
23 guardianship case on May 13th, 2024.

24 THE COURT: Correct.

25 MS. GARCIA: The next one was 267, which is the



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1 transcript from September 5th, 2023, in front of
2 Charles Burton in the guardianship case. Because
3 Burton was the attorney before --

4 THE COURT: The judge before Judge Ferrero.

5 MS. GARCIA: Right. Then 268 is the
6 transcripts in the guardianship case where Ms.
7 Patwell was present on October 17th, 2023.

8 MR. SWEETAPPLE: Your Honor --

9 MS. GARCIA: 269 --

10 MR. SWEETAPPLE: -- I have no objection to
11 transcripts from the May proceeding.

12 THE COURT: Okay. So then you want me to take
13 judicial notice of docket entries 263 through 274?

14 MR. SWEETAPPLE: Fine. Yeah, just the May -- I
15 don't have any problem --

16 MS. GARCIA: 275.

17 MR. SWEETAPPLE: I have not read them or seen
18 them, but I mean, we have orders that the Court
19 wants to look at what Judge Burton was saying,
20 right?

21 THE COURT: As opposed to having you all tell
22 me what --

23 MS. GARCIA: Right.

24 THE COURT: -- what you gleaned from the
25 hearing?



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1 MS. GARCIA: Through 275, Your Honor.

2 THE COURT: Okay. I will -- I will so
3 judicially notice these files.

4 MS. MILLER: 274 is not a transcript.

5 MR. SWEETAPPLE: Huh?

6 MS. MILLER: 274 is not a transcript.

7 MS. GARCIA: Okay. So 274 is not a transcript,
8 Your Honor.

9 MS. MILLER: 273 is not a transcript.

10 MR. SWEETAPPLE: What is a transcript?

11 MS. GARCIA: Would this be composite 27?

12 THE COURT: Well, if you're going to mark it
13 for evidence purposes --

14 MS. GARCIA: Yes.

15 THE COURT: -- then the clerk is going to need
16 a physical copy.

17 MS. GARCIA: Okay.

18 THE COURT: If you want me to take judicial
19 notice of the Court filing, I could do that. And
20 then on appeal, it would be transferred to the Court
21 without it having to be marked as a separate
22 exhibit. So it's probably easier for Madam Clerk
23 and for trees.

24 MS. GARCIA: I would mark these, Your Honor.

25 THE COURT: If you have them, you can --



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1 MR. SWEETAPPLE: On the May and June
2 proceeding?

3 MS. GARCIA: From all the proceedings.

4 MR. SWEETAPPLE: No, I'm -- we -- we're -- I
5 would -- I object to this being a composite because
6 she's saying from all the proceedings, and I don't
7 think we're here to retry bankruptcy proceedings and
8 trust case proceedings or whatever else has been
9 filed.

10 MS. GARCIA: This is just the guardianship and
11 the mental health cases.

12 THE COURT: And they're filed in the Court
13 file, right?

14 MS. GARCIA: Yes, it --

15 THE COURT: Do you want to enter them into
16 evidence, or do you want me to just judicially
17 notice it and access it from the Court file?

18 MS. GARCIA: If it's the same effect and
19 admitted into evidence as Exhibit 27, I'm okay.

20 THE COURT: Then if you want to -- then I will
21 receive them into evidence without objection as
22 Exhibit number 27.

23 The clerk will need a copy.

24 MR. SWEETAPPLE: As to -- as to the May and
25 June?



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1 THE COURT: I think those are the ones that
2 were in the Court file. That's all that she's asked
3 me to judicial notice.

4 MR. SWEETAPPLE: And I have no problem with
5 entering into evidence what you take judicial notice
6 on from the dock. And so you don't have to have
7 paper overwhelming you.

8 THE COURT: It's okay.

9 MS. GARCIA: No, Your Honor. It's eight
10 different transcripts. It started May 23rd, 2023.
11 Because they're entered -- they're entered into
12 evidence. For instance, Your Honor, the August
13 14th, 2023, injunction --

14 MR. SWEETAPPLE: But that's --

15 MS. GARCIA: -- may say that there were
16 findings made. If you look at the transcript on
17 August 14, 2023, the judge specifically made no
18 findings. It was an agreed extension for 30 days
19 with no findings. And they entered an order making
20 findings and they want you to rely on that when it's
21 not true.

22 MR. SWEETAPPLE: Your Honor, you --

23 MS. GARCIA: So that transcript is clear,
24 right?

25 THE COURT: Right. The transcript is going to



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1 be the best evidence of what happened at the
2 hearing, which is why I'm saying, I don't understand
3 why at 4:30 we're just now realizing that perhaps we
4 should have given the judge the transcripts of the
5 things that we've been discussing.

6 MR. SWEETAPPLE: And, Your Honor, she's
7 attempted to collaterally attack these orders that
8 haven't been appealed to her final and saying, oh,
9 at this hearing and that wasn't said, so therefore
10 it's not --

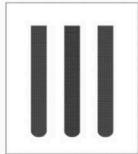
11 THE COURT: I don't take --

12 MR. SWEETAPPLE: -- it's not an order.

13 THE COURT: -- I don't take it as a collateral
14 attack. I -- and if that's what I'm being asked to
15 do, I'm not going to do that. I -- so I'm receiving
16 those transcripts into evidence. Yes. Defendant's
17 Exhibit number 28, which are purportedly the
18 transcripts of the eight different court hearings
19 that we're here for the purpose of what transpired
20 at those court hearings.

21 (DEFENSE EXHIBIT 28 RECEIVED INTO EVIDENCE)

22 THE COURT: So since we've disposed of the need
23 of discussing what happened at those court hearings,
24 understanding that Mr. Sweetapple is going to need
25 to have a chance to cross-examine you, what



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1 additional testimony do you have?

2 MS. GARCIA: Basically, my testimony is that
3 this agreement that is being attacked was entered
4 into the proper legal advice. The two attorneys of
5 record --

6 MR. SWEETAPPLE: Objection. Legal conclusion.

7 THE COURT: You are giving me a legal
8 conclusion.

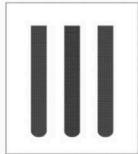
9 MS. GARCIA: Okay. I believe, Your Honor, that
10 we did nothing inappropriate, nothing nefarious,
11 nothing conspiratorial, nothing improper when it
12 came to entering into a settlement agreement with an
13 attorney who was the attorney hired by Mrs. Sahm,
14 accepted by the guardian court and filed a notice in
15 this case. When there's co-counsel -- assuming that
16 he -- that Mr. Sweetapple was still even the
17 attorney after being terminated, I had no obligation
18 to speak to him at that point. So --

19 MR. SWEETAPPLE: I object and move to strike.

20 Where is there any evidence I was terminated?

21 THE COURT: Overrule the objection.

22 MS. GARCIA: So basically, Your Honor, once Mr.
23 Sweetapple filed that notice on April 18th about the
24 guardianship case, he knew that he had no authority
25 to act. So just because you're the attorney of



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1 record does not mean you have authority to act.
2 According to the bar rules, in fact, it says, you
3 can't even discuss the facts with opposing counsel.
4 You can't do anything when it comes to the case
5 without --

6 MR. SWEETAPPLE: Object. Speculation.

7 MS. GARCIA: -- court authority.

8 THE COURT: Again, you're giving me legal
9 conclusion.

10 MS. GARCIA: My opinion at the time --

11 THE COURT: Which is not a -- you can't opine
12 on what the law is, no matter how experienced you
13 are, right?

14 MS. GARCIA: Okay.

15 THE COURT: I get it. But you can't --

16 MS. GARCIA: I understand.

17 THE COURT: -- it's a --

18 MS. GARCIA: Okay.

19 THE COURT: -- it's a decision for me to make.

20 MS. GARCIA: I understand. So based on my
21 understanding, I negotiated with the right person,
22 which was Ms. Sahm. And Mr. Sweetapple was not
23 reappointed to the case or authorized until recently
24 again, when the guardian substituted back in. And
25 in the meanwhile for over a year, nothing had been



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1 filed to set it aside. And I just firmly believe
2 that the allegations that are -- that are against my
3 clients and myself are just not clear and convincing
4 evidence of us doing anything that is -- constitutes
5 undue influence of fraud.

6 THE COURT: All right. To cross-examination?

7 MR. SWEETAPPLE: Have you concluded your
8 direct?

9 THE COURT: Ms. Garcia, are you done on your
10 direct?

11 MS. GARCIA: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. SWEETAPPLE:

14 Q. Ms. Garcia, you've told me under oath that you
15 have tremendous experience in dealing with notes and
16 foreclosures, right?

17 A. I have experience. Yes, sir.

18 Q. And you told me it was obvious to you that
19 this note was a joint asset and that when Mr. Sahm died,
20 Mrs. Sahm had the right to proceed to collect the note,
21 right?

22 A. I don't recall telling that to you in those
23 terms. What I do recall is being told that no
24 substitution was necessary because the estate had no
25 rights.



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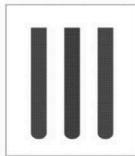
1 Q. And you understood that from the first time
2 you looked at this file, didn't you?

3 A. No.

4 Q. You looked at this note and this foreclosure
5 case and you believe that a joint note between a husband
6 and wife became an estate asset when Mr. Sahm died? You
7 didn't know that it was clearly a survivorship right and
8 you didn't testify to that in your deposition when I
9 asked you?

10 A. I can say this much. Because of the filings
11 in the federal court conflicted with the filings in the
12 state court -- and then I'm told by the estate attorney
13 to negotiate there, I firmly believe that there was a
14 gray area on what rights does the estate really have?
15 They're telling two federal bankruptcy courts that they
16 are the -- the -- the owners. They are the creditor. So
17 I don't know who to believe when all the attorneys are
18 lying to me and -- and -- and confusing and
19 misrepresenting the different situations.

20 Now, you, Mr. Sweetapple, did not -- my
21 understanding is you brought in Mr. Shraiberg to do the
22 bankruptcy case, but you didn't make any filings or
23 representations there. Your position has always been
24 constant and consistent that you can file for the dead
25 man, but it didn't go to the estate. The -- the other



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1 attorneys were consistent with the estate is the one who
2 has it and it's under a Power of Attorney under pre-
3 guardianship, therefore your client wasn't competent for
4 years, according to the confusion that was given to me.

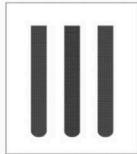
5 So it's very hard when you have numerous
6 attorneys in different courts and different
7 representations made to different judges for whatever
8 benefits you, when I'm trying to figure out -- begging
9 you guys in e-mails who has rights, who do I go to? Who
10 signs a settlement? What do I do? And that's in
11 evidence. My questions.

12 Q. And I have you on here --

13 A. And I was -- and I was told different things
14 by different attorneys at different times, depending on
15 what met their needs.

16 Q. I have your e-mails right here. I'm going to
17 put them into evidence shortly. But you knew well
18 before your client filed this bankruptcy that this was
19 an asset owned by Mrs. Sahm individually, based on your
20 experience. And you've admitted that in your
21 deposition, haven't you?

22 Please don't go off on a tangent. Just tell
23 us whether or not you have admitted that you knew from
24 the outset that this was a joint asset and that it
25 belonged to Mrs. Sahm after her husband died?



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1 A. I don't believe that -- that was my knowledge
2 at all times. I believe that it fluctuated based on the
3 representations made to the courts and the filings made
4 by the courts --

5 Q. What --

6 A. -- which caused confusion.

7 Q. -- mister --

8 A. When we have an estate saying it's ours and we
9 are the creditor and filing for sanctions and -- and
10 filing also for dead people -- but then it was a typo,
11 and I corrected it. I get confused when I have five
12 different lawyers telling me five different things.
13 That's why everybody was included in this settlement and
14 every court was referred to. Every case was referred
15 to. Every attorney was referred to. So --

16 THE COURT: Other than Mr. Sweetapple.

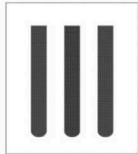
17 BY MR. SWEETAPPLE:

18 Q. So you saw that Mr. Shraiberg appeared for
19 Mrs. Sahm individually and for the estate, right, in the
20 bankruptcy?

21 A. Yes. Through a pre-need guardianship
22 according to the testimony of Joanna Sahm.

23 Q. And I'm going to show you e-mails, including
24 -- here. Do you have another copy for the court?

25 MR. SWEETAPPLE: If I can approach, Judge? Yes,



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1 sir. I'll mark this as 14, I believe.

2 THE CLERK: Yes, sure.

3 BY MR. SWEETAPPLE:

4 Q. These are e-mails from Mr. Raymond. And
5 you're -- on March 24th, you're writing, "To be clear,
6 please clarify the following as soon as possible so I
7 know as what to represent to the foreclosure judge and
8 the estate judge in my motion to cancel sale on filing
9 Monday. Is it true the estate has no rights to note
10 that the foreclosure case and only Patricia Sahm, Senior
11 is the beneficial other?" So you believe that was the
12 case, right?

13 A. I asked for clarification because that's not
14 what they filed in the federal court. They said that
15 they had rights. So --

16 Q. Just --

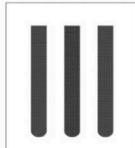
17 A. -- I'm asking for clarification from the
18 estate attorney of what to tell the Court --

19 Q. And you're --

20 A. -- on March 24th?

21 Q. -- and you're asking him, Mr. Sweetapple will
22 represent Patricia Sahm, Senior through Joanna Sahm
23 based only on that Power of Attorney.

24 Why would you be asking him the basis for my
25 representation rather than calling me to find out when I



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1 undertook to represent Mrs. Sahm individually and how I
2 was operated with regard to a Power of Attorney. Why
3 are you asking him the scope of my representation and
4 how I got it?

5 A. I found out about this Power of Attorney for
6 the first time in the bankruptcy court when Joanna Sahm
7 testified to the pre-need guardianship that she
8 supposedly hired Mr. Shraiberg in the -- in the federal
9 court. So therefore I was --

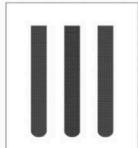
10 Q. And when would it go into effect? It went
11 into effect on Mr. Sahm's death. And I represented Mr.
12 and Mrs. Sahm for two years before he died, right?

13 A. I can finish --

14 Q. Did you -- did you -- did you -- did you ever
15 -- did you ever focus on the fact that I can represent a
16 live husband and wife and when the husband dies,
17 continue to represent the wife, and there can also be a
18 Power of Attorney? And that there's -- they're not
19 mutually exclusive?

20 So why are you asking Mr. Raymond about my
21 representation and making these assumptions? You --
22 you've testified last time we were here, and you keep
23 testifying I've been substituted, I've been terminated,
24 I have no rights, I can be ignored.

25 So --



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1 A. On --

2 Q. -- why are you asking anybody other than me --

3 A. -- on the same --

4 Q. -- what my rights are?

5 A. -- on the same day on March 25th at 5:05 p.m.

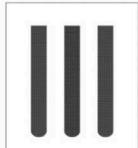
6 when I wrote that e-mail asking -- I said, I
7 need clarification of these six questions so I could
8 determine who would go in the settlement. I asked about
9 is Joanna Sahm the trustee. Is she the PR? Is she --
10 if she's not a party to the foreclosure and she's not a
11 guardian, is it true that her own involvement in the
12 foreclosure is solely based on Power of Attorney?

13 But then I asked -- then I sent you an e-mail
14 that same day, by the way, in this chain, at 7:49, and I
15 asked you, I'm requesting that you agree to cancel the
16 sale, do an immediate mediation with the plaintiff.
17 Please let me know your client's position so I can form
18 it in my -- support my motion. So --

19 Q. And --

20 A. Because you guys were bouncing me around so
21 much and filing different ownership rights and different
22 representations. I had to ask you guys a question to
23 find out who needs to be in any settlement. That's what
24 that was about. Me asking --

25 Q. Ms. Garcia --



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1 A. -- you guys to please tell me the truth once
2 and for all of who do I need to include in the
3 settlement?

4 Q. -- Ms. Garcia, I have a pleadings address
5 where both counsel of record -- and you're sending e-
6 mails to an address that I have never used on any
7 document ever. And you -- and you complain that I don't
8 respond to you. There is no rsweetapple@sweetapple.com,
9 or whatever it is. Rsweetapple@sweetapple.com. It's
10 sweetapplelaw.com. And pleadings. So -- and then on
11 March 27th, let's keep going through this, where you
12 continuously e-mail me at a non-existent address, even
13 though we're both in the same pleadings file. And if
14 you get this answer on the 27th, as I informed you
15 before, this is just Sweetapple is representing the
16 party plaintiffs in this matter and all responses should
17 come from his office.

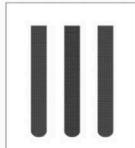
18 A. And at that point, I also then wrote to you
19 and Mr. Raymond and Mr. Raymond copied you, by the way,
20 at that address on March 30th at 4:22. He copied you --

21 Q. At the same address you used.

22 A. -- at the address.

23 Q. At the same address you used. That is not my
24 pleadings address or my address.

25 A. Well, I wouldn't know that. He's -- if he's



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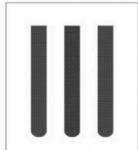
1 responding to you at that address in an e-mail chain
2 with me, I'm going to assume he has the right address.
3 And I do believe there's a plea -- another e-mail that
4 we -- that's in evidence now, that I will look for, that
5 I sent to that address, and you did respond. So you
6 have responded at that address before.

7 Q. No, I never -- I've never responded to
8 that address and never got any of these e-mails. But
9 you were repeatedly told that you would have to
10 communicate with me. And at this time -- at this time,
11 you knew that I had filed shortly after this. The fact
12 that I had contacted my client -- she's had no
13 recollection of signing a revocation of a Power of
14 Attorney.

15 A. Objection to hearsay.

16 Q. And I became concerned and filed with the
17 Court a notice that the client indicated she had no
18 knowledge of signing a revocation, that she wanted me to
19 continue with the case. But I also let the Court know
20 that I was concerned about her mental capacity and that
21 a guardianship had been instituted. So you knew I was
22 telling the world that her competency was at issue,
23 right?

24 MS. GARCIA: You did file once you were told by
25 your client, Joanna Sahm, who you had been working



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1 through a Power of Attorney only, not with the
2 mother. You told her -- or she testified that she
3 had met with you and Mr. Mullins and -- or Mr.
4 Raymond, and you all had to try to decide what to
5 do. And I guess you all decided to file a
6 guardianship --

7 MR. SWEETAPPLE: I didn't decide -- what do you
8 mean, you all?

9 MS. GARCIA: -- on April 17th.

10 MR. SWEETAPPLE: -- I didn't decide to file the
11 guardianship. I was told there was a guardianship
12 filed.

13 MS. GARCIA: Okay. And so you --

14 MR. SWEETAPPLE: And I put you on notice and
15 the world on notice.

16 THE COURT: So -- I -- are -- is this cross-
17 examination or --

18 MR. SWEETAPPLE: Yes, Judge, because I'm not --

19 THE COURT: -- or you all just arguing with
20 each other about this string of e-mails that I can
21 read?

22 MR. SWEETAPPLE: Yeah. --

23 THE COURT: Can we move on?

24 MR. SWEETAPPLE: -- e-mails now. I'm talking
25 about my filing with the Court, the notice --



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1 THE COURT: Can we move on, please?

2 MR. SWEETAPPLE: Okay. Yes.

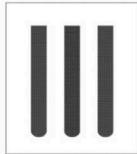
3 BY MR. SWEETAPPLE:

4 Q. The order determining limited due capacity.

5 Judge Burton said, this Court, having reviewed
6 the file, having considered the reports of the examining
7 committee, and being fully advised in the premises,
8 finds, based on clear and convincing evidence presented,
9 one, the ward suffers from incapacity of the following
10 nature and scope: unspecified dementia, impaired memory
11 and cognition, and then lists the lack of capacity to
12 contract to assumed lawsuits, et cetera. Do you know
13 that this order that was entered by the judge was based
14 on May 5th reports and you were representing the
15 Bernsteins during this proceeding, right?

16 A. On June 27th, I believe it is. It's your
17 Exhibit 13 or -- no, 3. This order was entered into
18 after the settlement was completed by the same attorney
19 who entered into the settlement and this order to
20 determine limited capacity was entered by agreement? Not
21 by me, because nobody approached me. I would've
22 definitely contested it because I had been ready to
23 fight the insanity of these reports that were --

24 Q. Ms. Garcia, you were counsel of record in this
25 case, and you've never filed an appeal of this order.



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1 You represented your client's in this proceeding in the
2 guardianship court they had counsel, you, and your
3 clients were involved from day one and knew about these
4 guardianship examinations, didn't they?

5 A. These orders -- this order was sent into by
6 agreement of Ms. Patwell. And --

7 Q. Where does it say the Court's duty based on
8 agreement? So you see or -- see copies of for it --
9 your --

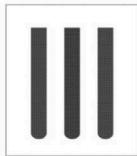
10 A. I've seen the communicate. I --

11 Q. You're served. You're served with this.

12 A. I was e-mailed during this time frame. I
13 remember after the fact when you all were going back and
14 forth between Eileen O'Malley, who was Joanna's
15 attorney, because Joanna applied to be the guardian. And
16 the Court was not inclined to allow Joanna or Patricia
17 Junior to be guardians because there was a fight among
18 the two daughters.

19 Q. And you were --

20 A. So there -- because the estate documents
21 stated that Charles Revard would be the successor
22 trustee, Ms. Patwell determined at that point, okay.
23 The foreclosure case is done. Now I have to deal with
24 my client in the incapacity case at that point because
25 the foreclosure case was already done. The settlement



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1 had been signed. She filed objections to the reports.
2 At that point, the agreement was made without me
3 agreeing. I think Kevin Hall accidentally agreed
4 because he was led to believe that everybody agreed from
5 my understanding.

6 But you all entered into this order. And
7 well, I mean, you all, I don't mean you Mr. Sweetapple
8 because you had nothing to do with this case. Eileen
9 O'Malley and Amber Patwell. So Joanna and her -- Joanna
10 and her mother's attorney, Ms. Patwell, agreed to allow
11 Charlie to have some limited rights moving forward, not
12 retroactively. And by the way, no motion was ever filed
13 in that -- in that case to set aside a settlement, which
14 is where the Court then -- had they gone to this Judge
15 Burton at the time and said, Judge, we got a problem. We
16 want to set it aside. Judge Burton started listening to
17 it, and you'll see in the transcripts he started saying,
18 the paper, a privilege is waived. Accusations started
19 flying quick. And you'll see what he said in the
20 transcript from. But this order was entered -- this
21 order was entered very be voluntarily.

22 Q. Ma'am, from the very beginning, your clients
23 involved with the guardianship, right?

24 A. My clients did not do much in this
25 guardianship at all. Originally -- my original client,



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1 which was the Bernsteins, we filed a notice of interest
2 because they were making allegations against us in the
3 settlement in the guardianship case. And I believe
4 there's testimony that the whole reason that the
5 guardianship case was even filed was to stop the
6 settlement. It was -- it was purposely timed and done
7 solely to stop the settlement in my opinion.

8 Q. And this order determining limited capacity
9 that you were served a copy of has never been appealed
10 or vacated, has it?

11 A. There's been many, I don't know how you call
12 it rumblings or filings that deal with the fact that
13 this violated Ms. Sahm's rights to due process because
14 there was no hearing held and there was no actual
15 determination made by the judge --

16 Q. Who filed -- who filed that?

17 A. It was done by an agreement.

18 Q. Who filed that?

19 A. I'd have to look at the file, but I do recall
20 reading differing pleadings and allegations in this
21 case. I mean, because I think Ms. Patwell did a
22 wonderful job for her client. I completely disagreed
23 with entering into an order of capacity when you had so
24 many good defenses, but that doesn't make an attorney
25 bad or good if we disagree. I'm telling you this that I



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1 did not agree to this limited incapacity order. I
2 firmly believed at the time we did the settlement
3 agreement that they would win this issue. But after the
4 fact it was determined to be settled in June 27th,
5 because it wouldn't have had an effect on the settlement
6 because the settlement was done. This was moving
7 forward. So my client, the Bernsteins, were out, there
8 was nothing for them to do. We were done, over. I
9 thought we were gone. The money was going to registry
10 ready to go on May 23rd. And then all of a sudden, all
11 these nefarious allegations come out about me and Ms.
12 Patwell in our actions.

13 Q. And so do you have any order -- this is a --
14 this was an order determining limited in capacity by
15 Judge Burton (phonetic). Is there any order or opinion
16 in any way vacating this?

17 A. There's filings that --

18 Q. Is there any order or opinion vacating this
19 yes or no, please? And then explain.

20 A. There is no order vacating this. No.

21 Q. No. And the judge says he relied on the May
22 5th guardianship examinations, doesn't he?

23 A. I don't know.

24 Q. Doesn't he say that right in the preamble?

25 A. He says that he reviewed the files. He



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1 considered the reports.

2 Q. Okay. And you were a --

3 A. And he was forming --

4 Q. -- council of record -- you were a council of
5 record for your clients in this proceeding, correct?

6 A. It -- yes.

7 Q. Yes or no?

8 A. Yes. And it also says he was informed of the
9 agreement of Patricia Sahm, and it says, and all
10 interested parties, but I never agreed to this because
11 as usual orders keep getting submitted to the courts
12 without my agreement or my knowledge, or that are
13 inconsistent with the file. And the only reason that I
14 haven't filed these orders to date is because my client
15 hasn't paid me in two years and has no money.

16 Q. So you got this order --

17 A. When I get money, I will address all these
18 issues, sir, because I'm tired of these representations
19 being made that aren't true.

20 Q. So when you got this order on June 27th, '23,
21 a year and a half ago, it was mailed to you think it is
22 erroneous and you've not attacked it because you haven't
23 been paid, but when you get paid, you're going to attack
24 it.

25 A. Well, now that the ongoing --



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1 Q. Is that your testimony?

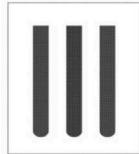
2 A. My testimony is I have not attacked it yet
3 because I can't afford to as a sole practitioner. My
4 client can't afford to pay me because his funds are held
5 up, and the fact that we're still ongoing and using
6 these orders, knowing that they're not true, it's an
7 ongoing fraud that I will deal with now that it's timely
8 again.

9 Q. And when did you move to enforce the
10 settlement agreement? It was allegedly entered on May
11 22nd, 2023. When did you file a motion to enforce it?

12 A. I did not file a motion to enforce it because
13 we were dealing with this in the guardianship case, I
14 think through June, July, August, and Judge Burton was
15 having hearings on it and doing discovery and
16 disclosures. And Ms. Patwell and I decided, let's just
17 wait and let the guardianship court, or whoever, rule on
18 it, because the allegations from day one have been about
19 our affairs conduct. And at that point, her and I both
20 took a pause and said, you know what we feel like we did
21 the right thing, but there's allegations out there. Let
22 a court determine what they believe.

23 Q. Isn't the settlement agreement captioned in
24 the foreclosure case number?

25 THE COURT: Yes. There is 12.



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1 MS. GARCIA: Let's see. Defendants -- it's
2 Defendant 6.

3 BY MR. SWEETAPPLE:

4 Q. Don't you mention that there's a foreclosure
5 case and the case number is listed on the bottom of the
6 first page?

7 A. Well, I can say this documents --

8 Q. Can you answer yes or no?

9 A. -- the document speaks for itself. However,
10 it's not captioned in the foreclosure case. It's
11 caption settlement agreement. And it says that the
12 interested parties are Bernstein Family Realty, the
13 Bernstein Family members, Patricia Sahm, and now at that
14 point, after being told she's the sole owner and
15 surviving spouse of Walter Sahm, and for good and
16 valuable consideration, we acknowledge we entered the
17 settlement agreement, and this settlement agreement
18 deals with all the cases. It cite the Marion County
19 case. It cites the --

20 Q. Show me where it cite --

21 A. -- foreclosure case.

22 Q. Show me where it cites the probate case that
23 you say you're litigating. Where's the probate case
24 mentioned here?

25 A. Under the first page, sir. The second



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1 paragraph on the recitals, it says, on June 24 -- June
2 24, 2021, it was an order admitting a will to probate
3 and appointing personal representative Joanna Sahm --

4 Q. That's not the mental health case.

5 A. -- that was entered into for Walter Sahm and
6 Marion County case 2.1P002326 --

7 Q. Then it says, Patricia Sahm has full authority
8 to resolve the mortgage and no foreclosure matter. Okay.
9 There's no mention of anything about a guardianship in
10 this document. Is there no case number involved in the
11 guardianship, right?

12 A. I'd have to look through it.

13 Q. Take a look.

14 A. Now let me see. At this point in time, this
15 was May 22nd. There was no guardian appointed yet. So
16 this was May 22nd, 2023. So there would be no guardian
17 to mention, but --

18 Q. And you were dealing with --

19 A. -- I go through -- sir, I'm sorry.

20 Q. -- Ms. Patwell. And you decided to settle
21 this. You and she agreed on the 22nd of May. You
22 testified that's when you agreed to settle it, right?
23 May 22nd.

24 A. That's when the settlement was actually
25 signed. The agreement between the clients had been much



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1 earlier on maybe as early as January, February, March
2 where they had their communications and agreements.
3 However, there was the bankruptcies and then there was
4 her having to hire attorneys and then the guardianship
5 case was filed. So there were numerous delays that were
6 outside of my control.

7 Q. And you here's your testimony on page 69 at
8 line 5. And then basically we said, okay, we agree on
9 the 22nd. She said, we agree, let's get it done. I'll
10 file my appearance. So she agrees with you on the 22nd
11 of May. And that's when she files an appearance at 6:37
12 at night.

13 A. Did --

14 Q. Right? That's what you testified to -- you
15 and Amber agreed on May 22nd to settle the case. And
16 then she files her notice of appearance.

17 A. On the 22nd is when she had made her final
18 decision with her client, independent of me or anyone
19 else after reviewing with her client. They hadn't, like
20 I said, I think since the 5th of the 8th.

21 Q. So you were negotiating with --

22 A. She decided --

23 Q. -- for how long -- for how long when she was
24 in counsel of record? You knew I was council of record.
25 You knew she wasn't council of record. How long were



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1 you negotiating with her before May 22nd?

2 A. I knew of Amber once she was retained. I
3 assume about May 2nd, May 3rd, because the guardianship
4 case had been filed, and she was hired to do the
5 foreclosure in her retainer and the guardianship.

6 Q. And she appeared in the guardianship, but
7 didn't appear in the foreclosure, right?

8 A. She did eventually file a notice of
9 appearance, but she had been retained specifically for
10 that case told and represented that to me so I relied on
11 it.

12 Q. She told you -- she told you I had been
13 retained in the foreclosure, and you negotiated with
14 her, and she hadn't appeared. So you know, I'm counsel
15 of record. You don't send me any proposed settlement
16 agreement. You don't talk to me. You know I represent
17 Mrs. Sahm, but you're dealing with Amber Patwell, who's
18 told you she's been retained in a foreclosure, but
19 hasn't appeared to the case, right?

20 A. She filed her notice as you know, on the same
21 day in the foreclosure case.

22 Q. No. The evening.

23 But --

24 A. The evening. In the evening.

25 Q. The same day.



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1 Right. Your clients all went to Mrs. Sahm's
2 house -- how many people how many people did you send to
3 Mrs. Sahm's house with this settlement agreement to get
4 signed the evening of May 22nd?

5 A. I didn't direct numerous people to go. I
6 asked -- Amber was out of town. Ms. Patwell was out of
7 town, and I said, the clients are at my house. It's in
8 text messages. I said, I can send them to the house to
9 sign it. And she said, fine.

10 Q. So --

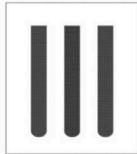
11 A. So I can't tell you how many people went, but
12 I can tell you that the case had been settled before
13 they got there. So there was no undue influence or
14 pressure on Ms. Sahm that night. It had already been
15 decided by both lawyers. We agreed to the logistics --

16 Q. Who did --

17 A. -- due to the location of the house and the
18 location of Ms. Patwell, and the fact that nobody could
19 afford couriers. So --

20 Q. So how many of your clients left your house
21 and drove to see 84-year-old Mrs. Sahm by
22 herself in her house the evening of May 22nd?

23 A. I think the only people that were at my house
24 that day were Elliot and maybe Ms. Bernstein because the
25 boys signed it at their houses. So they kind of made



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1 stops. So it started at my house and with approval of
2 Ms. Patwell, it went like from my house, then it went to
3 the different -- three different boys' houses. And then
4 it went to Ms. Sahm's house.

5 Q. And this sound only doesn't have any signature
6 by counsel, right?

7 A. No.

8 Q. And it doesn't have any date that the payment
9 has to be made, right?

10 A. It does very specifically address, which we
11 really covered on direct the fact. And I can read it to
12 you again, if you'd like.

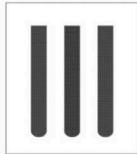
13 Q. I know if there's a date. What date -- what's
14 it -- we're now -- we're now almost two years from the
15 date this was allegedly signed. We're approaching that.
16 When is the -- when is this money happening -- paid by
17 of this agreement?

18 A. It will be paid within however quick. The
19 clerk can cut a check once the judge makes a ruling that
20 the settlement is binding.

21 Q. Well, you haven't asked for that --

22 A. Settlement wasn't binding.

23 Q. You haven't asked for that ruling. You
24 haven't sued the guardian asking the guardian to sign
25 anything. You just filed this in November of '23



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1 attached to some other document, right? You've never
2 asked the Court to have [REDACTED] enforce this or Mr.
3 Revard, the guardian, to sign this?

4 A. The --

5 Q. This -- right?

6 A. The agreement was provided immediately and the
7 next day, Mr. Rose had it in the -- in the -- in the Shirley
8 Trust case. And I asked him if I could release
9 the funds and he said, don't release the funds. Let's
10 see how it plays out in the guardianship. Ms. Patwell
11 and I decided because now they became an issue as far as
12 complaining about the settlement that we would let the
13 guardianship court tell us where the money to go. So I
14 didn't know where to pay the money once it was signed,
15 but the money has been sitting there -- and it says very
16 clearly on Page 4 about the payment and how and when it
17 will be paid. And it says it would go to Ms. Patwell
18 trust account, the two -- the 225. But then it says
19 that they're being held in the registry to the benefit
20 of the three young Bernstein boys. The parties agreed
21 to cooperate at a hearing to be held to ensure the 225
22 are released directly to the trust of Ms. Patwell --

23 Q. What's the date, ma'am?

24 A. -- as directed by the court order.

25 Q. What's the date? What's the outside date that



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1 this asset be performed by?

2 A. The --

3 Q. Is there any such date in the agreement?

4 A. The only reason it hasn't been paid yet is
5 because you're contesting the validity so --

6 Q. That's not what I asked.

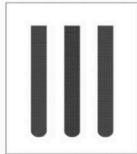
7 A. -- can't ethically release the cost to Ms.
8 Patwell.

9 Q. That's not what I'm asking you. I'm asking
10 what --

11 A. It --

12 Q. Where's the material term of this agreement?

13 A. The material term -- there's 10 of them. If
14 you look through the payment, it's very detailed and it
15 says exactly what's going to happen. It says, the
16 parties are going to cooperate for a hearing, but the
17 parties didn't cooperate. Then it says, the Bernstein
18 shall pay the entire check directly issued to the clerk
19 registry. And then it says, if court orders are
20 necessary, either in the Walter Sahm probate case in
21 Marion County, or the Palm Beach foreclosure case, or in
22 the Shirley Bernstein case, the parties agree to fully
23 cooperate and file any needed joint agreed motions to
24 confirm the settlement and to release the funds as
25 agreed and to file a dismissal of the foreclosure. No



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1 party or person can interfere with the agreement or
2 cause any further delays in releasing the funds or cause
3 the property to settle the foreclosure.

4 Q. So what I'm --

5 A. Now what happened is instead of cooperation
6 immediately in the guardianship, it got raised that they
7 had a problem with the settlement. So because of case
8 we asked Judge Burton for direction and then Judge
9 Burton started holding hearings specifically about the
10 settlement and the money, and the release, and
11 everything else until finally he got frustrated and
12 threw it back at the at the -- this Court to determine
13 if this court believes it's settled or not.

14 And so what did you do in this Court to
15 enforce
16 enforce --

17 THE COURT: This has been asked and answered so
18 many times.

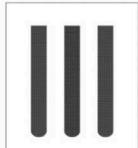
19 MR. SWEETAPPLE: Okay. And the record's clear.
20 The record's clear. I apologize.

21 THE COURT: Can we please move on? How much
22 more cross-examination do you need?

23 MR. SWEETAPPLE: Not many.

24 THE COURT: Then please ask leading questions.

25 MR. SWEETAPPLE: Right.



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1 THE COURT: I got it. There's no material.

2 There's no date that it needs to be completed.

3 There isn't a date in this is there. No.

4 BY MR. SWEETAPPLE:

5 Q. And there was never a motion before or after
6 the argument was appointed. And so your clients did
7 sign the March settlement agreement indicating that Mrs.
8 Sahm, Senior was incapacitated and agreeing to pay her
9 \$355,000, right?

10 A. Let me look at the agreement. What exhibit
11 number was that? That was Exhibit -- plaintiff.

12 Q. Do you need to look at that?

13 A. Yes. I do need to look at this settlement
14 because that settlement was never used. So you are
15 asking me to comment about my thought process during
16 another settlement that's not this settlement. So I
17 need to look at that settlement before I make any
18 comments, sir. I'd like to refresh my recollection.

19 Q. You don't know that your client signed it and
20 355,000, you've already testified to that within the
21 last two hours?

22 A. That was not the question. We -- you had
23 added something to it, so --

24 Q. No. I asked you if your client signed that
25 March settlement agreement that indicated that Mrs. Sahm



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1 was capacitated and provided for payment of \$355,000.

2 A. So I need to look at that part about the
3 statement you're making so I can understand why it's
4 there and testify to you. What happened? Let's see.

5 THE COURT: It's a yes or no question. Did he
6 sign it or not?

7 MS. GARCIA: He signed the -- he did sign the
8 retainer. I mean, he did sign a settlement
9 agreement, but --

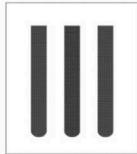
10 THE COURT: Okay. Next question.

11 BY MR. SWEETAPPLE:

12 Q. Okay. And did you ever provide Ms. Patwell
13 with that signed agreement where your clients had
14 offered to pay 355 before you sent over \$225,000
15 settlement agreement in May?

16 A. No. But I told her about it. I told her
17 exactly what was going on. And in fact, her and I had
18 many discussions about the rewards and the risks of the
19 settlements and of the guardianships and of the
20 bankruptcy and of what was in the best interest of our
21 clients. And then each of us consulted with our
22 individual clients and determined that this was in their
23 best interest to end this madness once and for all and
24 let everybody move on.

25 MR. SWEETAPPLE: All right. Let me, Your



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1 Honor, if you can one moment.

2 THE COURT: Sure.

3 MR. SWEETAPPLE: Okay.

4 THE COURT: These e-mail strings has just been
5 brought to me, but it's not in evidence. So --

6 MR. SWEETAPPLE: Oh, what's that, Your Honor,
7 the e-mails?

8 THE COURT: The e-mails. It's not in evidence.

9 MR. SWEETAPPLE: Yeah. I'll move that into
10 evidence, Your Honor. That's with the notation that
11 -- that's not my e-mail address on the -- those text
12 -- those e-mails.

13 MS. GARCIA: Do I have a copy of it?

14 MR. SWEETAPPLE: Yeah.

15 MS. GARCIA: Is that what you handed to me?

16 THE COURT: It was used during the first, I
17 believe 45 minutes of cross-examination.

18 MR. SWEETAPPLE: Yeah. You have a copy.

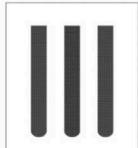
19 THE COURT: You all read them back and forth to
20 me.

21 MR. SWEETAPPLE: I moved it in as 14, that one.

22 THE COURT: We received the evidence as
23 Plaintiff's Exhibit number 14.

24 (PLAINTIFF EXHIBIT 14 RECEIVED INTO EVIDENCE)

25 MR. SWEETAPPLE: And as for the bankruptcy,



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1 Judge, the order granting end member relief that's
2 in evidence when the Court specifically found that
3 you had filed the suggestion, and you -- and that
4 you were -- and that it was factually false and
5 legally incorrect, and was designed to mislead the
6 state court of the -- clerk of the Court. You
7 haven't appealed that order either, have you?

8 MS. GARCIA: No. But I do plan on it now that
9 it's being used in the way it's being used. I do
10 have an attorney ready to go in there because --

11 MR. SWEETAPPLE: You don't think it is time
12 barred, April 14, 2023? And we're now in January of
13 '25?

14 MS. GARCIA: No. Not according to my
15 bankruptcy lawyer. You said direct fraud on the
16 Court.

17 MR. SWEETAPPLE: And who do you think committed
18 a fraud on the bankruptcy?

19 MS. GARCIA: Joanna Sahm and her attorney, Mr.
20 Shraiberg, who took on that case with no retainer
21 based on a purported Power of Attorney of Joanna,
22 although at the same time you're claiming that she's
23 incapacitated and can't answer the contracts or do
24 anything. Mr. Shraiberg appeared in the Court
25 believing the Power of Attorney existed.



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1 So as an officer of the Court because I know
2 his business partners, I told him at the hearing,
3 Mr. Shraiberg, you may not be aware of this, but
4 your client, Joanna Sahm, does not have a Power of
5 Attorney anymore. Therefore you don't have a
6 client, and the estate is not a client. And then I
7 also explained to the Court at that time that the
8 suggested bankruptcy that was actually used to
9 cancel sale was not my suggested bankruptcy, but Mr.
10 Shraiberg went ahead and gave the order to the
11 Court, so we'll do it there.

12 MR. SWEETAPPLE: So did you -- did you file any
13 motions for sanctions against Mr. Shraiberg or
14 anybody?

15 MS. GARCIA: No, I don't like to go up there.
16 Other lawyers normally, especially ones I've known
17 for years and years, but --

18 MR. SWEETAPPLE: And so you don't think Mr.
19 Shraiberg represented Joanna Sham in the
20 bankruptcy --

21 THE COURT: It's not relevant. It's --

22 MR. SWEETAPPLE: Pardon?

23 THE COURT: The question is not relevant. The
24 question's not relevant.

25 MR. SWEETAPPLE: All right. I -- I'm I have no



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1 more questions, Judge.

2 THE COURT: How many additional witnesses do
3 you have, Ms. Garcia?

4 MS. GARCIA: Can I -- if I could have a two-
5 minute break, I'd like be done.

6 THE COURT: Sure.

7 MS. GARCIA: If I could step outside.

8 THE COURT: Sure.

9 MS. GARCIA: Thank you, Your Honor.

10 (OFF THE RECORD)

11 THE COURT: All right. Both the plaintiff and
12 the defendant have rested.

13 MR. SWEETAPPLE: Can I suggest, Your Honor,
14 since you've been more than patient with this that
15 we submit written?

16 THE COURT: That was what I was going to
17 suggest. How long would it take for you all to
18 correct a written closing arguments?

19 MR. SWEETAPPLE: Ten days, two weeks.

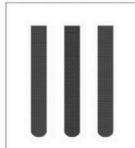
20 MS. GARCIA: Two weeks.

21 THE COURT: Two weeks.

22 MS. GARCIA: That way we can give you the
23 memos.

24 MR. SWEETAPPLE: We get the transcript and --

25 THE COURT: What -- two -- - I just -- so



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1 there's a date on it. What's two weeks? Two weeks
2 would be --

3 MS. GARCIA: Today's the 20 --

4 THE COURT: This is the 11th work for you all?
5 I have seven days being the 4th and 14 being the
6 11th. You want the 12th? 13th? You tell me --

7 MS. GARCIA: 12th or 13th.

8 MR. SWEETAPPLE: What day -- what day is the
9 14th?

10 MS. GARCIA: The 14th is --

11 MR. SWEETAPPLE: Is that on Wednesday?

12 MS. GARCIA: Yes.

13 THE COURT: 14 days would be the 11th?

14 MR. SWEETAPPLE: How about --

15 MS. GARCIA: Could we do the -- could we do the
16 13th?

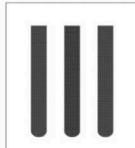
17 MR. SWEETAPPLE: That's what I was going to
18 suggest.

19 MS. GARCIA: Because yeah, I'm --

20 THE COURT: Okay. You -- do you both agree to
21 it? Could you just file the written closing
22 arguments in the Court file, but also provide a
23 courtesy copy of the division AO to the CAD?

24 MS. GARCIA: Yeah. On E courtesy?

25 THE COURT: Not the E courtesy, the -- scan it



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1 and e-mail it to Chambers.

2 MS. GARCIA: Okay.

3 THE COURT: Just make sure that the other side
4 is copied on it so that everybody has it because
5 otherwise it takes a couple days before it's
6 docketed before I'd be able to see it.

7 MR. SWEETAPPLE: How about if we both do it at
8 5:00 on the 13th?

9 THE COURT: You can do that. However you want
10 to do it. Just -- I'll keep my eye out for those.
11 And then once I receive those, I will enter an
12 order.

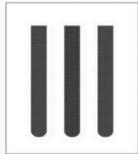
13 MS. GARCIA: And then. Your Honor, if there's
14 any -- would you like to provide copies of the case
15 is also there or statutes, or just cite them?

16 THE COURT: If there's something that's
17 relevant and germane to your argument, you want me
18 to review it, you can provide it to me like a
19 briefing book.

20 MS. GARCIA: Okay.

21 THE COURT: I do have -- I have access to
22 Westlaw so I can look it up, but if it's something
23 that's very important, you may want to provide me a
24 copy of this.

25 MS. GARCIA: Okay.



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1 THE COURT: Okay. Okay.

2 MR. SWEETAPPLE: Thank you for hearing us,
3 Judge.

4 THE COURT: All right. Thank you all.

5 UNIDENTIFIED SPEAKER: Thank you.

6 MS. GARCIA: We do appreciate your time and
7 your patience, Your Honor. Thank you.

8 THE COURT: All right. Have a nice --

9 (HEARING CONCLUDED AT 5:16 P.M. ET)

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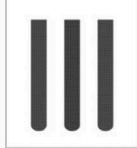
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1 C E R T I F I C A T E
2

3 STATE OF FLORIDA)

4 COUNTY OF ORANGE)

5
6 I, FLOR LOPEZ, Court Reporter and Notary Public for
7 the State of Florida at Large, do hereby certify that I
8 was authorized to and did report the foregoing
9 proceeding, and that said transcript is a true record of
10 the said proceeding.11
12 I FURTHER CERTIFY that I am not of counsel for,
13 related to, or employed by any of the parties or
14 attorneys involved herein, nor am I financially
15 interested in said action.16
17 Submitted on: February 5, 2025.18
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24 Court Reporter, Notary Public

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