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

WALTER E. SAHM AND PATRICIA SAHM,
Plaintiffs,

V.

BERNSTEIN FAMILY REALTY, LLC, BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN; ALEXANDRA BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED; ELLIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND ALL UNKNOWN TENANTS,
Defendants.

HEARING

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

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APPEARANCES

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Also Present: John J. Parnofiello, Judge; Cynthia Miller, Associate with Plaintiffs; Shane English, Clerk; Charles Revard, Guardian; Elliot Bernstein, Defendant

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STIPULATION

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

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PROCEEDINGS

THE BAILIFF: -- John Parnofiello presiding.

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

MR. SWEETAPPLE: Good afternoon, Your Honor.

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

MR. SWEETAPPLE: Good afternoon, Your Honor. Robert Sweetapple and Cynthia Miller on behalf of the substituted guardian, Charles Revard, who is before the Court.

THE COURT: Good afternoon.

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

THE COURT: Good afternoon, ma'am.

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

MS. GARCIA: Defendants.

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

MS. LEWIS: And good afternoon, Your Honor.

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

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

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

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

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

MS. GARCIA: Okay.

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

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

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

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

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

THE COURT: I have.

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

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THE COURT: Hang on one second. Your court reporter on Zoom is not able to hear you.
MS. GARCIA: Okay. But I mean, I guess if she's not going to hear, she can go.
THE COURT: All right. Also it says, "no one on Zoom" -- is anyone on Zoom able to hear us? This one?
THE REPORTER: I see someone on a phone call, 5617156.
THE COURT: Are you able to hear now, Madam Court Reporter?
THE REPORTER: Yes.
THE COURT: Yes. All right. It's okay.
MS. SAHM: That's me. I'm Patty Sahm, Jr. That's who (561) 715-6848 are -- is.
THE REPORTER: Okay, Patty Sahm.
MS. SAHM: Yes, ma'am.
THE REPORTER: Okay.
MS. SAHM: Hi, Mr. Stansbury.
THE COURT: All right. So --
MR. STANSBURY: Hi there.
THE COURT: Let me put everybody that's not --
MS. SAHM: How are you?
THE COURT: -- on mute for right now.
MR. STANSBURY: Good. How are you?

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THE COURT: We're in court.
MS. SAHM: Good.
THE COURT: Okay. I see there's a gentleman trying to signal the Court's --
UNIDENTIFIED SPEAKER: We can't hear you.
THE COURT: You can't hear me?
MR. SWEETAPPLE: Or the parties very well. I don't --
THE COURT: Can anyone hear me now?
MR. SWEETAPPLE: Yeah, much better.
THE REPORTER: I hear you now, Judge.
THE COURT: Okay, great. Hang on.
THE REPORTER: I just need to -- everyone to state their appearances so I know who's there.
THE COURT: All right. Why don't you-all restate your appearances just for the record?
MR. SWEETAPPLE: Yes, Your Honor. Thank you. Good afternoon. Robert Sweetapple and Cynthia Miller.
MR. STANSBURY: My name is William Stansbury.
THE COURT: Okay. Hang on.
THE REPORTER: (Inaudible.)
THE COURT: The attorneys. All -- I only need the attorneys that are going to be arguing the motion to enter an appearance right now.

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

THE REPORTER: I'm not hearing.

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

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

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

MS. GARCIA: Yes.

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

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

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

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

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THE COURT: I can access it.

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

THE COURT: Okay.

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

THE COURT: And this motion has been set for a

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while. How is it that this three-hour evidentiary motion was scheduled? Was it scheduled by me or was it scheduled before --

MS. GARCIA: Judge Oftedal scheduled it, but at the time I had told him also that [redacted], who was the former attorney for Patricia Sahm, Sr., and who also filed an appearance in this case, who is also having to have her deposition taken and deal with defending this settlement, she can't be here today. And I had informed --

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

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

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

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

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

MR. SWEETAPPLE: I'm sorry.

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

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

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

THE COURT: I reviewed --

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

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

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

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

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

MS. GARCIA: -- communications and work product,

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

THE COURT: All right. I read your motion.

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

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

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

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

THE COURT: All right.

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

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

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

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

THE COURT: Are you in a position to move forward

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with your 1.540 motion?

MS. GARCIA: No, Your Honor.

THE COURT: Okay. So then what we're going to do is I will -- you can schedule your 1.540 motion, but we're going to move forward on the motion to strike the settlement agreement. I don't find that any of the issues that were raised in the reported emergency motion filed Friday afternoon at 4:00 are of an emergency nature, or such that the Court couldn't have been made aware in advance of this hearing today. The Court has set aside a significant amount of time, and we're going to take the evidence that we can take. And if there's additional evidence that's needed, we can address by appropriating the proceedings at that appropriate time. But rather than waste additional time talking about whether or not we're going to take evidence, I don't find that there's a basis that can articulate to continue all matters in entirety, so --

MS. GARCIA: Your Honor, may I ask a question as far as the procedure? Given the fact that the defense requires the disclosure for attorney-client privilege and work product and the communications between the parties and the

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

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

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

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

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

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able to take today.

MS. GARCIA: Thank you, Your Honor.

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

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

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But --

THE COURT: Do you know, just for the record, the -- I know it's written. I think it's 23GA245 is the guardianship order -- or the guardian --

MR. SWEETAPPLE: Yes, the guardianship is 2300245, and the mental health is 23 Mental Health 001072.

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

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

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

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

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

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anything that would be hearsay.

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

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

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

MR. SWEETAPPLE: No, I'm not -- I'm not -- I'm offering to the Court just -- the order finds that it was by consent. There's not -- that's the proof of that, the order establishes that. What I'm going to show you is that even the ward's attorney had the reports in her hand. Her filing shows that she objected to those reports. And I'm not going to ask you to find those objections are valid or not, but the Court file shows that Ms. Patwell, on the 17th of May -- or I'll get you the correct date, but she objected

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

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

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

MS. GARCIA: Right, Your Honor. Because he did not meet the hearsay exemption of statement of mental or physical state. He hasn't presented a proper foundation. But that is a key issue. If he's asking you to determine her state of mind then, when you have conflicting reports saying that she can enter the contracts with attorneys and that she has a report that says she's not incompetent. We don't have the witnesses here --

THE COURT: So he's indicated to me that he's not offering it for that. If he does offer it for that purpose, then I'll turn back to you for further argument. But he's indicated that -- I think your argument is correct. He's saying he's not offering it for that. If it gets to be where it seems like he's offering for that, then I'll turn to you for further argument, okay? But I will take judicial notice of the documents. Do you have the docket entries?

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

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would be the reports of the examining members, Judge Burton's order --

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

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

THE COURT: Right. But the --

MR. SWEETAPPLE: And then she withdrew them.

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

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

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

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

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MS. MILLER: Yes.
MR. SWEETAPPLE: -- for the order and the petition? And Your Honor, I would ask you to take notice in this case, which is a different standard, I believe, of my filing on October 18, where I requested judicial notice and put all parties on notice of the mental health guardianship cases. And I would -- I believe you could take judicial notice of the petitions, correct? The filed petitions.
THE COURT: So judicial notice is -- the document is authentic, but it still needs to be admissible. So I take judicial notice that on that date, you filed a request for judicial notice. That's a fact that can be noticed. But the substance or the complaint, the allegations are hearsay unless there's an exception.
MR. SWEETAPPLE: So --
THE COURT: If you want me to take judicial notice of a document that you filed for the purpose of proving that you filed it on that date, I can do that. Do you want me to take judicial notice of the substance of a complaint? Ms. Garcia's objection to hearsay is --
MR. SWEETAPPLE: I'm not trying to -- I'm trying

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

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

MR. SWEETAPPLE: I understand.

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

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

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

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

THE COURT: Okay.

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

THE COURT: You have set aside the time.

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

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

THE COURT: Yes.

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

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

MS. GARCIA: Thank you, Your Honor.

THE COURT: Yes, ma'am.

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

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

MS. GARCIA: Objection to hearsay.

MR. SWEETAPPLE: And --

THE COURT: Overruled. His opening statement.

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

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

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

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

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

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

THE COURT: Sure.

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

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insurance agent and he was in business with Plaintiff Walter Sahm. Patricia Sahm, Sr., his long-term wife and the mother of Joanna Sahm, who I believe is present, and Patty Sahm, Jr., who is on Zoom, two sisters, don't see eye to eye. Anyway, what happened is, in this -- so you understand the history, is that this home was owned by the Sahm family. Mr. Walter Sahm, prior to his death, and we have, you know, certified copies of it --

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

MS. GARCIA: Right.

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

MS. GARCIA: I understand.

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

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

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2023, when there was a bankruptcy hearing filed by Elliot Bernstein, I disclosed to the Court about the fact that Patricia Sahm, Sr., -- this is prior to the guardianship being filed, which was filed on April 17th of 2023, that I disclosed to the Court about the fact that Patricia Sahm, Sr., revoked her daughter's prior attorney in March -- March 15th was the first revoking of her daughter Joanna's power of attorney. Ms. Patricia Sahm, Sr., found out that her daughter was misusing the power of attorney and was --

MR. SWEETAPPLE: I'm objecting --

MS. GARCIA: -- defending this lawsuit, filing --

MR. SWEETAPPLE: -- Your Honor, objection to hearsay testimony as to what --

THE COURT: It's not testimony. Same ruling on her objection to your opening. She's telling me what she believes the evidence is going to show.

MR. SWEETAPPLE: But is she going to call the --

THE COURT: I don't know what either of you are going to do. You-all are telling me what you're going to do right now.

MS. GARCIA: So the power of attorney entered on

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

MR. SWEETAPPLE: Object to any --

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

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

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

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stated.

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

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hearing. It was on April 14th of 2023. And that's when I disclosed to the Court about the mother revoking the power of attorney. Brett Schraber (phonetic) was the attorney at that hearing. I was not a -- an attorney in the bankruptcy. I was there testifying to Mr. Bernstein as the -- as his attorney for the foreclosure. And, basically, I told him and the Court that the power of attorney was revoked, and the mother had hired Morgan Weinstein, and she was going to resolve the case. Now at that point Brad Schraber was making -- complaining about a suggestion of bankruptcy that was filed. So at that point -- and I had the transcripts and I have the tape, that the judge in the bankruptcy court realized that I had filed a suggestion of bankruptcy as a courtesy, but Mr. Bernstein and his wife had gone to the -- Court and filed a suggestion of bankruptcy and cancel the case appropriately. And that's because the Final Judgment -- and if you look at the Final Judgment, whether it's going to take judicial notice of the Final Judgment, that it's a judgment against all the defendants. It doesn't specifically say who is responsible for the

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

THE COURT: Okay.

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

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

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

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

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

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

THE COURT: One more minute.

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

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

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

MS. GARCIA: Okay.

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

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

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

THE CLERK: Do you solemnly swear or affirm that

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

THE WITNESS: Yes.

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

THE WITNESS: Thank you.

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

THE WITNESS: Okay.

THE COURT: Sometimes they're a little touchy. Mr. Sweetapple, whenever you and your witness are ready you may go ahead.

TESTIMONY OF JOANNA SAHM

DIRECT EXAMINATION

BY MR. SWEETAPPLE:

Q. Good afternoon.

A. Hi.

Q. How are you?

A. Good. How are you doing?

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

A. Okay.

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

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

A. Okay.

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

A. I'm their youngest daughter.

Q. Okay. And do you have any siblings?

A. I have one older sister.

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

A. Seventy-eight.

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

A. She just turned 83.

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

A. Yes.

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

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

Q. All right. The documents provided for that?

A. Yes.

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

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A. Oh, yes.

Q. How often did you see her?

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

Q. And your father died in 2021, correct?

A. January of 2021.

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

A. Yes.

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

A. Yes. Both, yes.

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

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

THE COURT: Overrules -- you can answer.

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

MS. GARCIA: Objection. Hearsay.

THE COURT: Sustained.

BY MR. SWEETAPPLE:

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

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

Q. Okay. Oh --

A. Oh, without. Sorry. I --

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

A. Oh.

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Q. So --

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

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

THE COURT: Sustained again.

MS. GARCIA: Hearsay.

BY MR. SWEETAPPLE:

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

A. She did.

Q. And that was before your father died?

A. Correct.

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

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

MS. GARCIA: Objection. Hearsay.

THE COURT: Overruled.

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

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

BY MR. SWEETAPPLE:

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

A. Yes.

Q. -- his wife?

A. Yes.

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

A. Yes.

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

A. Correct.

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

A. No. Correct.

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

A. I am.

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

A. Yes.

Q. And was she able to understand?

A. No.

Q. Okay.

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A. No.
Q. Did she -- did you ever ask her --
MS. GARCIA: Objection. Calls for speculation.
BY MR. SWEETAPPLE:
Q. Did you ever ask her --
MS. GARCIA: Calls for speculation.
BY MR. SWEETAPPLE:
Q. Are you aware how much -- did you ever ask her or are you aware about how much money is involved in this case?
THE COURT: Hang on one second, sir. There's an objection. It's speculation. The objection is sustained. Perhaps, phrase based on the question, but I think you're asking a follow-up. So why don't you re- ask your question.
MR. SWEETAPPLE: Yes, I'm rephrasing it. I'm sorry. I should have been clear.
BY MR. SWEETAPPLE:
Q. Let me rephrase that. Did you ever attempt to discuss the specifics of how much money was owed?
A. Yes.
Q. All right. Did -- was -- did she ever reply to you indicating she understood the case in any way?
A. No.
MS. GARCIA: Objection. Again speculation.

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Mental condition. Hearsay.

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

BY MR. SWEETAPPLE:

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

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

THE COURT: Overruled.

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

BY MR. SWEETAPPLE:

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

A. No.

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

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allegedly been revoked?

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

Q. And did you talk to your mother?

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

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

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

Q. All right at that time did you --

MS. GARCIA: Objection. Calls for speculation.

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BY MR. SWEETAPPLE:

Q. At that time, did you retain --

THE COURT: Overruled.

BY MR. SWEETAPPLE:

Q. -- Counsel?

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

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

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

Q. Who followed you?

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A. Candace and Elliot Bernstein.

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

A. I was speaking to a police officer who I -- I became frightened because these people were following me. Not -- at first my cousin's wife was following me. And she left to go get them because they are a friendly now, I guess. And she went -- and they live in the same neighborhood. So my cousin's wife went to get them. And I had gone -- I carried the paperwork. I had the revocation of the power of attorney with me and all the paperwork from the case. I carry it in my car because I had a retraining order -- I mean, a restraining order against my sister also.

Q. And why do you have -- why do you have a restraining order -- you're talking about Patricia Sahm, Jr.?

A. My -- the -- junior.

Q. And why do you have a restraining order against her?

A. She pulled a gun and threatened to kill me in January of 2023. So at that time a restraining order was issued for my protection. So I carried my restraining order with me and all the paperwork for the case.

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

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

A. I did.

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

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

MS. GARCIA: Objection. Relevance.

BY MR. SWEETAPPLE:

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

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

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

THE WITNESS: North Carolina.

THE COURT: North Carolina.

BY MR. SWEETAPPLE:

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

A. I don't know.

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MR. SWEETAPPLE: Okay. And let me show you what I'm marking as Plaintiff's proposed Exhibit 1 --

THE COURT: Show it to me.

BY MR. SWEETAPPLE:

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

MS. GARCIA: Counsel?

BY MR. SWEETAPPLE:

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

MS. MILLER: Two.

MR. SWEETAPPLE: Two.

MS. GARCIA: May I see, please?

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

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

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

BY MR. SWEETAPPLE:

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

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

MR. SWEETAPPLE: Move it into evidence, Your

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Honor.

THE COURT: Same objection?

MS. GARCIA: Same objection, Your Honor.

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

(EXHIBIT 1 RECEIVED INTO EVIDENCE)

BY MR. SWEETAPPLE:

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

THE COURT: Okay.

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

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

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

MR. SWEETAPPLE: These are curt --

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

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

(EXHIBIT 2 MARKED FOR IDENTIFICATION)

BY MR. SWEETAPPLE:

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

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

MS. GARCIA: Counsel?

MR. SWEETAPPLE: Ms. Garcia.

MS. GARCIA: Oh, thank you.

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

THE COURT: Okay. Would you --

BY MR. SWEETAPPLE:

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

A. Yes.

Q. Were you provided those by the Court?

A. Yes.

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

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

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

MR. SWEETAPPLE: As to hearsay?

THE COURT: Yes, sir.

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

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

MR. SWEETAPPLE: I know.

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

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

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THE COURT: I don't know. That's why I'm asking.
MR. SWEETAPPLE: I'm putting it in just to show that she was provided the piece. And I'll follow up with some questions about it after.
THE COURT: So then can I see that? May I see Composite Exhibit number 2?
MS. GARCIA: I'm sorry, Your Honor. What did you just say?
THE COURT: I need to see it.
MS. GARCIA: Got you.
THE COURT: To rule on it.
MR. SWEETAPPLE: These are not out of Court statements. These are -- statements were made in Court.
THE COURT: These are statements that were made in a written report.
MR. SWEETAPPLE: Filed in a Court.
THE COURT: Not this Court, today.
MR. SWEETAPPLE: True.
THE COURT: So out of Court. And you want me to accept them as being true?
MR. SWEETAPPLE: Well right now I just want you to accept them as --
THE COURT: For what non-hearsay purpose, I guess, is what I'm asking for? Because I -- what

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I'm looking at is to see if --

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

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

MR. SWEETAPPLE: Pardon?

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

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

BY MR. SWEETAPPLE:

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

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

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

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

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

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

MR. SWEETAPPLE: These were filed --

MS. MILLER: Correct.

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

THE COURT: What was the date again?

MS. MILLER: March 27, 2024.

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

THE COURT: All right.

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

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

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

THE COURT: Making that part of the composite so

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you can see that it was filed as --

MS. GARCIA: All right. Your Honor --

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

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

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

MR. SWEETAPPLE: Yes.

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

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

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

MR. SWEETAPPLE: They're under sealed.

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

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

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the 12th.

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

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

MS. GARCIA: In this case?

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

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

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

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

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

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

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

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

THE COURT: Okay.

BY MR. SWEETAPPLE:

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

A. Yes.

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

A. No.

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

A. Opinions meaning how --

Q. About her mental behavior, her conduct?

MS. GARCIA: Objection.

BY MR. SWEETAPPLE:

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

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

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been acting with just in general.

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

A. I don't know.

MS. GARCIA: Objection. Calls for hearsay responses.

THE WITNESS: I don't know.

THE COURT: She said she didn't know.

BY MR. SWEETAPPLE:

Q. Did --

THE COURT: The witness --

BY MR. SWEETAPPLE:

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

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

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

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

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

Q. Right.

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

Q. And that was before --

MS. GARCIA: -- speculation.

BY MR. SWEETAPPLE:

Q. -- the guardianship was filed?

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A. I'm sorry?
Q. That was before the guardianship.
A. That was before the guardianship.
Q. Okay. And even before the guardianship file -- filed, even before you took over those accounts, did you, as trustee, pay for all the housing expenses --
A. Yes.
Q. -- and the taxes and all of -- all of her financial affairs?
A. Yes, for both of the homes. For the home --
Q. So other than spending money for her Social Security, you managed all of the --
A. That is correct.
Q. -- financial affairs?
A. That's correct.
Q. And prior to this guardianship being instituted, how many times had she been scammed?
A. Three that I know of.
MS. GARCIA: Objection to relevance of the scams.
BY MR. SWEETAPPLE:
Q. Okay. Can you tell the Court what --
THE COURT: Overruled.
BY MR. SWEETAPPLE:
Q. -- what were these scams that she had been a victim of?

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

THE WITNESS: I'm sorry?

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

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

BY MR. SWEETAPPLE:

Q. Had she been scammed?

A. Yes.

Q. Say that loudly.

A. Yes, I'm sorry.

THE COURT: How many times?

THE WITNESS: Three.

BY MR. SWEETAPPLE:

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

MS. GARCIA: Objection to relevance.

BY MR. SWEETAPPLE:

Q. -- and took over her finances?

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

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

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

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

MR. SWEETAPPLE: Pardon?

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

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

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

MS. GARCIA: Fair.

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

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

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

(EXHIBIT 3 MARKED FOR IDENTIFICATION)

BY MR. SWEETAPPLE:

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

A. I'm familiar with it.

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

A. Yeah. Yes.

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

A. Yes.

Q. -- or suing or defending lawsuits?

A. Yes.

MS. GARCIA: Objection. Leading.

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

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

MS. MILLER: So that was Docket Entry 27.

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

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

THE COURT: I will receive into evidence over objection.

(EXHIBIT 3 RECEIVED INTO EVIDENCE)

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

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

BY MR. SWEETAPPLE:

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

A. No.

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

A. No.

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

A. No.

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

A. No.

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

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

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

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

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

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additional questions to establish.

BY MR. SWEETAPPLE:

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

MS. GARCIA: Objection to relevance.

THE COURT: Overruled.

THE WITNESS: Contracts --

BY MR. SWEETAPPLE:

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

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

Q. The house is in the trust?

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

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

A. No, she --

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

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

Q. Okay.

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

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

A. No.

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

A. Yes, I was aware.

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

A. Yes.

Q. Let me show you --

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

THE COURT: Overruled.

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

(EXHIBIT 4 MARKED FOR IDENTIFICATION)

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BY MR. SWEETAPPLE:

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

A. Yes.

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

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

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

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

MR. SWEETAPPLE: Yes, sir.

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

(EXHIBIT 4 RECEIVED INTO EVIDENCE)

BY MR. SWEETAPPLE:

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

A. No.

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

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

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

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

A. No.

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

THE COURT: Sustained.

BY MR. SWEETAPPLE:

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

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

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

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

Q. And when did you learn what transpired?

A. I learned about that in June of 2023.

Q. And what transpired?

MS. GARCIA: Objection. Foundation.

THE COURT: I need to hear an answer before I

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rule.

BY MR. SWEETAPPLE:

Q. Did you investigate to find out what happened?

A. I did. I did. I reached out to the property manager of my mom's community. She lives in a gated community, and I reached out to the property manager and asked for the gate logs of everybody that had entered. Because there was very specific -- she has a gate entry list of people that are allowed to come in, and if not, everybody else has to be called and logged in. And I requested the --

Q. Without saying what you saw --

A. Yeah. Just that --

Q. -- or anything you were told, did you -- did you believe that you learned that someone had come to the house on that day?

MS. GARCIA: Objection. Again, speculation. Foundation.

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

MS. GARCIA: Compound.

MR. SWEETAPPLE: This is --

THE COURT: -- anything you observed, or is this based off of what you told him when you found out by reading things?

THE WITNESS: Just on research.

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THE COURT: By reading things?

THE WITNESS: I beg your pardon?

THE COURT: By reading things?

THE WITNESS: Yes.

THE COURT: Or talking to people?

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

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

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

THE COURT: I understand. The next question --

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

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

BY MR. SWEETAPPLE:

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

A. Yes, I did.

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

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

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BY MR. SWEETAPPLE:

Q. Was your mother able to answer that question?

A. No.

MS. GARCIA: Same objection.

BY MR. SWEETAPPLE:

Q. Did she have any recollection of --

THE COURT: Overruled.

BY MR. SWEETAPPLE:

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

A. No.

MS. GARCIA: Objection. Speculation.

BY MR. SWEETAPPLE:

Q. Did you --

THE COURT: Overruled.

BY MR. SWEETAPPLE:

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

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

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

A. No.

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

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provided it?

A. That is correct.

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

A. I did see that.

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

A. That is correct.

MS. GARCIA: Objection to relevance.

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

BY MR. SWEETAPPLE:

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

A. Yes.

MS. GARCIA: Objection to relevance.

THE COURT: Sustained.

MR. SWEETAPPLE: Could I have one moment?

THE COURT: Sure.

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

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

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witness.

MR. SWEETAPPLE: Pardon?

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

MR. SWEETAPPLE: Yes -- yes.

THE COURT: So --

MR. SWEETAPPLE: Obviously.

THE COURT: -- cross-examination?

MS. GARCIA: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. GARCIA:

Q. Good afternoon, Ms. Sahm.

A. Hi.

Q. How are you today?

A. Good. How are you doing?

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

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

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

A. No -- no.

Q. And the Court entered an order having Charlie

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Revard the guardian?

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

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

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

MS. GARCIA: Objection as nonresponsive.

THE COURT: Overruled.

BY MS. GARCIA:

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

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

THE COURT: You may approach.

MS. GARCIA: May I approach?

THE COURT: Sure.

MS. GARCIA: Thank you.

BY MS. GARCIA:

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

A. I filed --

Q. Under the penalties of perjury?

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

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

A. Does it?

Q. Yes. Do you know what that means?

A. I do know what that means.

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

A. I'm sure --

Q. -- you can verify your signature?

A. That's my signature.

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

A. The estate attorneys for my family.

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

A. Eileen O'Malley.

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

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the same law firm as John Raymond?

A. She is.

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

A. His firm handled my parents' documents, yes. But it's not the filling out of my parents' estate documents.

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

A. Yes, I guess.

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

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

THE COURT: Do you --

THE WITNESS: He filed the paperwork.

THE COURT: Do you know the answer?

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

BY MS. GARCIA:

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

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A. And his firm.
Q. -- in the estate filings, correct?
A. And the people in his firm, yes, that is correct.
Q. Okay. Does Eileen O'Malley also work on the estate, or only on the petition for guardianship?
A. She works on everything, the estate and the petition for guardianship.
Q. So she's aware of the estate filings and the estate documents?
A. Yes.
Q. And --
MR. SWEETAPPLE: Objection.
BY MS. GARCIA:
Q. And --
MR. SWEETAPPLE: It calls for speculation.
THE COURT: It does call for speculation.
MS. GARCIA: I'll withdraw that question.
BY MS. GARCIA:
Q. What relationship with Eileen O'Malley has she done any work for you in regard to you being a PR?
A. No.
Q. Does Eileen O'Malley do any work for you in your regard -- regarding to you being a trustee?
A. Yes.

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

A. That is correct.

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

A. Yes.

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

A. Yes.

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

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

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

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

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

A. No, I did not.

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

A. Yes.

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

A. Correct.

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

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

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

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

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

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She said she didn't file anything.
THE WITNESS: I'm sorry, I didn't hear what he said.
THE COURT: I said it's been asked -- you've already answered the question. You said -- you stated you didn't file anything in the bankruptcy case; is that correct?
THE WITNESS: Correct.
THE COURT: Next question.
MS. GARCIA: Were documents filed on behalf of the estate of Walter Sahm in the bankruptcy case at your direction?
THE WITNESS: I don't know.
MS. GARCIA: Are you aware of the fact that the estate of Walter Sahm, of which you're the PR, filed objections in the bankruptcy court?
MR. SWEETAPPLE: Objection. Asked and answered. She said she --
THE COURT: Sustained.
MS. GARCIA: As you sit here today, in your opinion, does the estate of Walter Sahm have any rights to this particular asset and to this judgment?
MR. SWEETAPPLE: Objection. Calls for a legal conclusion.

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THE COURT: Sustained.

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

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

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

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

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

BY MS. GARCIA:

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

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

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

THE WITNESS: I was aware.

BY MS. GARCIA:

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

MR. SWEETAPPLE: Object to the form. Predicate.

THE COURT: Overruled.

THE WITNESS: Did he say "overruled?"

MR. SWEETAPPLE: Yes.

THE COURT: Yes. I'm sorry.

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

THE COURT: I don't why --

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

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

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

BY MS. GARCIA:

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

A. Yes.

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

A. Yes.

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

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forth between me and Mr. Raymond?

A. No.

Q. You never read the agreement?

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

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

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

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

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

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

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

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

BY MS. GARCIA:

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

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

THE COURT: Overruled.

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

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

BY MS. GARCIA:

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

A. I'm --

Q. Were you aware that your mother signed a

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retainer agreement on April 11th --

A. No.

Q. -- 2023, with Morgan Weinstein?

A. No, I was not.

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

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

Q. Who is she?

A. A woman by the name of Julia Jones.

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

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

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

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

Q. So you were on that phone call?

A. I listened to the phone call, yes.

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

A. No.

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

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

Q. Have you ever seen his retainer agreement?

A. I never have.

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

A. No, I was not aware.

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

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

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

BY MS. GARCIA:

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

A. Two-and-a-half years.

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

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

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

A. I did not know that, no.

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

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

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

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

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

MR. SWEETAPPLE: Object -- objection, Your Honor. Asked and answered from the standpoint that she talked about her other role for managing money.

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

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

BY MS. GARCIA:

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

A. Yes.

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

A. I've been talking to attorneys that have been recommended to me for things that we had to respond to. The bankruptcy we had to respond to -- to move along the case, and that's what I was -- Counsel shared with me I needed to retain an attorney on behalf of my mother, and that's when we both got on the phone with Brad Schraber.

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

MR. SWEETAPPLE: Object --

BY MS. GARCIA:

Q. -- on your behalf in bankruptcy court?

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

MS. GARCIA: I --

THE COURT: It is at this point argumentative.

MS. GARCIA: Okay.

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

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

BY MS. GARCIA:

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

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

Q. What day did you take your mom to Eileen O'Malley's office to have her -- I guess for her to meet

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the lawyer to determine if a guardianship should be filed?

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

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

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

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

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

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

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

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

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

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

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

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

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

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guardian, because I knew he would protect my mother.

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

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

BY MS. GARCIA:

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

A. I'm not aware of that.

MR. SWEETAPPLE: Objection. Hearsay -- hearsay.

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THE COURT: Sustained.

MR. SWEETAPPLE: Move to strike the question.

THE COURT: Yeah. Strike the question.

BY MS. GARCIA:

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

A. Who? What attorney? I have --

Q. John Raymond on March 13, 2023?

A. No.

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

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

BY MS. GARCIA:

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

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

Q. Yes.

A. Yes.

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

A. I did.

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

A. No.

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

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A. No, I do not.

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

MR. SWEETAPPLE: Objection to predicate. Speculation.

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

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

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

MR. SWEETAPPLE: I'll withdraw the objection.

BY MS. GARCIA:

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

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

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

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

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

A. When did she take it?

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

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

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

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

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

A. Yes.

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

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sign an affidavit for summary judgment if she was incapacitated?

A. I don't understand.

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

A. I don't understand what that is.

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

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

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

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

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

A. I don't understand.

MR. SWEETAPPLE: Do you want to show it to her? How about '19, '20, '21?

BY MS. GARCIA:

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

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

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

BY MS. GARCIA:

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

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

THE COURT: She's asked and answered --

MS. GARCIA: Okay.

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

MS. GARCIA: Got you.

THE COURT: -- six times now.

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

MS. GARCIA: Hold on.

MR. SWEETAPPLE: She's not --

BY MS. GARCIA:

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

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

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

A. Yes, she did.

Q. She did?

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

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

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

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

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

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

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A. I've heard his name.
Q. Have you seen his report?
A. I have.
Q. You have?
A. Yes, I have.
Q. So if Amber Patwell, her attorney -- Amber Patwell was your mother's attorney, correct?
A. That's what I'm told.
Q. And she was your attorney in this matter also, correct?
A. I -- I'm -- in my attorney. She was not my attorney, no.
Q. Well she was your mother's attorney in this matter, correct?
MR. SWEETAPPLE: In this case here?
MS. GARCIA: Yes.
THE WITNESS: No.
MR. SWEETAPPLE: Objection.
THE WITNESS: She's never been my mother's attorney in the foreclosure case
MR. SWEETAPPLE: And note my objection be extended. Calls for a legal conclusion. Notice of appearance was, as I proffered to the Court from the record, filed while I was Counsel of record.

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THE COURT: She's -- the witness has answered it. The question is as to her knowledge.

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

THE COURT: She's answered.

MS. GARCIA: Yeah. Okay.

BY MS. GARCIA:

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

A. No.

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

A. Yes, I have.

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

A. Yes, I have.

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

MR. SWEETAPPLE: I object. Objection. Speculation.

THE COURT: It is speculation.

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

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

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last question.

MS. GARCIA: Excuse me, jury.

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

THE COURT: You're okay.

BY MS. GARCIA:

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

A. Yes.

Q. And you read the report, correct?

A. Yes, I did.

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

A. That's correct.

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

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

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

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

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

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injunction was secured in that case against your sister?

A. Yes.

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

A. Yes.

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

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

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

A. Yes.

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

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

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

THE COURT: -- should be set aside?

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

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

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mention the injunction.

MR. SWEETAPPLE: Your Honor --

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

MR. SWEETAPPLE: Your Honor, I can respond. I did -- I purposely did not put the injunction in. It was entered in September.

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

BY MS. GARCIA:

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

A. Created -- created her e-mail?

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

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

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

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

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

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

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

Q. Was that on your home computer?

A. Yes.

Q. So it had your IP address, correct?

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

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

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

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asking me. No. Of course not.

MR. SWEETAPPLE: It's totally collateral.

THE WITNESS: Like this is --

MR. SWEETAPPLE: This is totally collateral.

THE WITNESS: Absolutely not.

MR. SWEETAPPLE: I ask you to please --

THE WITNESS: Absolutely not.

MR. SWEETAPPLE: -- move on.

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

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

MS. GARCIA: Okay.

BY MS. GARCIA:

Q. You're still the trustee, correct?

A. Yes.

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

A. It's completely separate.

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

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

THE COURT: Overruled.

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

BY MS. GARCIA:

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

A. Yes.

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

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

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

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

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THE COURT: What is the relevance at this point?

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

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

BY MS. GARCIA:

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

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

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

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

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

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

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

A. Yes.

Q. The 335,000?

A. 355,072.

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

A. Yes.

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

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

THE COURT: Sustained.

BY MS. GARCIA:

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

A. What reports are you referring to?

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

A. Yes.

Q. You did read them, correct?

A. Yes, ma'am.

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

MR. SWEETAPPLE: Objection. Calls for legal conclusion.

THE COURT: Sustained.

BY MS. GARCIA:

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

A. I was not there for those conversations.

MR. SWEETAPPLE: Objection.

BY MS. GARCIA:

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

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

THE COURT: I'm going to sustain the objection. This has been asked and answered several times.

BY MS. GARCIA:

Q. Was the original mortgage 110,000?

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A. I don't know.
Q. Have you ever looked at the mortgage?
A. Not all the paperwork, no.
Q. Are you aware that your parents, back in 2019, agreed to resolve this matter for 200,000?
MR. SWEETAPPLE: Object to the relevance. Object to settlement negotiations.
THE COURT: That's sustained as to relevance.
BY MS. GARCIA:
Q. Are you aware that your parents had been attempting to settle this case with the Bernsteins for a while?
A. For a very long time.
Q. And you're aware that there's money sitting in the Court registry to pay the judgment?
MR. SWEETAPPLE: Objection.
BY MS. GARCIA:
Q. Or to pay the settlement?
MR. SWEETAPPLE: Speculation.
THE COURT: Sustained as to relevance.
BY MS. GARCIA:
Q. Are you aware of any legal or technical issues in this matter that could affect the judgment?
MR. SWEETAPPLE: Relevance and legal opinion.
THE COURT: Do you have any basis to suspect that

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this witness has that knowledge?

MS. GARCIA: Yes.

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

THE WITNESS: I don't understand the question.

MS. GARCIA: I forgot the question now.

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

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

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

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

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

MR. SWEETAPPLE: Okay.

THE WITNESS: That is correct.

BY MS. GARCIA:

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

A. January 5th of 2021.

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

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

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

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

BY MS. GARCIA:

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

A. I don't know.

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

A. Like, what kind of documents?

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

A. I don't know what that is.

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

A. Apparently not completely.

Q. Do you know a William Stansbury?

A. I know his name.

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

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

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

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

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

A. No.

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

A. No, I have not.

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

MR. SWEETAPPLE: Sure.

MS. GARCIA: Thank you.

BY MS. GARCIA:

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

MR. SWEETAPPLE: Object to predicate.

THE COURT: Sustained.

MR. SWEETAPPLE: Asked and answered.

THE COURT: Sustained.

MR. SWEETAPPLE: Relevance.

BY MS. GARCIA:

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

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

MR. SWEETAPPLE: Form, no predicate.

THE COURT: It just calls for speculation.

BY MS. GARCIA:

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

A. No.

Q. They were both united?

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

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

A. Yes.

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

A. She wasn't -- did she -- what do you mean? Did she hire Brad Schraber? What do you mean?

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

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A. In the first guardianship? Yes.

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

A. Uh-huh.

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

A. The second time?

Q. Yes.

A. That is correct.

Q. And then you signed that retainer, correct?

A. Yes.

Q. And did you sign it Joanna --

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

BY MS. GARCIA:

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

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

Q. Did you have any conversations with Mr.

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Bernstein in relation to the settlement?

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

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

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

Q. Yes.

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

Q. This settlement in particular.

A. No -- no.

Q. Your sister was living with your mom, correct? In May of 2023?

A. Correct.

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

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

THE COURT: And asked and answered.

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

THE COURT: I sustained the objection.

THE WITNESS: Oh, okay. Sorry.

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

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

THE COURT: I'm sorry.

THE WITNESS: No, it's okay.

THE COURT: I sustained the objection.

THE WITNESS: That's okay.

BY MS. GARCIA:

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

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

Q. Do you know --

A. I'm sorry.

Q. Do you know your mother's signature?

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

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

THE COURT: A.

(EXHIBIT A MARKED FOR IDENTIFICATION)

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

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

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

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THE COURT: You may.

BY MS. GARCIA:

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

A. Not from this date. I've seen this document before, but it had a different date at that time.

Q. Is this your mother's handwriting on this document to the best of your knowledge?

A. Not all of it. But you're talking about the signature?

Q. Yes.

A. Yes.

Q. And your mom does reside in Palm Beach, correct?

A. In Boca Raton.

Q. So you've never seen this document?

A. I've not seen this particular -- I've seen this document filled out with my sister's handwriting, dated March 28th of 2023. This is the first time I'm seeing one dated March 15th of 2023, and I've seen one also of April 13th of 2023.

MS. GARCIA: I'm going to mark as Exhibit B for identification.

(EXHIBIT B MARKED FOR IDENTIFICATION)

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THE COURT: Are you offering this in evidence or --

MS. GARCIA: Not yet. For identification. So here, Counsel, let me give you first before I go to the judge, and then, Your Honor, I have for you. May I approach the witness, Your Honor?

THE COURT: Sure.

BY MS. GARCIA:

Q. Okay. I'm going to show you what's been marked as Defense Exhibit B on April 13, 2023.

A. Yeah. I've seen this one.

Q. Power of attorney.

A. Yeah.

Q. You have seen this document?

A. Yes, I have.

Q. So this means that at least as of April 13, 2023, your power was revoked?

A. That's correct.

MR. SWEETAPPLE: Object to the form. Also, legal conclusion.

BY MS. GARCIA:

Q. That's what you understood, correct?

A. That's what I understood, yes.

Q. So you realize that at that point, you couldn't continue to make decisions for your mother,

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correct?

A. Correct. Which is why I reached out to John Raymond's office and to Mr. Sweetapple that evening, because at that point I realized that I was unable to make any kind of decisions, and I didn't want to be in trouble in Court anymore with Mr. Sweetapple doing his job or with Mr. Raymond and Eileen doing their jobs, because I've had no longer the power to handle those things anymore.

MS. GARCIA: So I'd like to move these two in, Your Honor, as Composite Exhibit 1 or I guess, as Exhibit A and Exhibit B.

MR. SWEETAPPLE: I'm going to object. All that she's established is that she knows the signature. She doesn't know if this was filled out at the time or what it looked like when it was signed, how authenticated.

THE COURT: What are you -- what are you offering for purpose?

MS. GARCIA: Just for the -- for the purpose of the party, I guess, Plaintiff at the time being aware that this existed and that she lost her powers on -- as of that date.

THE COURT: Okay. As of the April 13th date?

MS. GARCIA: April 13, 2023.

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THE WITNESS: That's the first time I learned of it, yes.

THE COURT: I'm going to admit it in evidence over objection as Defense Composite Exhibit 1A and B.

BY MS. GARCIA:

Q. Have you ever seen your mother's sworn statement dated 4-19-2023?

A. Is that the one with 83 statements that she supposedly wrote? Is that the one you're speaking of?

Q. Sixty-five. I'll mark it as Defense Exhibit C.

(EXHIBIT C MARKED FOR IDENTIFICATION)

MS. GARCIA: Counsel? Your Honor, if I may approach?

THE COURT: Sure.

MS. GARCIA: Thank you. May I approach the witness?

THE COURT: You may.

MS. GARCIA: I'm going to show you what's been marked as Defense Exhibit D for identification, which purports to be a statement of your mother.

(EXHIBIT D MARKED FOR IDENTIFICATION)

THE WITNESS: I've seen it.

BY MS. GARCIA:

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Q. When did you first see this?

A. I'm trying to think when it was here, when it was -- I'm trying to think who gave it to me. I can't remember the exact date of when it was given to me, but I have seen it.

Q. Can you go to the second to the last page of it, please. There's a verification with a signature of Patricia A Sahm. Does that appear to be your mother's signature?

A. It looks like it, yes. Yes, looks like it.

Q. Have you ever read this document?

A. I have.

Q. So did you tell your mom you were taking her to brunch, and take her to Eileen O'Malley's office to be evaluated?

A. I already explained --

Q. With regards to?

A. I explained to you what we did that day and no, she was not evaluated. We were there ten minutes. I dropped off my guardianship paperwork, and we went to lunch at the Cheesecake Factory.

Q. Did your mom ever express to you her dissatisfaction with you putting her into a guardianship and taking away her decision making?

A. She never expressed that to me, no. I

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explained to her what a guardianship was whenever she called me. A -- a large packet of paperwork was delivered to her home, which was upsetting to her. So she called me when she received the packet.

Q. And that's the package that was delivered because you filed the guardianship, correct?

A. That is correct.

Q. And were you present at the committee member evaluations?

A. No, I was not.

Q. Do you have any idea of what took place at those evaluations?

A. No, I do not.

Q. You had testified that you were making all the decisions for your mom, and then you testified that you informed your mom about everything going on, correct?

A. We spoke about it, and I explained to her what was going on with everything that was happening. But ultimately, I was the one who made the decisions with the power of attorney. But I felt like she should know.

Q. And isn't it true that your mother hired her own attorney and made her own decisions when it relates to the power of attorney and the settlement?

A. I'm sorry, I don't understand. Repeat that for me.

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Q. So isn't it true that your mother hired an attorney, Amber Patwell, and made her own decisions on what to do about the power of attorney and the settlement?

A. I don't know. I wasn't a part of any of those conversations.

Q. So you can't represent to the Court that anybody took advantage of your mother at that time, can you?

MR. SWEETAPPLE: Objection. She's already testified as to what occurred. This is asked and answered.

THE COURT: This is asked and answered.

MR. SWEETAPPLE: And it's argumentative.

THE COURT: Do you have any new or novel areas in the Court --

MS. GARCIA: Getting there.

THE COURT: Please.

BY MS. GARCIA:

Q. Almost done. I'm almost done with her. Have you ever met Ms. Patwell?

A. No, I have not.

Q. Do you have any knowledge of Ms. Patwell's reputation, or credibility, or?

A. I don't know anything about her.

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MS. GARCIA: Your Honor, I'd like to move in the Exhibit C.

THE COURT: Let's hear something.

MR. SWEETAPPLE: This is alleged state -- statement of Patricia Sahm. It's not authenticated, it's hearsay.

THE COURT: The witness has laid a sufficient basis for it. It is hearsay, so I will admit it over the objection. Not for this -- but based on the witness's -- based on what the testimony that is a document that she received. As -- what would you like it admitted as? Defendant 2 or C? You already started with numbers, so --

MS. GARCIA: Yes, C. Okay.

THE COURT: So let's stay with -- let's stay with numbers.

MS. GARCIA: Okay, that's fine.

THE COURT: That'll be Defendants.

MS. GARCIA: Yeah. I'd like to provide Exhibit E. Should I change it back to numbers?

THE COURT: You're okay. E for identification.

MS. GARCIA: Yeah, E for identification.

THE CLERK: Was there a D?

THE COURT: There wasn't. How about D for right now?

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MS. GARCIA: One more. The other one is D.

THE COURT: The other one was C.

BY MS. GARCIA:

Q. Okay. So this is D. Your Honor, may I approach? Counsel's been provided a copy. You recognize your mother's signature, right?

A. Yes.

Q. Pretty well.

A. Mostly.

Q. Okay. I'm going to show you what's been marked as Exhibit D for identification. Can you tell me that's your mother's signature?

A. It looks familiar, yeah. I mean, it could be. It matches the other ones.

Q. Have you ever seen this Stipulation for Substitution of Counsel, dated May 22, 2023, signed by your mom, between Amber Patwell and Robert Sweetapple before?

A. No, I have not.

Q. I guess in line with Counsel, I'd like the Court to take -- well Your Honor, strike that. Do you have any reason to believe that's not your mother's signature?

A. No.

Q. Does your sister ever sign your mother's

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signature?

A. I don't know.

Q. And this isn't you signing your mother's signature, correct?

A. I've never signed my mother's signature to anything.

Q. So if your mother signed a -- her signature on a Stipulation for Substitution of Counsel on May 22nd, the same day she settled, and the same day her attorney filed an appearance, do you have any reason to doubt that your mother signed that?

A. It appears as though she signed it, but I don't believe she knew what she was signing.

MS. GARCIA: Your Honor, move the -- move this in as Exhibit D.

THE COURT: Just so -- Exhibit D is a unsigned Stipulation for Substitution of Counsel between Ms. Patwell and Mr. Sweetapple, with a signature that the witness has identified as being her mother's. In the matter of Walter D. Sahm and Patricia Sahm, first Bernstein Family Group. Is that what Exhibit D --

MS. GARCIA: Right. It's this case, there's just a typo, obviously, in the name.

THE COURT: Okay. And it's -- there isn't a

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signed version of this, by the by the attorneys, other than --

MS. GARCIA: No, that -- I don't have a signed version. I saw it was filed in the Court record, I saw Ms. Patwell filed for appearance on the same day, because this was not signed.

MR. SWEETAPPLE: Well there's no trans -- I've never seen it before today, so -- that I can recall. I haven't had it provided to me. I've never heard from -- Ms. Patwell's never contacted me ever.

THE COURT: I -- I'm going to receive this into evidence as Exhibit -- the Defendant's Exhibit number 3.

MS. GARCIA: Okay.

THE COURT: As -- and that's exactly what I said in the document, according to be a Stipulation for the Substitution of Counsel. It's not signed by Counsel?

MS. GARCIA: Right.

THE COURT: We have a signature that the witness recognized as belonging to her mom.

BY MS. GARCIA:

Q. Did -- does your sister, Patty Jr., assist your mom with, like, communications and e-mails and

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phone calls, and things like that?

A. I don't know.

Q. Okay. So you wouldn't know then, if your sister forwarded that stipulation to Mr. Sweetapple, would you?

A. I don't know.

Q. And you wouldn't know if there was communications between Mr. Sweetapple and Morgan Weinstein concerning the stipulation, would you?

A. No, I would not.

Q. That'd only be a question Mr. Sweetapple or Mr. White could answer -- or Ms. Patwell, correct?

A. Correct.

Q. Okay. And are you aware of any of these communications? Did anyone ever tell you there was communications about Stipulation to Substitute?

A. No.

Q. But you know that Patwell, on that day, did file her appearance for your mother, correct?

A. No.

Q. When did you find out that Ms. Patwell did file -- you know, appear for your mom in this case?

THE COURT: Ms. Patwell -- we've gone over Ms. Patwell and this witness's knowledge of Ms. Patwell's filing. At this point, it is

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cumulative to the evidence, and it's not really relevant.

MS. GARCIA: Okay. Your Honor, I'd like to approach.

THE COURT: It is -- sure. It's 4:01.

MS. GARCIA: Okay. With Exhibit E.

THE COURT: Would anybody need to come up there?

BY MS. GARCIA:

Q. I'm sorry, I meant to give it to him first, Your Honor. I apologize. And I'm short a copy, so I'm going to approach you with what's been marked as Defense Exhibit E, which purports to be the settlement agreement dated May 22, 2023m which is an eight-page document which your attorney filed in Court. Could you please look at that document and tell me if you've ever seen this document before?

A. Yes.

Q. And can you please look on each page, is the initials and tell me -- and then look at the signatures at the end and tell me that appears to be your mother's initials and signature?

A. It appears to be, yes.

Q. And is this the settlement agreement that you want set aside?

A. Yes.

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Q. And when is the first time you saw that settlement agreement?

A. I did not see that settlement agreement until Mr. Sweetapple's office filed it in Court. And the settlement agreement set -- set aside, it's not me. That's setting this aside. It's the guardian that's filed to set it aside. I have not filed to set it aside.

Q. Do you have any reason to believe that your mother didn't sign this agreement?

A. That is her initials and her signature, but I do not believe she knew what she was signing.

Q. But you have no reason to believe it's a forgery, correct?

A. No.

Q. And do you have any proof, solid proof that your mother didn't voluntarily sign that agreement?

MR. SWEETAPPLE: Objection.

THE WITNESS: My mother was in an incapacitation. She would be in the middle of a guardianship, and the -- what's it called, a incapacity? We were waiting on a judgment of incapacity when this was signed. So that had not been determined yet. And this was provided to her during the time that this was the -- it was pending. The capacitation

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-- incapacitation was pending when this was signed.

BY MS. GARCIA:

Q. But you don't know when your mother first saw that, do you?

A. No.

Q. And you don't know that's the same agreement that was negotiated between me and Mr. Raymond, do you?

MR. SWEETAPPLE: Objection. Asked and answered three times.

THE COURT: It has been asked and answered, I think, more than three times.

BY MS. GARCIA:

Q. Okay. At that time, May 22nd, isn't it true that there was no determination of incapacity yet by a court?

MR. SWEETAPPLE: Objection.

THE COURT: It's been asked and answered.

MR. SWEETAPPLE: I --

THE COURT: She just testified, I was waiting on a judgment of incapacity. It was pending when it was signed. I promise you, I'm taking notes.

BY MS. GARCIA:

Q. Okay. Are you aware that Ms. Patwell had filed a response for your mother to your petition for

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appointment of an emergency temporary limited guardian?

A. No, I don't -- I don't understand.

MS. GARCIA: If I may approach.

THE COURT: You may.

BY MS. GARCIA:

Q. Thank you, Your Honor. Thank you. Okay, since I only have one copy, I --

THE WITNESS: It's okay.

MS. GARCIA: -- I apologize, I'm going to approach you with it.

MR. SWEETAPPLE: Your Honor, I have no objection to your taking judicial notice of the entire guardianship file. I've asked to do that. We're wasting time with putting in pleadings that, you know, the Court can read.

MS. GARCIA: So judicial notice of this document?

THE COURT: No objection?

MR. SWEETAPPLE: No objection.

MS. GARCIA: All right. No objection?

MR. SWEETAPPLE: Well judicial notice of the entire file.

MS. GARCIA: Including the transcripts? I have all the transcripts to give to the Court now.

MR. SWEETAPPLE: I haven't looked at the transcripts, but I'll -- Counsel. I mean, right

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now, no one's asked to have transcripts, but that whole --

THE COURT: Okay, let me -- let me ask you all a question. Let's take it one at a time.

MS. GARCIA: Okay.

THE COURT: This -- do you have any of -- if this is -- by this, it's marked for identification as Defense Exhibit F. You have no objection to me receiving this as Defense Exhibit number --

MR. SWEETAPPLE: Not for the truth of the matter asserted, but that -- that was filed in the case.

THE COURT: So that will be Defense Exhibit --

THE CLERK: The next number is four, Your Honor.

THE COURT: The next number is four, because there's some that are marked for identification. So I will receive it with without objection as Defense Exhibit number 4.

BY MS. GARCIA:

Q. Okay. Have you -- I'm going to show you a document filed in the guardianship case, dated June 11, 2024, which is a response from your mom's attorney to your attorney. I'd like to ask you if you've ever seen this document before?

A. No, I have not.

Q. Were you aware that as of June 11, 2023, that

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your mom's attorney was still contesting the capacity issue?

A. No, I was not.

Q. So this is the first time you're aware that that's the case, correct?

A. Yes.

Q. Okay. So in Paragraph nine, I'd like you to look at Paragraph nine, please. And just read that to yourself.

MR. SWEETAPPLE: Your Honor, it's in evidence. It's the best evidence. We've stipulated it was filed.

THE COURT: She's also testified that she has no knowledge of it. So is she going to read to me the document?

MS. GARCIA: No, she's reading to herself, because I want to ask her some questions about what the attorney filed, since it's only in --

THE COURT: Okay. And no. I -- no. I -- she has testified regarding her knowledge of Ms. Patwell's filings. The filings are what they are, they're in the Court record. She has testified, I lost count of how many times she's testified that she is not aware of Ms. Patwell's filings.

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THE WITNESS: No, I've not seen that.

BY MS. GARCIA:

Q. Okay.

MR. SWEETAPPLE: I thought we were at the end of the questioning. This examination has taken twice what the direct did, if not three times the direct.

BY MS. GARCIA:

Q. Are you aware that -- let's say in June of 2023, that your mother was able to make decisions and contracts with a lawyer's help?

A. No, I was not aware.

MS. GARCIA: So I'm going -- F is it, Your Honor? I'm sorry.

THE COURT: G.

MS. GARCIA: G.

THE COURT: Is there another document in the guardianship Court file?

MS. GARCIA: I'm sorry?

THE COURT: Is it another document in the guardianship Court file?

MS. GARCIA: No. This is a letter from her mother. On those I'll just go straight to the judicial notice.

THE COURT: You -- the part that I don't

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understand is you objected, and we had maybe a ten- minute argument over whether or not I should take judicial notice of it. And now you're introducing these documents.

MR. SWEETAPPLE: She also objects to the medical opinions, and opened the door, my client provided the -- to the Court.

THE COURT: She did open the door for him. She asked the question, there was no objection, witness is able to respond. I just don't understand why we're -- you-all set aside three hours for an evidentiary hearing where the Court is supposed to resolve factual disputes. And it seems like on cross-examination, there are fewer and fewer factual disputes. But I am going to have to tell you to conclude your cross-examination, because we have -- we have been introducing a lot of cumulative evidence.

MS. GARCIA: We're -- I have -- we're almost done then, Your Honor. I think I'm on my last exhibit --

THE COURT: You said --

MS. GARCIA: -- for her.

THE COURT: You said we were almost done 20 minutes ago.

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MS. GARCIA: Last evidence for her, Your Honor.

THE COURT: Okay.

BY MS. GARCIA:

Q. Exhibit G, identification. Thank you. Thank you, Your Honor. Okay, I'm going to show you --

A. I've seen it.

Q. A letter dated June 26, 2023.

A. I've seen it.

Q. Is that your mother's handwriting?

A. It is.

Q. And your mother's signature?

A. It is.

Q. So your mother did draft this? Where did you see it for the first time?

A. Last month.

Q. How did you see it?

A. It was provided in some Court filing. It's the first time I'd seen it.

Q. Do you know, was it this case or the guardianship case?

A. I don't remember which one. I don't remember. I know who filed it, but I don't remember what case it was filed in.

Q. So this is definitely your mom's sig -- your mom's handwriting, correct?

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A. It is.

Q. And you've read it?

A. Many times.

Q. So when your mother asked for her daughter Joanna Sahm to stop any and all financial control she may think she has over me regarding her finances, did you ever discuss this with your mother?

A. We've discussed that a lot. We've discussed that since my father died, actually.

Q. And has your mother asked you about the teaching pension and Social Security, why she doesn't get to it any more?

A. We talk about it every day. And actually, that's controlled by Charlie now, the guardian.

Q. So he controls everything, but the trust, right?

A. That is correct.

MS. GARCIA: Your Honor, I'd move this in as Exhibit 5, you said.

THE COURT: -- five. Any legal objection to you?

MR. SWEETAPPLE: I'm going to object, because it's not authenticated.

THE COURT: Well she's testified that she recognizes the letter as being her mother's handwriting, and she received it. What part was

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it the foundation?

MR. SWEETAPPLE: I just -- there was no foundation she got it from her mother.

THE WITNESS: I didn't get it from my mother. My mother was mortified when I showed it to her. It was filed by Kevin Hall in another, I don't even know what case it was filed in, but it was filed by --

MS. GARCIA: Objection, no question pending.

THE COURT: I was asking --

MS. GARCIA: Oh, sorry, Your Honor.

THE COURT: -- Mr. Sweetapple.

MR. SWEETAPPLE: Yeah, I didn't think there was any predicate. And she created the impression that she got it from the mother, but she didn't get that from her mother, and she didn't get it -- I can do it on cross.

THE COURT: She -- it was very clear that she did not receive it. She received it in a Court filing. I didn't know if you had any questions for her on either voir dire --

BY MR. SWEETAPPLE:

Q. On voir dire I would say: Did you ever receive that from your mother?

A. The letter?

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Q. Did you get that from your mother? That letter?

A. No, I did not.

Q. All right. And did you ask your mother about that?

A. Yes, I did.

Q. And what was her reaction?

THE COURT: So she's testified. But the question that you're asking her on voir dire she's testified to. I'll let you -- I'll certainly give you leeway to redirect it, but I find that there is a sufficient predicate laid to the introduction of her to receive the evidence as a defense filing.

MR. SWEETAPPLE: Okay.

MS. GARCIA: Your Honor, one moment and then I'll be done. Thank you, Your Honor. We're finished with the witness. Thank you.

THE COURT: Any redirect examination?

MS. GARCIA: And I'll just get my documents.

THE COURT: On any areas that have not been covered.

MS. GARCIA: I'm just going to retrieve the documents, Your Honor?

THE COURT: Go ahead, sure.

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MS. GARCIA: Thank you.
THE WITNESS: Thank you.
THE COURT: Any redirect examination?
MR. SWEETAPPLE: No.
THE COURT: No? Okay. May this witness step down?
MR. SWEETAPPLE: Yes, sir.
THE COURT: All right. Thank you very much.
THE WITNESS: Thank you.
THE COURT: Step down. How many additional witnesses do you have?
MR. SWEETAPPLE: I'm going to call Ms. Garcia, and perhaps Mr. Bernstein.
THE COURT: Okay. And other than Mr. Garcia -- I'm sorry, Ms. Garcia and Mr. Bernstein, how many additional items of evidence?
MR. SWEETAPPLE: Very limited.
THE COURT: Okay. We are getting -- we have 15 minutes left in the hearing.
MR. SWEETAPPLE: How much?
THE COURT: Fifteen, one five. We all set aside three hours. So my proposition is, anybody need a comfort break before we get going?
MS. GARCIA: Yes.
THE COURT: I won't -- I won't take it off, I'll

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give you an additional --

MR. SWEETAPPLE: Five minutes would be appreciated.

THE COURT: Why don't we take five. Take five, we'll come back, we'll regroup.

(OFF THE RECORD)

THE COURT: Okay, you ready to go, Mr. Court Reporter?

THE REPORTER: Yes, sir.

THE COURT: All right. So we're back on the record. Mr. Sweetapple here, Ms. Garcia here?

MR. SWEETAPPLE: Yes, I'm calling Ms. Garcia, Your Honor.

THE COURT: What's the scheduling? Because -- practically speaking, are we going to conclude your witness's testimony today?

MR. SWEETAPPLE: I --

THE COURT: Before the Court has to kick me out.

MR. SWEETAPPLE: It depends on where it goes. I could finish it in 15 minutes.

THE COURT: Okay. And Ms. Garcia and Mr. Bernstein, both their testimony?

MR. SWEETAPPLE: No -- no -- no, and I have -- I may have a couple other witnesses, obviously.

THE COURT: Right. And I'm -- I don't want

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to --

MR. SWEETAPPLE: I'm not going to finish today.

THE COURT: -- I don't want to limit your proof. I guess the question that I have is -- we obviously need to continue that. There is a -- Ms. -- Ms. Garcia's indicated that she is inclined to claim privilege, and we have a stay --

MR. SWEETAPPLE: I'm not going to get into any of the communications. Now this, I'm going to show the Court something.

THE COURT: I just, I guess I just don't want to --

MR. SWEETAPPLE: Related to this settlement. No -- I'm not going to -- right now I will not get into an argument about attorney-client.

THE COURT: Okay. Just simple.

MS. GARCIA: That just -- my testimony on my case achieves --

MR. SWEETAPPLE: There's a whole basis, a whole ethical basis why this settlement is unenforceable. But the record shows --

MS. GARCIA: Of course.

THE COURT: Could you face the clerk and raise your right hand, she'll swear you in?

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THE CLERK: Do you solemnly swear or affirm that the evidence you're about to give will be the truth, the whole truth, and nothing but the truth?

MS. GARCIA: I do.

TESTIMONY OF INGER GARCIA

DIRECT EXAMINATION

BY MR. SWEETAPPLE:

Q. Good afternoon, Ms. Garcia. You are a member of the Florida Bar, are you not?

A. Yes, sir.

Q. And you were Counsel of record in this foreclosure case on May 22, 2023, were you not?

A. Yes.

Q. And did you ever attempt to negotiate a settlement agreement with me?

A. Yes, you were included in all the e-mails with Mr. Raymond.

Q. And then -- and then and that settlement did not result in a settlement, did it?

A. With --

Q. With Mr. Raymond. The one you negotiated with Mr. Raymond?

A. No. What that settlement resolved in was this actual settlement, and the language, the exact language

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was negotiated between me and Mr. Raymond, which you were copied.

Q. Okay. And then did you -- did you --

A. So the settlement was prepared between March 13th and March 30th.

Q. And you --

A. Which you were copied on.

Q. Right. And you knew -- you knew when you were negotiating with Mr. Raymond, that I was Counsel of record for Ms. Sahm, right?

A. No. Amber Patwell. No, at that point, in March 2013, I sent an e-mail to you and Mr. Raymond asking you and Mr. Raymond to clarify to me what the estate's rights were, where the power of attorney was. Was Ms. Sahm cooperating, and had knowledge of the settlement. So you were included in all these communications, sir.

Q. So you knew that I was Counsel of record for Ms. Sahm when you were dealing with Mr. Raymond, correct?

A. In March 2000 -- in March 13, 2023, you were Counsel of record in this case, yes. And Mr. Raymond was the Counsel of record for the estate, because the estate claimed to have rights also. So he also was relevant to the negotiation, because the estate had

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rights.

Q. And before this settlement agreement was signed by the -- was this settlement agreement signed by the Bernsteins?

A. Excuse me?

Q. Was this settlement agreement signed by the Bernsteins?

A. That settlement agreement was signed by the Bernsteins, yes.

Q. On May 22nd, '23, correct?

A. I'm assuming that's the day of the notary that they signed it.

THE COURT: When you all say, just so the record's clear, so I'm clear. When you say, "this," is that the document that's been entered into evidence?

MR. SWEETAPPLE: Yes.

THE COURT: As Defense Exhibit number 4?

BY MR. SWEETAPPLE:

Q. Yes. Thank you, Your Honor. Yes. And did you negotiate that agreement at all with Ms. Patwell?

A. Yes.

Q. Before it was signed?

A. Yes.

Q. Did you discuss it? When did you start

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discussing it with her?

A. I'd have to look at my records to tell you the exact date, but I'm going to assume it was early May.

Q. But you knew at that time that I was Counsel of record in the foreclosure case, and you didn't negotiate with me, did you?

A. I negotiated with you through Mr. Raymond. You never responded, as usual.

Q. In May -- in May, ma'am. I'm talking about May. When you started negotiating with Ms. Patwell in the beginning of May regarding this settlement, you knew that I was the only Counsel of record for Ms. Sahm through a power of attorney, correct?

A. No. Amber Patwell was retained by Ms. Sahm before I negotiated with her. And she was retained by Ms. Sahm specifically to stipulate in your position, because she did not want you to be her lawyer.

Q. Okay. So you knew that. You knew that there was an attempt to substitute Ms. Patwell for me, correct? You knew that. You were aware that there was an attempt to stipulate Ms. Patel for me as Counsel of record in the foreclosure case, correct.

A. Ms. Patwell had already been retained for purposes of this settlement and the foreclosure.

Q. She had -- and you've seen her retainer

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agreement?

A. Yes.

Q. Okay. And you represent Ms. Patel now -- Ms. Patel now, right?

A. I don't represent Amber Pat -- Amber Patwell?

Q. Amber Patwell.

A. No. She represented your client.

Q. Didn't you say --

A. She is your Co-Counsel, sir.

Q. Didn't you say, in your motion to continue, that you now represented Ms. Patwell?

A. No, I don't represent Ms. Patwell. I've never represented Ms. Patwell. She's your client's attorney. She's your Co-Counsel, she's the person that stipulated it for you.

Q. So you knew that there was an attempt to stipulate Ms. Patwell for me sometime in May, right?

A. Yeah, which you ignored. That's why she filed an appearance.

Q. And that stipulation was never signed, right?

A. Yeah, you refused to sign it. You ignored it. You ignored -- you ignored Morgan Weinstein when he terminated you, you ignored your client when she terminated you, and you ignored Ms. Patwell, when she sent you the stipulation.

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Q. The fact is you knew there was going to be an attempted stipulation for substitution of Counsel, and you never contacted me about this settlement, right?

A. That's a compound question. So I can say this. You refused to sign a stipulation and ignored it, just like you ignored me. Ms. Patwell was retained -- is her attorney.

Q. Who sent who sent me a stipulation?

A. Ms. --

Q. Are you saying someone sent me a stipulation?

A. Yes, Ms. Patwell e-mailed it to you.

THE COURT: Now, you have an excellent -

MS. GARCIA: And Morgan --

THE COURT: -- hang on. You have an excellent court reporter.

MS. GARCIA: Yes, sorry.

THE COURT: Who can only take down one person at a time.

MS. GARCIA: Okay. We'll slow down. I can finish the answer --

BY MR. SWEETAPPLE:

Q. The bottom line, Ms. Garcia.

A. Can finish the answer, sir?

Q. Let me withdraw the question and I'll start again. You negotiated this settlement agreement with

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Ms. Patwell while I was the only Counsel of record in this foreclosure case, correct?

A. No, not exactly. That's not how it exactly happened.

Q. Well was Ms. Patwell -- when did Ms. Patwell become Counsel of record in this case as filed a notice of appearance?

A. Ms. Patwell --

:

Q. When did she file a notice of appearance?

A. Ms. Patwell became her attorney on May 1st.

Q. For her guardianship case?

A. No.

Q. Did she appear in a guardianship case, anything?

A. She also was her attorney in the guardianship case, which you guys approved and resolved with her.

Q. She filed a notice of appearance in a guardianship case on May 1st, right?

A. I don't know what day she filed it without seeing the record, sir.

Q. Okay. When did she file a notice of appearance in this foreclosure case?

A. If you look at the Court record, apparently, when you refused to sign a stipulation, she filed a

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notice of appearance on May 22nd, the day that her client signed the settlement agreement. She appeared on the same day that her client signed the settlement agreement in this case.

Q. Can I see -- can I see please, the stipulation, unsigned stipulation? You see this date here? It's typed May 22, 2023. You put that in evidence. That's when the proposed stipulation was prepared, right?

A. I don't know when you-all prepared it. I know that she became her attorney --

Q. You-all?

A. -- I know she became her attorney, I believe it was May 1, 2023.

Q. In a guardianship case, right?

A. In this case also, she retained her.

Q. How do you know that?

A. It's in her retainer, I assume. You have a copy, you produced it.

Q. Did you seen the -- have you seen the retainer to see if she was retained for this case? While you were dealing with Ms. Patwell to negotiate this settlement when you knew I was Counsel of record, had she given you any evidence that she was representing Ms. Sahm in the foreclosure case?

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A. She -- Ms. Patwell was specifically hired by Ms. Sahm because she wanted to settle this case, and she was being ignored by her attorney, who she didn't know. So she hired --

Q. Did you ever call me to see if that was the case?

A. Why would I call you about your Co-Counsel and your relationship with your client, sir? I tried to negotiate with you in March. I spent hours and hours drafting this agreement to find out it was even false, that I was wasting my time negotiating with the estate who had no rights.

Q. Okay.

A. Which you didn't substitute in and filed false claims into bankruptcy court, sir.

Q. On May 22nd, there was a stipulation. Was it signed by Amber Patwell?

A. That document is not signed by her.

Q. Okay. And was it signed by me?

A. That document is not signed by either of you.

Q. And you knew your clients were driving over to Ms. Sahm's house in the evening of May 22nd, right?

A. I don't know if I knew exactly what the clients were discussing on their own. They, on their own, since they've known each other for 30 years, I

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believe, or more, they decided that they wanted to resolve this matter, sir.

Q. And --

A. And they resolved this matter. She hired an attorney, who got run off by someone pretending like they were the mom. You ignored all the settlements. She hired Ms. Patwell specifically for this. And then, as a result of her -- as a result of her -- of your client or your former client withdrawing the power of attorney and me disclosing to the bankruptcy court on April -- I think it was 14th -- she started looking for a second attorney, which was Ms. Patwell. So she might have even hired her prior to that, and she had hired her specifically because she was angry at the fact that this foreclosure was still going forward the way it was going without her knowledge, without her signature --

Q. You spoke to Ms. -- you spoke to Ms. Sahm about all this?

A. No.

Q. Well then how do you know all this?

A. I was told this by -- by different people.

Q. And so, did you ever -- when you were negotiating with Ms. Patwell, did you ever contact me to see if I had been substituted out?

A. No. Because she hired her, and she called me

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and said, "I'm her attorney."

Q. But you knew -- you were negotiating this whole settlement with Ms. Patwell while I was the only attorney of record on the foreclosure, right?

A. She hired her. She was her attorney. She wanted to settle the case. The parties on their own settled the case. Ms. Patwell and I implemented the settlement agreement that had already existed.

Q. So you reviewed this --

A. They agreed on the number.

Q. -- you reviewed this with Ms. Patwell, the settlement agreement? You went over it with her?

A. I did not go over it with her. I sent it to her and she, I think, took 15, 20 days to go over it with the client, went over it with her client probably over six or seven times.

Q. You sent this to Ms. Patwell?

A. Yes.

Q. When you knew I was the attorney? And you sent the settlement agreement to Ms. Patwell in May, before it was signed, when you knew I was Ms. Sahm's attorney in the foreclosure?

A. Ms. Patwell was also retained to be her attorney.

Q. What --

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A. She hired Ms. Patwell to resolve this matter because she was sick of this.

Q. What evidence do you have of that? What do you base that statement on? Something Ms. Patwell told you?

A. Something that numerous people told me.

Q. Okay. And do you know that Ms. Patwell's filed her notice of appearance on May 22nd at 6:37, or something like that, p.m.?

A. Yes. She filed her appearance when the case was settled, and she informed the Court immediately.

Q. Who told you that Ms. Patwell was authorized to represent Ms. Sahm in this foreclosure settlement?

A. That's my understanding, is the whole purpose she hired her.

Q. Who told you this?

A. I'm telling you my understanding first.

Q. Where'd you get it from?

A. Get what?

Q. The understanding that Ms. Sahm -- that [redacted] was hired to handle this foreclosure in early May?

A. Well you're asking me now to talk about attorney-client privilege with my clients, and this is why I wanted a ruling on the protective order.

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Q. Okay. So if this is -- if this is something you got from your clients, then I don't want to get into that. So --

A. This is between my clients, and also Ms. Patwell.

Q. So the truth is that --

A. Ms. Patwell, at the time --

Q. -- the entire time you negotiated with Ms. Patwell regarding this settlement, you knew I was Counsel of record and you never e-mailed me, you never called me, correct? In May of 2023? No communication with me, right?

A. You'd been fired.

Q. Who said I was -- who was -- did the Court --

A. She hired Ms. Patwell.

Q. -- did the Court --

A. She fired you when she hired Mr. Morgan Weinstein, I think it was April 11th. You refused to acknowledge it. There's e-mails back and forth between you and Mr. Weinstein, which Patty, Jr. had forwarded, that were asking you to do the stipulation with Mr. Weinstein. You said, "No, I can't. There's a power of attorney problem."

Q. So you thought I was fired, and even though I was Counsel of record and I hadn't been substituted in,

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you didn't -- you didn't communicate with me regarding the settlement because you thought I'd been fired, right? Is that what you're saying?

A. I didn't communicate with you because number one, you were non-responsive. Number two, she hired Morgan Weinstein, had a signed retainer with him as of April 11th. He specifically, in his retainer, was hired to settle this matter at even -- at whatever price they had decided.

Q. So --

A. So your client had already decided to settle this case on April 11th, but you continued to travel forward with a dead defendant, and with a woman on a power of attorney that had been revoked, and ignoring us, wasting my time for weeks, to try to negotiate this with -- with Mr. Raymond and Eileen O'Malley.

Q. So you intentionally decided not to communicate with me regarding this settlement agreement, even though you knew I was Counsel of record?

A. It had already been settled between the parties.

Q. What do you mean it had already settled between the parties?

A. The parties had already made their agreement. The attorneys were retained.

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Q. This is an agreement regarding settling a lawsuit.

THE COURT: Are you -- are you introducing evidence, or are you all arguing with each other?

MR. GARCIA: I don't know.

THE COURT: Okay.

MR. SWEETAPPLE: I think I'm putting in evidence of something that's happened that's a violation of the bar rules, which would make this agreement void just based on that.

THE COURT: Why don't you ask another question, please?

MR. SWEETAPPLE: Okay. You --

THE COURT: I don't disagree that you're eliciting evidence that could be relevant, but also we're just getting -- we're just arguing with each other.

BY MR. SWEETAPPLE:

Q. And did you prepare -- did you draft this agreement? The settlement agreement?

A. I drafted that agreement in March at the request of John Raymond, which you were copied on every e-mail in our communications. And that was drafted because you-all led to me -- led me to believe the estate and Joanna Sahm were the only ones with rights

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because Pat Sahm was incapacitated. And I'm the one that brought up the fact maybe she needs a guardian, and as a result, John put in writing she doesn't need a guardian. But at the same time, his law firm, through Eileen O'Malley, files a guardianship to stop the settlement. You guys are the ones that are playing the games, not us.

Q. Who's us?

A. You're blaming me and Amber, your Co-Counsel, of manipulating your client into signing a settlement agreement. You're making these aggressive allegations against us, threatening and setting us up with bar rules when your client fired you, hired two other lawyers --

Q. So you decided that my --

A. -- and settled the case.

Q. You made a decision, even though I was Counsel of record, that my client had fired me and that she was competent to have fired me. You made that decision, right?

A. I didn't make the decision. Your client did. She signed retainers with two other lawyers.

Q. You made the decision --

A. Who told you, and you refused to sign a stipulation, sir.

Q. So you -- so -- and that's why -- that's why

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you refused to deal with me regarding the settlement?

A. There was no reason for me to deal with you regarding the settlement. My job had already been done back in March. This settlement was drafted in March, sir.

Q. This is -- this is -- this is a settlement that deals with what's going to happen with the final judgment, right?

A. Yes.

Q. And it's a set -- it's a settlement that deals with what's going to happen with regard to selling a piece of real estate, right?

A. Not selling it. The case settled, sir. The money's been sitting in the Court registry, which the Co-Defendant, Mr. Rose, in conjunction with Ted Bernstein and -- I don't know whether it's your office or Brad's office or whoever -- the money's been sitting in the Court registry to pay this since the day it settled.

Q. And you never filed a motion to stay this case based on this settlement, did you?

A. No. I -- as a courtesy, Mr. Rose asked me to wait and see what happened with the guardianship --

Q. Can -- what she said, can you answer yes or no --

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A. -- of Anthony --

Q. -- and then explain: Did you ever file a motion in this Court to enforce this settlement?

A. No.

Q. Okay. Did you ever file a motion to stay this case based on this settlement?

A. In my motion --

Q. Yes or no, please. Did you ever file a motion to enforce this settlement?

A. I believe that in my 1.540 I filed just to preserve the record because I knew you guys would contest this, just knowing the way you litigate, that I mentioned in my 1.540 about this settlement and about the party's actions and about why I had to file the 1.540, and the fact it was settled and the fact that the money was sitting in the Court registry ready to pay. But Mr. Rose asked me not to take it out of the registry. He said, "Just wait."

Q. You drafted this? You drafted it?

A. I drafted it with your approval, because you wanted e-mails with your -- with John's approval. We drafted that settlement.

Q. I didn't have any drafting, did I? I --

A. You were there on every e-mail, sir. You had every opportunity to comment. You had every opportunity

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to respond. And when he told me to respond to you, you never once responded.

Q. Would you -- would you tell me when the money's due under this agreement? When is the -- when is the closing --

A. The money is -- sorry.

Q. -- when's the closing on this settlement in this agreement? When's it due? And I'll save you some time, isn't it a fact that you prepared an agreement for the payment of money to settle a case, and you have no payment date due? And it's now a year-and-a-half since this document was purportedly executed, and there's no date that any money's due, ever?

A. You've been a party to the communications and you fully well know that Judge Laura Johnson has set aside in the Court registry funds to satisfy this settlement. I have filed numerous motions to release those funds, and it's case 52 -- what is it? Let's see.

Q. Did you -- did you --

A. Hey. Excuse me, sir.

Q. -- do you know my question? My question is: Is there a date --

A. 214 --

Q. -- that's due in this agreement, ma'am? I don't -- I'm not asking you --

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A. Yes.

Q. What -- when is the payment due under this agreement? When do the Bernsteins have to give the Sahms money?

A. As soon as it would be released from the Court registry in front of Laura Johnson, West Palm Beach Court case 214-CP-3698, and it's Shirley Bernstein Trust. The attorney for Patricia Sahm will attend the Zoom hearing and fully support the settlement agreement, the release of funds, and will assist with the conclusion of the foreclosure case only as to the true parties in interest of the first mortgage, not the estate. The true party in interest, which was Patricia Sahm individually, not through a power of attorney, Patricia Sahm individually.

Q. So what's the date?

A. So --

Q. What's the date? What's the latest date that -- that money can be paid under this agreement --

A. The money's --

Q. -- Ms. Sahm signed?

A. -- the money is sitting in a Court registry to be -- to be released when and if this Court determines the settlement's valid or not. The second that it's determined that this -- this settlement is valid, a

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court order can be issued to Laura Johnson -- or she's not there anymore, but her division, and the funds will be released immediately. The funds have been sitting there tied up because you guys wasted a year-and-a-half contesting this settlement with no basis.

Q. Excuse me, wasn't it your duty, if you have a settlement agreement on behalf of the Bernsteins, to come into court and to move to enforce it? Wasn't that your burden?

A. No.

Q. If you think there's a settlement agreement?

A. No. That's your -- that's your Co-Counsel. Your Co-Counsel was the attorney on the guardianship. Once the guardianship was filed, your -- and the determinations weren't made by the committee members, and we were waiting for the final determination, it was a strategic decision made by your client's attorney and I, Mr. Rose, you were copied, and I think you even filed -- I don't even know if you filed objections. I don't remember. But you know, and everybody knew, these funds had been sitting in designated after numerous court hearings solely for the settlement. The funds are still sitting there, right? They're still holding up my attorney's fees for a year-and-a-half. They're holding up the kids to get their money because you guys decided

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to contest the settlement a year later. I think you waited a year to file this motion to set this aside.

Q. Because you never moved to enforce it, and I had to wait for judges to be disqualified, guardians to be appointed --

THE COURT: -- we're arguing, okay?

MR. SWEETAPPLE: I'll finish. I'll be ready to suspend in a second.

BY MR. SWEETAPPLE:

Q. Let me just get clear on this. The settlement was signed without any communication with me as Counsel of record for the plaintiff; correct? Yes or no?

A. I don't know.

Q. Okay.

A. I don't know what your conversations were with your Co-Counsel, sir.

Q. With you? With you? With you? No --

A. I had no obligation to speak to you. I was speaking to your Co-Counsel, the man -- the -- I mean, the woman who represented your client.

Q. You spoke to her what, after she appeared in the case at 6:37 on the 22nd?

A. She was --

Q. And that -- and then -- no attorney signed that settlement agreement regarding this lawsuit, right?

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It's only signed by some of the clients in the litigation. Some of the -- some of the parties in the litigation signed this, right? Not all of them.

A. All the parties don't have to sign a settlement agreement. The relevant party, the plaintiff -- the only real plaintiff, Patricia Sahm, Sr., signed the settlement agreement with the advice of her attorney.

Q. And when you prepared it, you didn't put any signature blocks for attorneys to settle litigation, did you?

A. The document discusses how it would be handled once the funds were released.

Q. And I provided -- you got a copy of Plaintiff's Request for Judicial Notice on -- that was filed April 18th, the day after the guardianship. I told the Court that Plaintiff is a surviving spouse and owner of the note, which was the subject of the incident lawsuit. That's one. Two, undersigned Counsel has been advised that a revocation of the current power of attorney held by Ms. Sahm's daughter, Joanna, has recently been executed. Undersigned Counsel spoke directly with Plaintiff, Patricia Sahm, yesterday. Ms. Sahm indicated she was unaware of any such revocation and still wanted undersigned Counsel to represent her in

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this matter. Four, the Court is further advised and requested to take judicial notice of the pending guardianship matters regarding the plaintiff in the 15th Judicial Circuit filed on April, the respective case numbers I provided. So even though I filed with the Court a notice that there was a guardianship, a notice that my client indicated to me that she did not want to revoke her power of attorney, even though you had this in your hand on the -- on the 18th of May 2023, you still went forward and negotiated with Ms. Patwell to get this case settled for your clients, right?

A. This case had been settled prior between the clients.

Q. This is --

A. The client hired -- the client hired --

Q. Excuse me. Excuse me. I'm going to withdraw the question. Do you understand that this settlement of this lawsuit had to be in writing?

A. It is in writing. It's in the settlement on Page four.

Q. Okay. So why do you need --

A. Page four, D -- 2(d), sir. It says, "If Court orders are necessary in either the Walter Sahm probate case in Marion County or the Palm Beach foreclosure case or the Shirley Bernstein trust case, the parties agree

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to fully cooperate and file the needed joint agreed motions to confirm the settlement to release the funds as agreed and to file the dismissal of the foreclosure. No other party or person can interfere with this agreement, cause any further delays in releasing said funds, or cause the property at issue to sell the foreclosure sale." Meanwhile, you filed a motion to resell the house. "There are no other interested parties to these funds or the home at issue. The parties shall cooperate jointly with any title company or lender per this agreement. At the final payment of the clearance, full satisfaction" -- sir -- "will be reported" --

Q. I don't need you to read -- I don't need you to read the agreement, ma'am.

A. -- "and the pending foreclosure lawsuit will be dismissed with prejudice. The parties will appear before Judge Bella to foreclosure if needed, and inform the Court of the settlement, and to file the dismissal with prejudice, and to record the satisfaction of mortgage. No party or other person is to interfere with the settlement or cause the party to be sold." So once your client signed this settlement, sir, you didn't cooperate. You guys instead filed for sanctions and actions against Amber and I, claiming we somehow or

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another took advantage of your client.

Q. And operated behind my back, Counsel of record. And --

THE COURT: Are we -- are we arguing?

MR. SWEETAPPLE: Yeah. Let me -- let me -- let me -- I know you want to --

THE COURT: I want evidence. I --

MR. SWEETAPPLE: I understand. I --

THE COURT: I don't want you-all to argue. You-all have been arguing back and forth through e-mails.

BY MR. SWEETAPPLE:

Q. So how long has Mr. Revard been the guardian?

A. I believe in late June, he became the guardian.

Q. Of what year?

A. Of 2023.

Q. So more than a year ago?

A. Yes. He became the guardian, I think, a month after this settlement was done, and this settlement has been brought up a lot in front of Judge Burton.

Q. And so if he had to -- so in order to implement the settlement, he would have to sign a satisfaction of mortgage, right?

A. I'm not sure who would sign what at this

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juncture.

Q. Have you thought about the fact that the guardian at this point -- who -- are you -- are you -- do you expect Ms. -- Ms. Sahm to sign a satisfaction of mortgage and note when she's incapacitated?

A. Well her capacitation is now at issue again, sir, by the way, because you filed another petition to take away all of her rights, which reopens the door to all the initial issues. And it's a lot of fraud and a lot of mistakes that are being investigated by the --

Q. Okay. So --

A. So her capacity is still at issue when it comes to moving forward.

Q. There's a final order --

A. But I would assume --

Q. -- of incapacity --

A. I'm sorry.

Q. And it's been more than 14 months, and the fact is you have taken no action as to Mr. Revard to have him do anything with regard to this settlement, right?

A. Actually, that's not true. I sent you an e-mail because this settlement agreement was to put the funds into Amber Patwell's trust, and I sent you an e-mail telling you I would put them into your trust or

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wherever the guardianship court directed the funds to go, and to handle it based on whatever the Courts tell us we need to do. It's you guys -- when I say, "you guys," I mean, Joanna and Charlie acting on her behalf -- that have delayed this, that have waited over, I think, a year to file a motion to set it aside, and have been coming after Ms. Patwell and I for depositions, attorney-client privilege information, and refusing to sign it, claiming some nefarious action by us with no proof. She signed this with an attorney legitimately, and the fact that you're alleging that her and I did anything unethical or improper is disgusting.

Q. Well I am alleging that, and that's why I'm asking these questions. And the Court's already found -- federal Court's already found something you did was unethical, correct?

A. I'll tell you one thing about that, sir. That was a complete set-up by you guys. It's not true. You were misrepresenting to the Courts, and there's motions going to be filed to set that aside, as well as a fraudulent injunction, as well as the fraudulent claims filed by the State, who had no rights. And that has nothing to do with this legitimate settlement, sir.

Q. My client didn't file the bankruptcy; your client did. And so, you didn't -- you didn't file this

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settlement agreement in this case until November 29, 2023, correct?

A. No. I believe the day -- well the day after the settlement was entered into the Court was informed that there was a settlement.

Q. Which court?

A. The foreclosure court, through my motion and through -- and through Patwell that my motion clearly says there's a settlement, Judge. And basically --

Q. When was that filed? When did you say that was filed?

A. I think it was filed, like, May 22nd, May 23rd, May 24, 2023.

Q. And when's the first time you filed this purported settlement agreement in the foreclosure case? November 29th?

A. I -- I haven't filed it in the foreclosure case itself.

Q. You did file it.

A. Your attorney, your -- your -- your former Co-Counsel would've filed it and filed a dismissal after cooperation. But since this has been done, you guys have not cooperated. You keep saying this settlement's no good, this settlement's no good, you guys are nefarious, you guys are unethical. And you-all are

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holding it up for no reason.

Q. When is the first time you even filed a copy of this settlement agreement in this Court file?

A. I haven't filed anything in this Court file, I don't believe.

Q. You aren't aware of --

A. Except for my 1.540 Motion.

Q. You're not aware you had drafted it as an exhibit and did a notice of filing November 29, '23, which is the first time you ever produced this settlement agreement in this case?

A. Well that's not true, because your -- her attorneys had this settlement since the day it was signed, sir. And she filed an appearance that day --

Q. You mean Ms. Patwell? You mean Ms. Patwell?

A. Ms. Patwell. Yes. I'm sorry, sir. You're right. Ms. Patwell, who filed an appearance, had this settlement agreement since the day it was signed.

Q. Has she ever substituted for me?

A. She doesn't.

THE COURT: We're just arguing, sir.

MR. SWEETAPPLE: Your Honor, I'm -- I -- I'm going to need to take her depo before I get into the attorney-client, because I'm going to be arguing the crime fraud exception and be asking

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for motions to compel testimony. So I -- I'm -- I'm not going to get into that.

THE COURT: So are you done with Ms. Garcia? Can she go back to Counsel table?

MR. SWEETAPPLE: Yeah. I'm just going to -- if we could suspend now, I'll -- I'm going to be asking -- to have them schedule a conference, so I can finally take these --

THE COURT: Why don't we -- why don't we have Ms. Garcia go by a microphone, just so everybody pick her up and we can discuss schedule? I think we have to schedule a time. Let me -- I just told you to go by the microphone, and I started talking. So let me let you get to the microphone.

MR. GARCIA: Is this your copy or the judge's, sir?

THE COURT: Is the settlement agreement, was that ever moved into evidence?

MR. GARCIA: No.

THE COURT: Why?

MR. GARCIA: I was going to call my clients in to authenticate it, Your Honor. But if there's no objection, we can move it into evidence.

THE COURT: Mr. Sweetapple?

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MR. GARCIA: Mr. Sweetapple, do you have an objection to the settlement agreement being moved into evidence, sir?

MR. SWEETAPPLE: Only that I don't believe it was -- we're going to preserve my argument that it wasn't properly executed by a competent individual.

THE COURT: Let's ask -- let me ask. Practically speaking, you want me to set aside this agreement?

MR. SWEETAPPLE: Right. And it's --

THE COURT: And are you objecting to me introducing into evidence? How am I going to set it aside if I don't have it in evidence?

MR. SWEETAPPLE: Well it's an exhibit. It's attached to my motion. It's in the Court file.

THE COURT: That doesn't mean it's in evidence. Do you have an objection to it being received in evidence?

MR. SWEETAPPLE: The only objection I have is that it has not been authenticated by Ms. Sahm, and I don't think she's capable of authenticating it because she's not competent to testify. And I guess we'll -- if they try to call her, we'll get into that debate with --

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THE COURT: I -- I'm going to --
MR. SWEETAPPLE: -- your Honor --
THE COURT: -- I'm going to admit it into evidence over objection as --
THE CLERK: Six.
THE COURT: -- Defendant's Exhibit number 6.
(EXHIBIT 6 MARKED FOR IDENTIFICATION)
THE COURT: All right. For scheduling purposes, we have the case management conference --
MR. GARCIA: The 19th, I believe, sir.
THE COURT: -- the 19th -- 19th; is that correct?
MR. GARCIA: Yes.
MR. SWEETAPPLE: Yes.
THE CLERK: Yes.
THE COURT: All right. How much more do you anticipate? Have you-all had any conversations whatsoever about narrowing the issues for this?
MR. GARCIA: I wish.
THE COURT: Well aren't you supposed to before filing a motion or having a hearing? I don't know why we're spending so much time arguing about whether or not the settlement agreement that I'm being asked to set aside is admissible in evidence for me to consider.
MR. SWEETAPPLE: Well I think I --

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THE COURT: I just -- I -- I'm having --
MR. SWEETAPPLE: I think -- I think in this matter I have to preserve the record by saying I don't think it was executed due to --
THE COURT: Well the whole point of the motion is to say that the settlement agreement exists, but it shouldn't count, right?
MR. SWEETAPPLE: Well if it wasn't properly executed, it may not exist.
THE COURT: But the paper --
MR. SWEETAPPLE: I mean, the document exists, but --
THE COURT: Right.
MR. SWEETAPPLE: -- is it -- you know, the document can come into evidence, but I'm saying it may be --
THE COURT: That's all I'm asking.
MR. SWEETAPPLE: Yeah.
THE COURT: That's all I'm asking. Before our next -- I don't know if I previously ordered it, but before our next -- before the scheduling conference, I'm ordering you all to discuss what the -- to narrow the issues, because we're not going to have a trial, a full trial, as to all the previous issues. We're here for one motion

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and one motion only, and we are spending a lot of time on wholly collateral issues and issues that may be very personally relevant to each of you. And I -- and I don't say this to minimize anybody's stake in the matter, but it's just a waste of Court time. It just is a waste of Court time to go over the same things over and over again. I'm taking notes. You've seen me up here taking notes here. We have a court reporter taking notes. You-all need to get together --

MR. SWEETAPPLE: Well maybe what we can do is ascertain now to help us who Ms. Garcia intends to call, who I intend to call, and --

THE COURT: And then, I'm ordering you-all to meet and confer. Can you decide that and then file a joint status report --

MR. SWEETAPPLE: Okay.

THE COURT: -- for the scheduling conference so that I know how much time we should realistically have to set aside? And then, at the scheduling conference, you are scheduling the deposition as well as the Motion for Protective Order; is that correct?

MR. SWEETAPPLE: Yeah. I was trying to take Ms. Garcia and Ms. Patwell's depos --

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THE COURT: Right.
MR. SWEETAPPLE: -- and were not provided dates.
THE COURT: Right.
MR. SWEETAPPLE: So.
THE COURT: Are you able to provide him dates in advance of the scheduling order, or do we need to have a hearing where I would have to hear whether or not I should order you to require deposition dates?
MR. GARCIA: We can legitimately try to work through the dates, the witness list, the exhibit list, and we'll do it like a normal trial, you know, or a normal hearing and try to -- I mean, try not --
THE COURT: Why wasn't it done ahead of time? That's what you're supposed to do as members of the Florida Bar. You guys know this.
MR. GARCIA: It -- it's pretty hard, Your Honor.
THE COURT: All we can do is try.
MR. GARCIA: Yep.
THE COURT: So I'm going to order you-all to meet and confer, narrow the issues. If you can come up with some deposition dates that work for the both of you, that would take one issue off. I am starting a trial tomorrow. I may be in trial

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during the 19th. So if I -- we're anticipating that the jury will be out, so it shouldn't be an issue. But the less time that we spend over stuff that you-all can come to agreements on, the better it is for everybody. We'll address those two issues, the scheduling of the protective order. If you want to also provide some dates for the Motion for Protective Order, and if you want to come up with a reasonable amount of time that you think I'm -- presuming you oppose it, so a reasonable amount of time that we would need to have argument on that. This way, we can start looking for times that accommodate you-all. And then, from that point in time, once I get it, please give a courtesy copy of the status report to the divisional e-mail. Because if it gets filed, I probably -- it probably won't come to me. Nothing against the Court, it's really great. But --

MR. GARCIA: Your Honor, I'd like to make a suggestion. I don't know if it's even possible or not, but we are willing to try to mediate this case if they're willing to try to mediate this case to try to resolve this once and for all.

THE COURT: If you-all want to do that, you can

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speak to each other and tell me that at the case management conference. If you need an order from me and you agree to the order, then I'll sign an order. It sounds like a good idea, but I'm not going to take that up today.

MR. GARCIA: Right.

MR. SWEETAPPLE: And it is Zoom on the 19th, correct?

THE COURT: Yes, sir. Correct. The 19th is Zoom.

MR. SWEETAPPLE: All right. Thank you for hearing us, Judge. Sorry --

THE COURT: Part of my job is to be gruff, tough, and mean --

MR. GARCIA: We do appreciate -- we do appreciate you a lot, Your Honor, and we thank you for everything you do. And Counsel, and Charlie --

THE COURT: Just doing my job.

MR. GARCIA: And I gave -- did I give you a copy of the transcripts?

THE CLERK: No.

THE COURT: All right.

MR. GARCIA: Judge, I have a copy of the transcripts for you. Do you want it electronically or hard copy?

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THE COURT: The transcripts of what?

MR. GARCIA: For all the guardianship hearings.

THE COURT: Is there an agreement --

MR. SWEETAPPLE: We haven't agreed to that.

THE COURT: So why don't you give it to Counsel, because I think you had said that you hadn't gotten a chance to review it?

MR. GARCIA: Yes. I'll do a Notice of Filing, Your Honor.

THE COURT: You can do that.

MR. GARCIA: I'll just do it that way.

THE COURT: You can do that.

MR. GARCIA: Okay.

THE COURT: If that's something that you all want me to consider as evidence in this hearing --

MR. GARCIA: Yeah -- yeah.

THE COURT: -- then why don't you give it to Counsel, and see the file -- well wait. Before you do a Notice of Filing --

MR. GARCIA: It's confidential.

THE COURT: Ms. -- Ms. Lewis, you practice primarily in guardianship. Are they --

MS. LEWIS: I do.

THE COURT: -- are those -- are those transcripts confidential, such that they should be kept out

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of the Court file?

MS. LEWIS: So if it was something that was in the mental health file, those would be confidential. If they are guardianship files, you know, I think that's more of a question for the Clerk because generally, when we're at work with public access, guardianship cases are not publicly accessible. So I do think that probably should be a --

THE COURT: You may want to --

MS. LEWIS: -- a confidential file with it, Your Honor.

THE COURT: -- you may want -- yeah. You may want to do --

MS. LEWIS: No problem.

THE COURT: Okay.

MS. LEWIS: Yes. Thank you, sir.

THE COURT: All right. Thank you all.

(HEARING CONCLUDED AT 5:01 P.M. ET)

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C E R T I F I C A T E

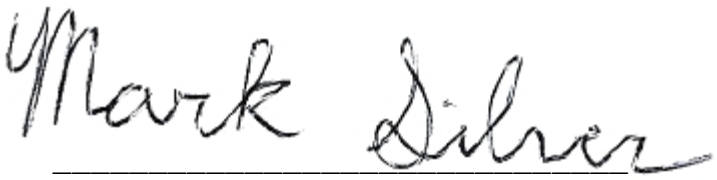
STATE OF FLORIDA)

COUNTY OF ORANGE)

I, MARK SILVER, Court Reporter and Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did report the foregoing proceeding, and that said transcript is a true record of the said proceeding.

I FURTHER CERTIFY that I am not of counsel for, related to, or employed by any of the parties or attorneys involved herein, nor am I financially interested in said action.

Submitted on: August 21, 2024



MARK SILVER

Court Reporter, Notary Public

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IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION: "AO"
CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E. SAHM,
CHARLES REVARD AS GUARDIAN OF THE WARD PAMELA A SAHM,
Plaintiff/Petitioners

vs.

BERNSTEIN FAMILY REALTY LLC,
ALL UNKNOWN TENANTS,
BRIAN O'CONNELL,
et al.,
Defendant/Respondents.

WITNESSES: DR. STANLEY BLOOM
KATHRYN LEWIS
INGER GARCIA
DATE: JANUARY 28, 2025
REPORTER: FLOR LOPEZ

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APPEARANCES

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Also Present: John Parnofiello, Honorable Judge; Kathryn Lewis, Esquire, observing in court room; Candice Bernstein, Defendant; Hilary Hogue, Guardianship Improvement Task Force, on zoom; Zoraida Navarro, M.D., Advocate for the Elderly, on zoom; Kathleen Bosse, Observing on zoom; Luanne Fleming, Observing on zoom; Ale Carrino, Observing on zoom; Danny Mojo, Observing on zoom; William Stransbury, Observing on zoom

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STIPULATION

The hearing was taken at Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401, on TUESDAY the 28TH day of JANUARY, 2025 at approximately 11:05 a.m. (ET); said hearing was taken pursuant to the FLORIDA Rules of Civil Procedure.

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PROCEEDINGS

THE COURT: Good afternoon, everybody. You all could be -- or I guess it's still morning. Good morning, everybody. You can be seated.

MR. SWEETAPPLE: Good morning, Your Honor.

THE CLERK: Good morning.

THE COURT: Hold on one second.

THE CLERK: You want to give the name, Your Honor?

THE COURT: Sure.

We're here on case 2018-CA-2317. May I have the appearances of the parties, please?

MR. SWEETAPPLE: Your Honor, Robert Sweetapple and Cynthia Miller here on behalf of the plaintiffs.

THE COURT: Good morning, Mr. Sweetapple, Ms. Miller.

MS. GARCIA: Good morning, Your Honor. Inger Garcia on behalf of the defendants, BFR Limited and the five Bernstein individually.

THE COURT: Good morning, Ms. Garcia.

MS. GARCIA: I have one of my clients present, Mrs. Candice Bernstein.

THE COURT: Good morning, Ms. Bernstein.

MS. BERNSTEIN: Hello.

MS. LEWIS: And good morning, Your Honor.

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Kathryn Lewis also on behalf on Charles Revard, the guardian. Although I'm not counsel of record, I'm here in advisory capacity in this case.

THE COURT: Good morning.

And let's see. Let me just put everybody on mute. Anyone -- any attorneys on Zoom that need to enter an appearance? No? Okay.

All right. So we had begun taking evidence on Mr. Sweetapple's motion. And we bifurcated Ms. Garcia's motion. Then we were -- we ran out of time. We tried to call up the case for Hurricane Milton, tried to call up the case for Hurricane Helene. And now we're here for the conclusion of the presentation of evidence on the two matters.

I think when we broke, we were in the middle of Mr. Sweetapple's direct examination. So Mr. Sweetapple, do you have any additional witnesses or evidence that you'd like to present?

MR. SWEETAPPLE: Yes, Your Honor, if it pleases the Court. I showed Ms. Garcia a number of documents, most of which are for judicial notice, because it's my position, and this case is ultimately a matter of law. I did put in reports from the examining committee, but the Court was concerned about them being hearsay. And even though

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I believe this is a collateral estoppel argument, and that Judge Burton clearly ruled that he relied on those, the Court indicated, well, the date could be hearsay.

So I indicated that I would call Dr. Bloom and Dr. Cheshire. They're going to be 15 minutes each, half an hour each, but they're not available until 1:30 and 2:00.

THE COURT: Okay.

MR. SWEETAPPLE: So after I put in these exhibits, which I believe Ms. Garcia has no objection to, I won't have any witnesses to call until then, and she can proceed.

THE COURT: Okay.

MR. SWEETAPPLE: All right, so if I -- if I may, the -- I'm going to move in and what exhibit number are we on now?

THE CLERK: We're onto 5. So 5 would be the next one.

MR. SWEETAPPLE: Thank you. And I can hand these to your clerk of the Court?

MS. GARCIA: I'd like to also take them.

THE COURT: Just -- I -- just show them to Ms. Garcia first, if there's any objections.

MR. SWEETAPPLE: Yes. Well, I showed her

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earlier. So you want me to just hand it to the clerk to mark?

THE COURT: Let me see if Ms. Garcia has an objection. So that's --

MR. SWEETAPPLE: For identification, at least.

THE COURT: Sure. Sure. So Plaintiff's Exhibit number 5. What is the -- what is that document?

MR. SWEETAPPLE: This is an e-mail from Ms. Garcia to Mr. Raymond, and a copy of a settlement agreement that she transmitted to him prior to the one that was executed in this case.

THE COURT: Ms. Garcia, do you have any legal objection to Plaintiff's Exhibit number 5?

MS. GARCIA: Oh, I -- well, I have the objection that he -- he's redacted the first page that I have. I guess for completeness, I have my chain of e-mails I would move in, I guess, without objection.

But also, he's got an attachment here, but I don't see an attachment referred to in the e-mails, unless that's it.

MS. MILLER: If you look at the top e-mail, it shows that there is an attachment.

MR. SWEETAPPLE: So I can tell the Court that

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the -- this was transmitted to me by my client. I responded to my client. So this was actually -- was all communication with my client. If she wants to put that in for the Court to review on camera, I have no problem. But I'm not waiving the privilege by adding her e-mail to Mr. Raymond. And the document she sent to Mr. Raymond was forwarded to me by my client, and then I responded to my client. That's the only redaction. And you'll see that if you see her -- I don't think she even has that.

THE COURT: Do you have an objection to the exhibit?

MS. GARCIA: No, Your Honor.

THE COURT: Okay. Then I will receive it into evidence, without objection as Plaintiff's Exhibit 5?

MR. SWEETAPPLE: 5.

THE CLERK: Yes, Your Honor.

(PLAINTIFF EXHIBIT 5 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: Your Honor, number 6 is an order from the Bankruptcy Court dated April 14th, 2023, which was three days before the filing of the petition.

I'm asking the Court to take judicial notice of that. I've shown this to Ms. Garcia, she was

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involved in this proceeding and is the subject of the sanction finding --

THE COURT: Sir --

MR. SWEETAPPLE: -- or my Motion for -- or my Motion for Sanctions. Exhibit 6.

THE COURT: Is there any legal objection to Exhibit number 6?

MS. GARCIA: Your Honor, he did not file a proper or timely motion for a judicial notice, so I object on that basis.

THE COURT: How are you procedurally prejudiced by his introduction of this?

MS. GARCIA: Procedurally, Your Honor?

THE COURT: Yes, ma'am.

MS. GARCIA: Like I say, I've seen it before, Your Honor. So --

MR. SWEETAPPLE: She was a party. She's filed this proceeding, Your Honor, and was the counsel --

THE COURT: I believe this was attached to the motion originally. So I hear that -- your objection that you weren't given proper notice. I'm asking procedurally, how are you prejudiced by the lack of proper notice?

MS. GARCIA: First of all, I don't think it's on this original exhibit list. And you limited us

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to our original exhibit list.

THE COURT: Is it, or --

MS. GARCIA: Unless there was documents discovered that I -- was produced to him during depositions, because I produced many documents to him during deposition that you intend to use.

Secondly, had I known he was going to be moving this in today, I would've called the attorney who drafted this order, because --

MR. SWEETAPPLE: Your Honor, this is Exhibit J to our motion to strike at your hearing. This has been --

THE COURT: This is an order signed by a judge, is it not?

MR. SWEETAPPLE: Okay, this is -- this was signed by --

MS. GARCIA: Yes.

THE COURT: Hang on, Mr. Sweetapple, I -- I'm -- Ms. Garcia is --

MS. GARCIA: Yes.

THE COURT: -- articulating to me her procedural prejudice, so --

MS. GARCIA: Yeah, it's -- it is signed by the judge, Your Honor. And it will be taken up in that court for fraud. So he can use it how he wants

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today, and we'll deal with it there.

THE COURT: All right, then I'm going to receive Exhibit 6 over Objection, as Plaintiff's Exhibit number 6.

(PLAINTIFF EXHIBIT 6 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: Number 7, Your Honor, is the request for judicial notice I filed, in this case filed.

And Ms. Garcia was e-served with this on, I believe April 18th, 2023. It was mentioned in my case, but I have not asked the Court to take judicial notice of this. It's been shown to Ms. Garcia.

THE COURT: That's Exhibit number 7?

MS. GARCIA: Do you have a copy, sir?

THE COURT: Ms. Garcia, what is your position with respect to Plaintiff's Exhibit number 7?

MS. GARCIA: No objection.

THE COURT: All right. I'll receive this into evidence as Plaintiff's Exhibit number 7.

(PLAINTIFF EXHIBIT 7 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: Exhibit 8, Your Honor, is the objection to the examining committee, filed by Amber Patwell (phonetic) as counsel for Patricia Sahm, in case number 50-2023.

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Some of these that -- have mental health -- may have been filed under seal, so they -- that. I've shown this. This was in the underlying case, the Purager (phonetic) case.

THE COURT: What's your position, Ms. Garcia with, I believe Plaintiff's Exhibit number 8?

MS. GARCIA: No objection.

THE COURT: It'll be received into evidence without objection as Plaintiff's Exhibit number 8.

(PLAINTIFF EXHIBIT 8 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: And then Your Honor, I have Ms. Garcia's appearance in the underlying case where Judge Burton issued his order, which I'm asking the Court to take judicial notice of.

THE COURT: Ms. Garcia. What's your position with respect to Plaintiff's Exhibit number 9?

MS. GARCIA: Same objection for the record, Your Honor, that he didn't properly file for the judicial notice, timely?

THE COURT: I thought that at the -- at the --

MS. GARCIA: But there's no objection.

THE COURT: Okay. So there's no -- if there's no objection, then I'll receive it into evidence without objection. But I thought that initially there was a request for the Court to take judicial

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notice of the entire mental health --

MS. GARCIA: Yes.

THE COURT: -- and guardianship court file at the --

MS. GARCIA: I think so, Your Honor.

THE COURT: -- at the first hearing in August. So --

MS. GARCIA: Okay.

THE COURT: -- I don't find that there's -- I don't find that you weren't given proper notice, but there's no objection. So I'll receive it into evidence as 9?

THE CLERK: Yes, Your Honor.

(DEFENSE EXHIBIT 9 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: And Your Honor, I did put in that --

MS. GARCIA: So that was 8, right?

THE COURT: 9. That was 9.

MS. GARCIA: What was 8?

THE COURT: 8 was the lack of -- or --

THE CLERK: Objection to the examining committee --

THE COURT: It was the objection to the examining committee report.

MS. GARCIA: Okay, that's 8?

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THE COURT: Yes, ma'am.

MS. GARCIA: Okay.

MR. SWEETAPPLE: Your Honor, I already put in Judge Burton's order determining a capacity, but I did not put in his order appointing under a guardian of the person who properly entered contemporaneously. So I'm moving for the Court to take judicial notice of that order as well.

THE COURT: What's the date of that order?

MR. SWEETAPPLE: It is June, I think, 22nd. Let me -- June 27th, 2023.

THE COURT: Ms. Garcia, what's your position with respect to --

MS. GARCIA: No objection.

THE COURT: I'll receive it into evidence without objection as Plaintiff's Exhibit number 10.

(DEFENSE EXHIBIT 10 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: And lastly, Your Honor, is an order granting filing for protection against exploitation of a vulnerable adult, entered in the guardianship by Judge Burton.

The date is dated -- it's dated September 22, 2023, Your Honor.

THE COURT: Uh-huh. Ms. Garcia?

MS. GARCIA: Objection. Missing as to

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relevance.

THE COURT: What is the relevance, Mr. Sweetapple?

MR. SWEETAPPLE: There's findings in this order that Judge Burton made regarding -- and I can read it to the Court.

The respondent, who was is the younger sister, Patricia Sahm, Jr. -- this is on Page 4 of 14. "The respondent further testified that in March of 2023, a female notary arrived at the residence, then occupied by respondent and the vulnerable adult. Although the respondent suspected that the Bernstein family with whom the vulnerable is currently litigating against, or Kevin Hall (phonetic), an attorney involved in that litigation, sent the notary to the residence, the respondent claims that she took no action while the notary notarized the vulnerable adult's signature on documents that revoked the Power of Attorney in favor of the vulnerable adult's then-acting agent and trustee, Joanna (phonetic)."

So this relates specifically to conduct that occurred at the time of the guardianship, that this Court is reviewing. And even though it -- even though there is a legal argument being made as to

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why the Court, as a matter of the collateral estoppel has defined incapacity, I'm also making a record, factually, through the experts and the testimony, to show the improper conduct. Because I have asked for sanctions against Ms. Garcia, including for her client's conduct at her direction.

THE COURT: All right. Anything further, Ms. Garcia?

MS. GARCIA: Again, objection to relevance. The time frame, 9-22-23 is after the fact. This is a hearing that was not concluded. I'll testify, I guess, to broadly perpetrated today, and I'll deal with any other courts.

THE COURT: What -- I'm sorry. You gave -- you handed me a 14-page document, I think. What's the -- is this a permanent file injunction, or is it time-limited?

MR. SWEETAPPLE: Pardon me?

THE COURT: Is this a permanent file -- I apologize. I'm --

MR. SWEETAPPLE: This is an order that has not been appealed or vacated, of Judge Burton.

THE COURT: No, but some injunctions are safe for a period of six months or eight months. Is this --

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MR. SWEETAPPLE: Oh --

MS. MILLER: I think it lasted 60 days, Your Honor. That's my recollection from the guardianship.

MS. GARCIA: It was an agreed final injunction that the Court made no findings. They put it in the order anyway. And I have the transcript. I'll do it with the other Judge now that they're using it here in front of you.

MS. MILLER: That's not correct, Your Honor. But that's, I suppose, an issue for Judge Burton to take up.

THE COURT: All right. I'm going to receive it into evidence over objection, subject, of course, to Ms. Garcia explaining why it's not relevant for the Court's consideration -- ultimate consideration. But for the purposes of the hearing, I will admit it into evidence, and you can tell me why I shouldn't give it any weight.

(PLAINTIFF EXHIBIT 11 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: All right, but you're going to take judicial notice of it?

THE COURT: Yes. I'm admitting it into evidence over their objection. But she's certainly free to tell me why it should not bear in my

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decision-making.

MR. SWEETAPPLE: And I'll be then calling Dr. Bloom and Dr. Cheshire. I don't anticipate any other witnesses unless there's some rebuttal message.

THE COURT: And you said Dr. Bloom and Dr. Cheshire would testify at --

MR. SWEETAPPLE: 1:30 and 2:00, I have them on stand-by on Zoom.

THE COURT: Okay.

MR. SWEETAPPLE: I tried to get them this morning and I couldn't.

THE COURT: That's okay. All right, Ms. Garcia, with respect to your motions, do you have any witnesses or evidence that you'd like to admit?

MS. GARCIA: Evidence? Yes, Your Honor.

THE COURT: Or witnesses.

MS. GARCIA: I'm sorry?

THE COURT: Or witnesses. Either testimony or evidence that you'd like to submit?

MS. GARCIA: Yes, Your Honor. But I have an issue with me having to try my case in -- is in the middle of his case.

THE COURT: Okay.

MS. GARCIA: His witnesses should be here

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timely. It was set for 11:00. He told us to be here, and I object to him calling the witnesses at 1:30 and 1:15. It's just not the way the Court operates. And I have to start my case in the middle of his case. Because I'm going to move for directed verdict.

THE COURT: Well, I can take a recess through -- I haven't had a chance to review all the documents that have just been judicial noticed. If you'd like for me to step off the bench and you can wait here while I read the documents --

MS. GARCIA: I'd like to also -- well, should I guess I can go over with him, my exhibits also.

THE COURT: Why don't you do that? Because I -- it just seems like it's a better use of everybody's time. I'm not prejudicing you from moving for directed verdict. I'm just trying to be economical with everybody's time.

MS. GARCIA: I understand, Your Honor.

THE COURT: So --

MR. SWEETAPPLE: I can proffer to the Court, and if the Court wanted to continue working, you know, up -- at any time up to 1:30, that all I'm going to do, is have the two examining committee members testify as to what's in the report. So

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there's not going be any surprise or anything that she doesn't know is going to be coming now.

THE COURT: So do you want to show Mr. Sweetapple -- do you want to take a couple moments to show Mr. Sweetapple your exhibit? I'll step off the bench. You show him your exhibits. I'll take some of these and start reading them and then you can come get me when you're ready?

MS. GARCIA: Okay.

THE COURT: All right.

(OFF THE RECORD)

THE COURT: You all can be seated.

All right, Ms. Garcia is present. The court reporter is present. Mr. Sweetapple is present.

Have you all gotten a chance to go over Ms. Garcia's evidence?

MR. SWEETAPPLE: Yes, Your Honor.

THE COURT: All right. Are there any agreements to any of the evidence, or --

MR. SWEETAPPLE: Limited. There is some judicial notice that is entirely irrelevant to this proceeding. If you take judicial notice of it, I do want to alert you that we're going far afield here.

THE COURT: Okay. Let me see what Ms. Garcia has to present.

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MS. GARCIA: May I approach?

THE COURT: Sure.

MS. GARCIA: Marked as H for identification is a death certificate of Mr. Walter Sahm.

THE COURT: Okay. Any legal objection?

MR. SWEETAPPLE: Your Honor, I've indicated I -- there's -- this is no issue as is, but it's totally irrelevant to this proceeding.

THE COURT: Well, it might not be relevant to your Motion, but is -- Ms. Garcia has a motion.

MR. SWEETAPPLE: But it's not bifurcated --

MS. GARCIA: Yeah.

MR. SWEETAPPLE: -- for today. It must be set at a later date.

MS. GARCIA: Yeah, my motion's not set for today, Your Honor. Just the balance of this trial.

THE COURT: Okay.

MS. GARCIA: You get to determine that if and when you rule -- or when you rule on the settlement, then I would go ahead and do my discovery and set my 1.54 and 1.340.

THE COURT: So when is -- so what is the relevance of this to --

MS. GARCIA: The relevance to this, is that you're going to see the orders and the pleadings

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that the gentleman died in 2021, and they continued to file pleadings in his name through 2024 without telling this Court. They got final judgements. They'd go to the Bankruptcy Court claiming there's an estate issue, but then they had filed with his name there. And my testimony will explain the relevance of his date of death and what has happened since. It's very relevant to our defense.

THE COURT: All right. So I'll receive this into evidence over objection as Defense Exhibit 1 -- or is it --

MS. GARCIA: 8.

THE COURT: -- 7?

THE CLERK: 7. 7.

THE COURT: 7. Exhibit number 7.

THE CLERK: 7.

(DEFENSE EXHIBIT 7 RECEIVED INTO EVIDENCE)

MS. MILLER: I think you're doing -- are you doing letters? You were --

MS. GARCIA: No, that was for identification. And then they would doing -- they did numbers for the actual exhibits. But it has defendant on it. So H is 7.

MR. SWEETAPPLE: Your Honor, I noticed that you have a warning that we're recording. I just want to

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make sure that the people on Zoom have been alerted that they should not be recording this. I see Mr. Hall and others on Zoom.

THE COURT: Right. So the only -- there's only one record that can be kept of a proceeding, and that is the court reporter's record. So I mean, the recording is not prohibited -- it is prohibited. It's not the official court recording. That's by order of the Chief Judge, and by order of me.

What's that --

MS. GARCIA: Okay. If I may approach?

THE COURT: Sure.

MS. GARCIA: I, the final judgment in this case.

THE COURT: Thank you. Any legal objection?

MR. SWEETAPPLE: No, Your Honor.

THE COURT: I will receive it in to evidence without objection as Defense Exhibit 8.

(DEFENSE EXHIBIT 8 RECEIVED INTO EVIDENCE)

MS. GARCIA: 8. Okay.

This one is J. I have it on the back. It's a judicial notice. This was filed in this case, January 2nd, 2023, by me. I made my initial appearance.

MR. SWEETAPPLE: Just note my objection to

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relevance, Judge. It has nothing to do with the competency issue and the draw on the Court issue.

THE COURT: Miss, what's the relevance of your motion?

MS. GARCIA: The relevance of my motion, Your Honor, is I started from when I came in the case from day one, disclosing to the Court, like all the issues with the fraud and filing for dead people and filing cases, the estate -- the bankruptcy cases for the estate that had no rights, filing for Patricia Sahm.

MR. SWEETAPPLE: Your Honor, the 1540 Motion was not for the hearing today.

THE COURT: That -- that's what my confusion is I -- it seems -- I -- I'm not saying that this isn't relevant to your 1540 Motion, but I'm trying to figure out what the relevance is to the Motion that we're here for.

MS. GARCIA: The relevance is, Your Honor. They're coming in here with unclean hands. Like for instance, on Page 6, Paragraph 11, he was -- Mr. Sweetapple continued to represent Walter Sahm after his death, without informing the Court. And even when there was a suggestion of death filed, he continued to file pleadings. And then Walter Sahm

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-- now the final judgment entered in the name of Walter Sahm, which was the -- what was settled.

So it's going to show that from day one in this case, there has been issues as far as the final judgment, the amount, the outstanding issues, 1.54 and 1.30 do affect the reasonableness of the settlement. So the Court goes through the, you know, the elements where you have, whether or not they can even prove incapacitation at the time or not, since it was before the finding of the Court, first of all the threshold issue. And then next, you have the issues that he's claiming, undue influence, fraud. And I'm not sure what else he's claimed.

THE COURT: Okay. I'm going to receive it into evidence over objection as Plaintiff's Exhibit --

MR. SWEETAPPLE: 9.

THE COURT: -- 9.

(PLAINTIFF EXHIBIT 9 RECEIVED INTO EVIDENCE)

MS. GARCIA: The next one is K, Your Honor.

MR. SWEETAPPLE: I think you can just tell the Court whether I objected to it or not.

MS. GARCIA: This one you were -- you objected to relevance, I believe.

MR. SWEETAPPLE: Well, this is where your --

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no, it was hearsay. You're trying to -- first of all, any communications from Mr. Raymond, I would require testimony to authenticate in some form. And then there's an affidavit --

MS. GARCIA: Oh, sorry. I'm so sorry, the affidavit.

MR. SWEETAPPLE: -- affidavit from a mister --

THE COURT: We need to identify what it is for the record. And then --

MS. GARCIA: Okay. This is -- it starts -- it's an e-mail chain that I produced to Counsel during the deposition when we were ordered to waive privilege or to appear and take privilege. And I produced for the record, and this goes to the settlement negotiations between me, Mr. Raymond and Mr. Sweetapple, and dealing in March of 2023, during the relevant time frame as to the capacity and the negotiations between the lawyers.

THE COURT: Okay.

MS. GARCIA: And it's clearly one -- this -- clearly what I'm asking questions of the attorneys, and they're responding, this is the attorney for the estate. And that's relevant to the issues of filing in the bankruptcy, planning the estate rights, not substituting the estate.

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THE COURT: Okay. So your objection to it, is hearsay?

MR. SWEETAPPLE: Well, in terms of, there's a find an affidavit by William Stransbury. She showed me an affidavit she wanted to put in.

THE COURT: I don't have an affidavit.

MS. GARCIA: I didn't attach that.

MR. SWEETAPPLE: Okay. So yeah, I'm -- so you're not going to move -- so you're going to agree with me, that doesn't come in?

MS. GARCIA: No, but I'm not doing it here. I'll do it separately. Only, I --

THE COURT: All I have is an e-mail.

MR. SWEETAPPLE: All right. Well, first of all, there's a representation that's sent to me, which is inaccurate. Second of all, you're going to learn that she sent numerous e-mails to a different e-mail address than my e-mail, repeatedly in March, and never included me on any of these, despite Mr. Raymond saying, include mister -- Mr. Sweetapple is in charge, he's handling this, not me.

So if we get into these communications, I'm going to have to, for completeness, cross-examine her on the whole episode. And so I object to this, unless she comes in and testifies to authenticate,

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and I can ask her if -- for completeness, about other e-mails and what she did.

THE COURT: So your objection is, it's not authenticated?

MR. SWEETAPPLE: Yes. She would have to come in and testify. Mr. Raymond is not here. So she'd have to say, Mr. Raymond sent this to me. I received it. And then I'm going to ask her about other e-mails.

THE COURT: Okay. All right. Are you in a position to do that?

MS. GARCIA: I can testify to receiving the e-mails.

THE COURT: All right. So then I'll have it marked for identification purposes, subject to it being authenticated.

There's no other objection?

MR. SWEETAPPLE: Yeah, I -- I'm not calling her, but I anticipate cross-examining her, based on her --

THE COURT: I wasn't sure if there was an -- it's highlighted, indicating that the part that the Court wants -- she wants the Court to consider is Mr. Raymond's statement, which seems to me to be

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hearsay. But if there's not an objection to that, then --

MR. SWEETAPPLE: Well, that's it.

THE COURT: -- then it's just authenticity, then we'll let it get authenticated.

MR. SWEETAPPLE: Well, I'm going to object on hearsay, Judge. I thought we had her statements here as well. So I will object to hearsay on anything, just from Mr. Raymond to her.

THE COURT: Ms. Garcia, how is Mr. Raymond's statement not hearsay?

MS. GARCIA: This e-mail is our communication in relation to the settlement, and it's relevant. And when I asked him questions, he responded.

THE COURT: Right. So hearsay is a statement made out of court --

MS. GARCIA: This is --

THE COURT: -- for the truth of the matter that's asserted. So how is it not hearsay?

MS. GARCIA: It's an exception under the business rule. This is a -- this is a communication from my law firm. It's a business record. This was received by me, and I can authenticate this as a business record.

THE COURT: Okay. And how is Mr. Raymond's

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statement to you not hearsay?

MS. GARCIA: I guess I can -- I guess I -- can I have one moment, Your Honor?

THE COURT: Sure.

MR. SWEETAPPLE: I have no objection to her portion of, you know -- she authenticates, I don't have a chance to cross examine her and bring in her other communications. But I -- to the extent she's just trying to put in Mr. Raymond's communications, I --

THE COURT: I just -- that's what I thought with that. I only thought that because it's highlighted in orange, but if that's not --

MR. SWEETAPPLE: I don't have a highlighted copy.

THE COURT: That's not what you're seeking to do then?

MR. SWEETAPPLE: Well I didn't -- she didn't give me the highlighted --

THE COURT: Okay. This is what was handed to me.

MS. GARCIA: Another exception, Your Honor.

THE COURT: All right.

MR. SWEETAPPLE: Yeah, I didn't -- that wasn't -- I was looking at the bottom --

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MS. GARCIA: Here. I'll give you one. Similar passages, the square that is highlighted.

MR. SWEETAPPLE: Sorry, I just --

THE COURT: It's okay.

MR. SWEETAPPLE: I didn't -- I was --

THE COURT: I'm not trying to create issues. I just --

MS. GARCIA: For one thing, Your Honor, the -- there is an exception under party admission. Because this is where the other attorneys that I was negotiating with in this case, who represent the parties, are informing me that Ms. Sahm wasn't under guardianship and didn't need a guardian in March.

So that goes to my mental impression of what was her status. And I'll testify to different conversations and different mental impressions that I had that Ms. Patwell had, based on our conversations.

THE COURT: All right, I'll have it marked for identification, subject to being authenticated. But that does sound like an exception to the hearsay.

MR. SWEETAPPLE: And just so we -- we're clear, I'm also objecting to relevance from this statement in March when we're on the subject of admissions by parties' representative and parties.

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I am going to be correcting one of the exhibits I provided to the Court, because Ms. Garcia just provided me with the May settlement agreement she forwarded to Mr. Raymond that is signed by her clients, where there repeated representation that Mrs. Sahm is incapacitated. That's in May. All right? This is in March.

THE COURT: Okay.

MR. SWEETAPPLE: So just so the Court, for relevance and context -- yeah, I'll be -- I'll be moving -- we've already admitted that into evidence, but I'm going to ask the Court to note that that is an admission of Ms. Garcia as the representative and the parties.

THE COURT: Okay.

MS. GARCIA: Can I have just one moment, Your Honor?

THE COURT: Of course.

MS. GARCIA: The next one, Your Honor, is marked as -- for identification, Exhibit L.

THE COURT: Thank you.

MS. GARCIA: This is the affidavit of Mr. Stransbury.

THE COURT: All right. What's the plaintiff's position?

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MR. SWEETAPPLE: I object. It's hearsay, Your Honor.

THE COURT: Ms. Garcia?

MS. GARCIA: I can call the witness, Your Honor.

THE COURT: Okay. I'm going to sustain the objection as to hearsay, but I'll have it marked for identification as L.

MR. SWEETAPPLE: And note my objection also to relevance, that this witness doesn't have any testimony since March of 2022. It's not going to be relevant to the --

THE COURT: I found that it's hearsay.

MR. SWEETAPPLE: Just saying if we get -- when that witness comes in, I'm just previewing that, the date of this.

MS. GARCIA: The next one, Your Honor, is N. This is the -- this is a notarized letter, signed by both parties, the deceased, Mr. Sahm, and Mrs. Sahm as the trustee.

MR. SWEETAPPLE: This is undated and hearsay, Your Honor.

MS. GARCIA: I'll say it's a statement of a party opponent. It's also -- Mr. Sahm is deceased, and it's a statement by him, which is an exception

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to the hearsay rule.

THE COURT: Where is that in the hearsay exception, a statement of a deceased person? Isn't it a statement of a person upon impending knowledge of death?

MR. SWEETAPPLE: Your Honor, also relevance. This is -- this -- it says a phone call, October 11th, 2019.

THE COURT: Isn't this prior to the file -- judgment?

MR. SWEETAPPLE: Well, it's prior -- it's prior to the lawsuit being filed. Around the time --

MS. GARCIA: This goes to the relevance is that it goes to the long-term negotiations. Because there's allegations that basically, once we found out that there were some committee reports out there that we rushed to do a settlement. And this shows the Court by statements by both parties that this has been going on for years. And it talks about the amount of $200,000 was a reasonable amount at that time, where they were willing to accept.

THE COURT: All right. I find that this is hearsay. So -- without an exception, so I'm going to sustain the objection unless it can be authenticated some other way. I don't see

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necessarily how it's relevant, but it is hearsay.

MS. GARCIA: I could authenticate it by the receiver of the letter who's here, that can testify, Your Honor. So --

This is marked as Defendant's O, Your Honor. It's a retainer by Twig, Trade, & Tribunal dated April 11th, 2023.

MR. SWEETAPPLE: It's hearsay, Your Honor. I would note, though, it is telling how the defendants have communications between an alleged attorney for Mrs. Sahm. This is a privileged document, and the fact they can have it is consistent with my theory of the case.

THE COURT: I'm going to overrule the objection. This is -- appears to be a legal document, which -- it's words of operative legal effect. So that is an exception to hearsay.

What number were we at?

THE CLERK: Number 10, Your Honor.

THE COURT: Number 10 will be received into evidence over objection as Exhibit number 10.

(PLAINTIFF EXHIBIT 10 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: Your Honor, I just -- if the Court will officially note, I don't see Page 2. I don't see it signed by Mr. Weinstein.

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THE COURT: It appears to be signed by the plaintiff.

MR. SWEETAPPLE: Yeah. But we don't know if it was paid or anything about it.

THE COURT: And you'll be free to argue that to me --

MR. SWEETAPPLE: Okay.

THE COURT: -- as to why I should or should not consider it. But it appears that it's authentic and it appears that it would be admissible into evidence. I'm going to receive it --

MR. SWEETAPPLE: Okay.

THE COURT: -- for whatever its evidentiary value is.

MS. GARCIA: Do you have a pen?

MR. SWEETAPPLE: What?

MS. GARCIA: Do you have a pen?

Your Honor, marked as Exhibit P is an e-mail --

MR. SWEETAPPLE: Is this -- was this e-mailed to someone?

MS. GARCIA: -- from Morgan Weinstein to Mr. Sweetapple, and this deals with their communications in -- April 13th, 2023, when Mr. Weinstein was attempting to substitute in as the attorney in this case, based on his retainer with the client.

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THE COURT: All right. What's the plaintiff's position?

MR. SWEETAPPLE: He's talking about this. The top is from Kevin Hall.

MS. GARCIA: This was --

MR. SWEETAPPLE: And you're referring to just the Morgan Weinstein to me?

MS. GARCIA: This was produced during a deposition pursuant to your court orders.

MR. SWEETAPPLE: Let me just -- you -- you're talking about this section right here? "Hello. Mr. Sahm has a -- this section does not have an e-mail address of response to her daughter Patty's e-mail account. I've copied that account here. Mr. Sweetapple's asking that you e-mail back to authorize the change of representation from his firm." So --

THE COURT: Is there an objection to that?

MR. SWEETAPPLE: It's just hearsay. And I don't think it's complete either. I presume there's a response somewhere or a follow-up on any of this. It's not relevant. It doesn't tend to prove or disprove anything.

MS. GARCIA: It is relevant. You won't let me respond.

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MR. SWEETAPPLE: This is hearsay from me. It's hearsay within hearsay. He's writing to Patricia Sahm, and copying me, saying that I have asked something to happen.

THE COURT: What -- Ms. Garcia, what's it being offered -- is it being offered for the truth of what's being stated?

MS. GARCIA: It's being offered for the fact that it would -- that this communication occurred, and that Mr. Sweetapple was aware of the potential of substitution in this case on April 13th of 2023.

THE COURT: All right. The portion that indicates that Mr. Sweetapple has asked that you e-mail back to authorize the change, would be hearsay.

But the fact that the communication occurred and Mr. Sweetapple's e-mail is CC'd to the e-mail is not hearsay. So I'll receive that portion of it in evidence as 11.

THE CLERK: Yes, Your Honor.

THE COURT: Defense Exhibit number 11, over objection.

(DEFENSE EXHIBIT 11 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: Is there any follow up e-mail that she's offering where -- that's something happened?

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THE COURT: I don't know.

MS. GARCIA: Okay. Here is the next e-mail. It's Exhibit Q for identification. This is further communications between Mr. Sweetapple and Patty Sahm, Junior, who she was communicating -- Mr. Sweetapple, to see the Power of Attorney, who was Mr. Sweetapple, and asked for a copy of the Revocation of Power of Attorney and requested that he -- Mr. Weinstein substitute in as her attorney.

MR. SWEETAPPLE: I'm going to object to hearsay because I certainly want Patty Sahm to testify.

THE COURT: Ms. Garcia, what's the purpose of this e-mail again?

MS. GARCIA: The purpose of this e-mail is to show the fact that there was communication and Mr. Sweetapple had knowledge that he was requested to substitute out and allow Mr. Weinstein to substitute in. And Mr. Sweetapple had asked for a copy of the Power of Attorney, and it was the Revocation of Power of Attorney that was provided to him at that time --

MR. SWEETAPPLE: Your Honor, there's --

MS. GARCIA: -- four days before the Guardianship was filed.

MR. SWEETAPPLE: There's no attachment to this.

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It says, "I have attached my mom's Revocation."

MS. GARCIA: Right.

MR. SWEETAPPLE: And it's -- there's nothing attached to this e-mail.

MS. GARCIA: The Revocation's already in evidence, Your Honor, as the Exhibit --

THE COURT: I'm going to --

MS. GARCIA: -- Composite Exhibit 1.

THE COURT: I'm going to receive this item of evidence in the -- into -- I'm going to receive this exhibit into evidence over objection for the reason stated by Ms. Garcia as Defense Exhibit number 12.

(DEFENSE EXHIBIT 12 RECEIVED INTO EVIDENCE)

MS. GARCIA: Your Honor, was that marked P? I apologize. P or --

THE CLERK: Q.

MS. GARCIA: Q, okay. So 11 was that one. That was Q. Okay. Q. Thank you.

Then this is R. Your Honor, it was marked as Defense Exhibit R. It's further e-mail communications in relation to the same time frame. This was April 15th, 2023, two days later, where --

MR. SWEETAPPLE: This is all hearsay from the daughter, who I believe is on house arrest, though, but available by Zoom.

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MS. GARCIA: Well --

MR. SWEETAPPLE: You can call her --

MS. GARCIA: -- she's off in two days.

MR. SWEETAPPLE: Pardon?

MS. GARCIA: She's off in two days.

MR. SWEETAPPLE: You can call her by Zoom. This is -- I've been trying to unsuccessfully get her depo scheduled for months.

MS. GARCIA: Not true.

So Your Honor, this goes again to the fact that at this time --

MR. SWEETAPPLE: The hearsay is objectionable, Your Honor.

THE COURT: Hang on. I need -- I need you to not all argue with each other. I need you to state your position so that I can make a ruling. So your objection is that it's hearsay. Ms. Garcia, how is it not hearsay?

MS. GARCIA: Let's see.

THE COURT: This is a communication between Mrs. Sahm and Morgan Weinstein who is not Mr. Sweetapple, or anybody employed with Mr. Sweetapple's firm.

MS. GARCIA: Well taken, Your Honor.

THE COURT: I'll sustain the objection.

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MS. GARCIA: If I want to admit it, I will call Ms. Sahm.

Okay. Marked as Defense Exhibit S. I mean, T. I apologize. I scratched S.

THE COURT: Okay.

MS. GARCIA: T, Your Honor. This is produced pursuant to the deposition.

MR. SWEETAPPLE: My objection, Your Honor, is hearsay. These are texts with Ms. Patwell, who I've also been trying to depose, who's also incarcerated.

MS. GARCIA: This --

MR. SWEETAPPLE: So obviously anything --

THE COURT: Hang on. I need to know what Ms. Garcia's exhibit is, for the record.

MS. GARCIA: Right.

THE COURT: And then I'll ask you what your objection is.

MR. SWEETAPPLE: Okay. I'm sorry.

MS. GARCIA: This is Exhibit S, Your Honor. And this is the messages with Morgan Weinstein and myself. Because our communications and our knowledge of what was going on at this time frame, when we were being accused of committing fraud and taking advantage of somebody, you ordered us to produce these communications. So I produced the

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relevant communications from 4-10-2023 through 4-16-23.

The last one is irrelevant, Your Honor. Which basically is my communications with Mr. Weinstein, which I'll be testifying to. The fact that he told me he was being retained, he was filing his notice of appearance, and he's had them sign a retainer and --

THE COURT: Mister --

MR. SWEETAPPLE: It's hearsay. Anything Mr. Weinstein said in these is hearsay.

THE COURT: And in your statements, how are they not hearsay? And if you're going to testify to it, it's subject to cross-examination. I don't see how this is an exception of the hearsay.

MS. GARCIA: This again, this is a business record, Your Honor. This is by communications with opposing counsel that I was ordered to produce in a deposition, which I produced in a deposition, subject to cross-examination at the deposition.

THE COURT: I haven't heard that it's a business record. I mean, it may be. I haven't heard that.

MS. GARCIA: This is kept in the regular course of business communications with opposing counsel,

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communications with my clients. In this particular document, you ordered us to produce the communications, so I did. He's had the benefit of it, has cross- examined --

MR. SWEETAPPLE: And --

THE COURT: Just because I ordered it produced doesn't mean it's admissible into evidence. It --

MS. GARCIA: Okay.

THE COURT: -- means that perhaps he would like to admit it into evidence as a statement that you made -- I don't know -- which would be an exception to hearsay, but if you are asking to admit it, I need to find out how it's admissible.

MR. SWEETAPPLE: And anything that --

THE COURT: I would --

MR. SWEETAPPLE: Anything that was her communication, I'd want her to authenticate it, but I --

THE COURT: Right. And --

MS. GARCIA: This is an authorized admission, Your Honor. The Federal Rule of Evidence 801(d)(2)(C)(D). Supposedly there's a conspiracy. This would be an admission of a co-conspirator also, under his theory, under 801(d)(2)(E). It's also --

MR. SWEETAPPLE: Who's the co-conspirator?

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MS. GARCIA: -- an adopted admission.

MR. SWEETAPPLE: Who's the co-conspirator though?

THE COURT: It -- he -- so that would be an exception that he would seek to admit it under, unless you're conceding that you're part of a conspiracy and you're saying that you wanted to introduce your co-conspirator's statement?

MS. GARCIA: No --

THE COURT: Is that what you're --

MS. GARCIA: No --

THE COURT: -- conceding?

MS. GARCIA: No, I'm not saying that we are conspirators. I'm saying we've been accused of conspiracy. We've been accused of fraud.

THE COURT: I will reserve on ruling on it. But as of right now, it sounds like it's hearsay without an exception.

MS. GARCIA: Okay.

MR. SWEETAPPLE: And then now also, Your Honor, this whole thing about Mr. Weinstein is irrelevant. There's no dispute. I was never provided with the proposed substitution. Of any form.

THE COURT: It may ultimately be irrelevant, but --

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MR. SWEETAPPLE: Your Honor, we are wasting time --

THE COURT: Well, your witnesses aren't available until 1:00, so --

MR. SWEETAPPLE: I know. I understand. What I'm saying is --

THE COURT: - -- or 1:30, so we have to -- we have to get this for -- it would've been nice to have some agreements to some of this to streamline things, but there was an objection to even waiting until 1:30. So let's use our time wisely.

MS. GARCIA: Here's U, Your Honor. Defense U. This is -- he agreed to the judicial notice.

MR. SWEETAPPLE: I have no objection to this. It's Mr. Shraiberg's (phonetic) fee agreement from the Bankruptcy Court when he represented the estate and Patricia Sahm individually.

THE COURT: So you have no objection to receiving --

MR. SWEETAPPLE: No.

THE COURT: -- defense U into evidence --

MR. SWEETAPPLE: That's correct.

THE COURT: -- as Defense Exhibit 13?

MR. SWEETAPPLE: In Bankruptcy Court, you know, you're required to file your fee agreement, so

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there's really no objection at this point.

THE COURT: Received into evidence without objection as 13. Defense 13.

(DEFENSE EXHIBIT 13 RECEIVED INTO EVIDENCE)

MS. GARCIA: Okay. Exhibit V, Your Honor. Defense Exhibit v. is the report of an examining committee member. One of the three committee members that was initially assigned to the case.

MR. SWEETAPPLE: Well, this is the one who's going to be testifying second, so I have no objection.

THE COURT: I'll receive it into evidence without objection as Defense 14.

(DEFENSE EXHIBIT 14 RECEIVED INTO EVIDENCE)

THE CLERK: Yes, Your Honor.

MS. GARCIA: Okay. So that was V, allowed as 14, Your Honor?

THE COURT: Yes, ma'am.

MS. GARCIA: Thank you.

Exhibit W. Oops.

MR. SWEETAPPLE: It may save some time, we're discussing -- we may waive calling this witness as she's allowing this into evidence.

THE COURT: Okay.

MS. GARCIA: Oh, yeah. Sorry. See, that's W.

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MR. SWEETAPPLE: Okay.

MS. GARCIA: Your Honor. Exhibit W is a report --

MR. SWEETAPPLE: This is not filed, this is --

MS. GARCIA: -- by Dr. Sugar.

THE COURT: Yeah. I need her to tell me what it is --

MS. GARCIA: And --

THE COURT: -- and then you to tell me why --

MR. SWEETAPPLE: I'm sorry, Your Honor --

THE COURT: -- I should or should not.

MR. SWEETAPPLE: -- I thought she was finished.

THE COURT: It's okay.

MS. GARCIA: And this one is being moved into the fact that it was prepared, just like the other ones that you already allowed, although it's hearsay. The fact that this report exists. So I can testify to the relevance of it in my testimony.

MR. SWEETAPPLE: Your Honor, this is not a appointed examiner. This is somebody they went out and hired. It's not filed in the case. It wasn't part of Judge Burton's review, and it's hearsay.

THE COURT: It is hearsay. The other one was not objected to. This one is objected to. It's hearsay.

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MR. SWEETAPPLE: And they said the doctor who they testified was -- had a High Holy day and couldn't be here. We had to continue so he could be here. So obviously there's no prejudice. They know that if they want to call Dr. Sugar, he has to be here.

THE COURT: His -- Dr. Sugar's report is hearsay, so I'm sustaining the objection.

MS. GARCIA: Your Honor, I'm moving it not for the -- not for the content, but the fact that it was prepared and the date it was prepared.

MR. SWEETAPPLE: Well --

MS. GARCIA: You had allowed the other reports for the same purpose, saying it was hearsay, so I'm not moving in for the contents of the report. I'm moving it for the fact that it was prepared, when it was prepared, and the relevance in my mind of this report --

MR. SWEETAPPLE: It's all hearsay.

MS. GARCIA: -- without -- no, it's not hearsay, because I'm not going to discuss the relevance of the report.

THE COURT: I will -- I will allow you to testify to the fact that a report was prepared, when it was prepared, and that --

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MS. GARCIA: Okay.

THE COURT: -- you received it. But the substance of the report is hearsay.

MS. GARCIA: I see.

THE COURT: Without an exception.

MS. GARCIA: Right.

THE COURT: So I'm sustaining the objection to the physical report.

MS. GARCIA: But it's allowed for the fact that it was prepared?

THE COURT: Yes. You can -- you can --

MS. GARCIA: Okay, so --

THE COURT: -- testify to that, yes?

MS. GARCIA: Okay.

THE COURT: You can -- I think you have testified.

MS. GARCIA: I think we started, Your Honor. Okay.

THE COURT: That's -- it's -- identification only.

MS. GARCIA: Okay. The next one, Your Honor, is Composite Exhibit Y, and it entails a Promissory Note in this case.

MR. SWEETAPPLE: These are -- these are attached to the Complaint and the court file. I

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have no objection --

MS. GARCIA: Okay.

MR. SWEETAPPLE: -- they're not relevant, but I have no objection.

THE COURT: I'll receive them into evidence without objection as Composite Exhibit 15.

How many composites are there? 15A and B?

THE CLERK: It's Composite --

MR. SWEETAPPLE: Note and Mortgages. Amended Mortgage.

THE COURT: So A and B? Amended Mortgage?

MS. GARCIA: I'm going to approach, Your Honor. So Composite Exhibit Y.

THE COURT: Okay. So I'm going to make the Promissory Note is 15A, and the Mortgage is 15B, will be received into evidence without objection.

(DEFENSE EXHIBIT 15A RECEIVED INTO EVIDENCE)

(DEFENSE EXHIBIT 15B RECEIVED INTO EVIDENCE)

MS. GARCIA: I'm sorry, was the v. -- which was the Cheshire Report was that was admitted as Exhibit 14, correct?

MR. SWEETAPPLE: I stipulated to that.

MS. GARCIA: Right.

THE COURT: Correct.

MS. GARCIA: So that's 14?

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THE COURT: Yes, ma'am.

MS. GARCIA: Okay.

MR. SWEETAPPLE: Trying to save us time.

MS. GARCIA: Okay. So this one was Exhibit 15.

Defense -- for ID Exhibit Z, Your Honor. I believe that he agreed to the judicial notice --

MR. SWEETAPPLE: No objection to judicial notice of this. It's in the Court file in this case.

THE COURT: It'll be received into evidence without objection as Defense Exhibit 16.

(DEFENSE EXHIBIT 16 RECEIVED INTO EVIDENCE)

MS. GARCIA: So was Defense Z is Defendant's 16?

THE COURT: Yes, ma'am.

MS. GARCIA: Thank you, Your Honor.

This is Defendant's AA. Not AAA. And this is a state record showing that the Bernstein Family Realty, LLC, was active as a reinstatement on the relevant time frame, March 16th, 2023.

MR. SWEETAPPLE: And Your Honor, it was then dissolved administratively not long after that. And as long as I can put in that to show that it's not currently even in good standing, I have no objection, as long as I can put in the current

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document that shows the actual date of dissolution.

THE COURT: Any issues with that, Ms. Garcia?

MS. GARCIA: I'm sorry?

THE COURT: Any issues with what Mr. Sweetapple proposes?

MS. GARCIA: I have not seen what he's talking about. So that's what the public record shows. I don't have a problem that one also coming in.

THE COURT: Is that what the public record shows?

MS. GARCIA: Maybe a composite --

MR. SWEETAPPLE: Yes, Your Honor. It's the same printout from Sunbiz.

THE COURT: All right. So then --

MS. GARCIA: But --

THE COURT: -- I'll allow his in if I'll allow Ms. Garcia's. So it'll be received by stipulation as Defense Exhibit 17.

(DEFENSE EXHIBIT 17 RECEIVED INTO EVIDENCE)

MS. GARCIA: Yes. Composite --

MR. SWEETAPPLE: I'll provide that to the Court. We'll print it during lunch.

MS. GARCIA: So I guess I would call it Composite 17 since he's going to add the second --

THE COURT: And he's going to add it as

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Plaintiff's Exhibit --

MS. GARCIA: Okay.

THE COURT: -- whatever.

MS. GARCIA: This stipulates -- this judicial notice, this is Defendant's BB. This is a Suggestion of Bankruptcy filed in this case on 4-3-23.

THE COURT: Position of the defense, or the defendant?

MR. SWEETAPPLE: No, I have no objection to the Court taking judicial notice. It's on the Court file.

THE COURT: It'll be received into evidence without objection as Defense Exhibit 19?

THE CLERK: 18.

THE COURT: 18.

(DEFENSE EXHIBIT 18 RECEIVED INTO EVIDENCE)

THE COURT: I'm a lawyer, I can only count so well.

MS. GARCIA: Okay. From -- counsel, here. Defense -- for identification, CC, again, it's a judicial notice, Your Honor, this is a filing in this case -- no, a filing of the Guardianship in the mental health case. My appearance for Patricia Anne Sahm, Junior dated 8-14-23.

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THE COURT: Position of the plaintiff?

MR. SWEETAPPLE: No objection.

THE COURT: It'll be received the evidence without objection as Defense 19.

(DEFENSE EXHIBIT 19 RECEIVED INTO EVIDENCE)

THE CLERK: Yes.

THE COURT: Yes --

MS. GARCIA: 19.

THE COURT: -- I'm back. 19.

MS. GARCIA: We're getting near the end here. Okay. Then we have Defense DD, which is a 5-22-23, again, judicial notice. It's the -- Ms. Patwell's notice of appearance in this case, filed May 22nd, 2023.

THE COURT: Position?

MR. SWEETAPPLE: No objection.

THE COURT: It'll be received into evidence without objection as Defense Exhibit number 20.

(DEFENSE EXHIBIT 20 RECEIVED INTO EVIDENCE)

MS. GARCIA: Defendant's EE for identification, Your Honor. It's a Stipulation for Substitution of Counsel signed by Patricia Sahm.

MR. SWEETAPPLE: This is hearsay. It wasn't -- it doesn't show it was filed.

THE COURT: I thought this was produced at our

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-- in our August hearing and received into evidence, wasn't it?

MS. GARCIA: I believe when we see Stipulation for Substitution, yeah, it's Defendant's --

MR. SWEETAPPLE: That was -- that was me, and have -- that wasn't -- that wasn't signed.

MS. GARCIA: The original --

MR. SWEETAPPLE: This is -- this is Laura Burkhalter.

MS. GARCIA: Let me see, Plaintiff -- it was Defendant's D, and it was admitted as Exhibit 3 already, Your Honor. Evidence 3.

MR. SWEETAPPLE: This is already in?

MS. GARCIA: Yeah.

THE CLERK: Let me look --

MS. GARCIA: I believe. I have to compare it --

THE CLERK: So the original exhibit that was put in as her D -- as Defendant's D, was an unfiled stipulation for substitution that was signed by Patty Sahm, Senior, but was unsigned by the attorney in this case.

THE COURT: That's what this is?

THE CLERK: That's for Laura Burkhalter. This was -- that was for --

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MR. SWEETAPPLE: This is the Probate Court, Judge.

THE CLERK: That's the Probate Court in front of you.

MR. SWEETAPPLE: This is not --

THE COURT: No --

MR. SWEETAPPLE: -- in our exhibits.

THE COURT: -- this is --

MS. GARCIA: The MH?

THE COURT: This is 20 --

MS. GARCIA: No, I'm sorry. You're right, Your Honor --

THE COURT: This is 2018 --

MS. GARCIA: -- I apologize.

THE COURT: -- CF, that's this case.

MS. GARCIA: No, Your Honor. I apologize, it's the wrong -- I -- let me take that back, let me refresh. No, this is the stipulation for substitution of counsel in the mental health case, where Patwell --

THE COURT: This is -- it's 2018-CA-2317. That's this case number. What you've handed me -- maybe perhaps you handed me the wrong document?

MS. GARCIA: I handed you the wrong one. What is yours? The MH case and then pending damages?

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MR. SWEETAPPLE: It says Probate Division on top -- the one that we're not --

THE COURT: I think -- I think you have a different paper than I do, of -- what I'm saying.

MS. GARCIA: Let me see.

THE COURT: I have this one. It's this --

MS. GARCIA: I handed you the wrong one, Your Honor.

THE COURT: Okay.

MS. GARCIA: Sorry.

MR. SWEETAPPLE: Oh, yeah. That's already in evidence.

MS. GARCIA: Yeah, that's the one that's already in, Your Honor. I apologize.

MR. SWEETAPPLE: This is what she's handing you now --

MS. GARCIA: This is just --

MR. SWEETAPPLE: -- that I'm objecting to.

THE COURT: Okay. Hang on. Wait. Hold on.

MS. GARCIA: Now I've got to put a -- I'm going to have to mark it correctly, Your Honor.

THE COURT: No problem, no problem.

MS. GARCIA: If you give me a second. I apologize.

MR. SWEETAPPLE: If she has -- this one's filed

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in a case, I have no problem with the judicial notice. But this is -- she's handed me a Stipulation to a Substitution of Counsel in a probate case, allegedly signed by Patricia Sahm and nobody else and no date.

MS. GARCIA: So this was -- this was EE.

THE COURT: So this is the Stipulation --

MS. GARCIA: Yes.

THE COURT: -- 2023MH1072?

MS. GARCIA: Yeah. This is the one in the mental health case to show that Ms. Patwell substituted in for Laura Burkhalter. And this is the -- this is the place it's signed by the client. And I think we've already moved into evidence the notice of appearance. So I guess it could have really been attached to that, but I can separate --

THE COURT: Noting your objection, I'm going to receive it into evidence as Defense Exhibit number 21.

(DEFENSE EXHIBIT 21 RECEIVED INTO EVIDENCE)

MS. GARCIA: Your Honor, I'm just correcting the other one.

THE COURT: No problem.

MS. GARCIA: It will go into this pile.

It's marked as Defense FF. This is in the

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public records. He stipulated -- this is the second mortgage on the property in this case that was recorded --

MR. SWEETAPPLE: No objection. Except to relevance.

THE COURT: You'll tell me why it's relevant or not. I'll receive it into evidence without objection as 22 -- Defense 22.

(DEFENSE EXHIBIT 22 RECEIVED INTO EVIDENCE)

MS. GARCIA: And we have Defense Exhibit GG, which is a letter from the Kipperson (phonetic) law firm --

MR. SWEETAPPLE: Hearsay.

MS. GARCIA: -- to Ms. Patwell and Mr. Bennett terminating Mrs. Sahm. I'm sorry, terminating -- or attempting, I should say, to terminate Amber Patwell, August 1st, 2023. And the attorney is present here for the --

MS. LEWIS: I didn't write that letter.

MS. GARCIA: Is Mr. Revard present?

MR. SWEETAPPLE: Pardon?

MS. GARCIA: Is Mr. Revard present?

MR. SWEETAPPLE: He's not present here, no.

MS. GARCIA: Is he on Zoom?

MR. SWEETAPPLE: I haven't looked. Is Mr.

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Revard on Zoom? Just give me one second.

THE COURT: Sure.

MR. SWEETAPPLE: We're going to object to hearsay, Your Honor.

THE COURT: Ms. Garcia?

MS. GARCIA: I would move it in Your Honor, not for the truth of the matter asserted, for the fact that this letter was sent.

THE COURT: It does appear to be words of operative legal effect, seeking to terminate an attorney-client relationship. So I'm going to receive it over objection as Defense Exhibit 24 or 3?

THE CLERK: 23.

THE COURT: 23.

THE CLERK: 23.

(DEFENSE EXHIBIT 23 RECEIVED INTO EVIDENCE)

MS. GARCIA: The next one is Defense Exhibit HH, which is a filing, which they stipulated to, as far as a record in the estate case of Walter Sahm. This is the statement regarding creditors.

THE COURT: What about all this handwritten --

MS. GARCIA: And the handwriting is my notes, which I will testify to those notes as far as that was from my conversations with Mr. Raymond when we

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were settling the case. We were going over the estate's rights, and I -- I'll testify to the relevance of it during my testimony.

MR. SWEETAPPLE: First of all, number 3 says there's something attached, a list of creditors. And I don't see anything attached to this. Second of all, I don't see how this is relevant. The estate has no claim in this case. The estate has never had a claim in this case.

THE COURT: In an abundance of caution over your objection, I'm going to receive it into evidence as Defense Exhibit number 24.

(DEFENSE EXHIBIT 24 RECEIVED INTO EVIDENCE)

MS. GARCIA: II, Your Honor. It's a -- Ms. Patwell's response to the Guardian's Request for Production that was delivered to us in the guardianship case.

MR. SWEETAPPLE: Your Honor, this wasn't filed with the Court and it's hearsay.

MS. GARCIA: This is all the documents that they requested to be produced by Ms. Patwell, and this goes to the mental impressions of her and I's negotiations and what she produced to the Court. It's very relevant to the issues of fact, as far as communications by Ms. Patwell. It's got the mental

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impressions that Judge Burton had read to the Court.

MR. SWEETAPPLE: Well, I have the right to cross-examine Ms. Patwell about her findings and mental impressions, and everything else. That's why we have a hearsay rule.

THE COURT: All right. This does appear to be classical hearsay. So at this time I'm going to sustain the objection on a hearsay basis, subject to you seeking to admit it some other way, but it's hearsay right now.

For identification only.

MS. GARCIA: This is JJ, Your Honor. This is the --

MR. SWEETAPPLE: No objection.

MS. GARCIA: This actually would probably really tie in --

THE COURT: It doesn't sound like there's an objection, so what is it?

MS. GARCIA: Okay. This is the actual executed Stipulation of Substitution of Counsel where I had already moved into evidence the one signed by Patricia Sahm. This is a fully executed and filed Stipulation. And it also has the proof of the delivery --

THE COURT: And the order?

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MS. GARCIA: Yeah. And then the Order substituting, Ms. Patwell in as the attorney for Ms. Sahm.

THE COURT: It will be received into evidence as Defense Exhibit 24.

THE CLERK: 25.

THE COURT: 25.

(DEFENSE EXHIBIT 25 RECEIVED INTO EVIDENCE)

MS. GARCIA: Defendant's Exhibit KK, which is Mrs. Patwell's agreement. It's a hearsay exception under the legal rule, and this is executed by Mrs. Patwell, Ms. Sahm, dated May 1st, 2023. It's been provided to the Court in the mental health case in your discovery. And it is an exception to the hearsay rule.

MR. SWEETAPPLE: You've already determined that the retainer agreements are exception.

THE COURT: I'm going to receive it into evidence. Is there an objection?

MR. SWEETAPPLE: Pardon?

THE COURT: Is there an objection?

MR. SWEETAPPLE: Object to hearsay.

THE COURT: I'll receive it into evidence over objection as --

MR. SWEETAPPLE: I think correctly made a --

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THE COURT: Defense 26.

(DEFENSE EXHIBIT 26 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: -- so I'll make a record, but --

THE COURT: Just asking.

MR. SWEETAPPLE: I don't think I'd go any further than that.

THE COURT: Just asking.

MS. GARCIA: I think we've already moved the settlement agreement -- the fully executed settlement agreement in. And let me see something.

MR. SWEETAPPLE: And did you put X in the --

MS. GARCIA: B. No, this is a --

THE COURT: I have it as --

MS. GARCIA: I think it's Exhibit 6.

THE COURT: 6?

MS. GARCIA: Defense Exhibit 6.

MR. SWEETAPPLE: Is this the settlement agreement from March?

THE COURT: Yes, I have it as 6 -- Exhibit 6 entered in on August 12th.

MS. GARCIA: Okay. I didn't know if you need a copy. Do you have a copy from last time?

THE COURT: The -- I'm not sure.

MR. SWEETAPPLE: Which date? Which one is

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this? May or --

MS. GARCIA: The May 22nd agreement.

MR. SWEETAPPLE: Okay.

MS. GARCIA: So it's already in evidence.

MR. SWEETAPPLE: And then you had a copy of the prior agreement signed by your clients?

MS. GARCIA: Yeah, I'm not using it.

MR. SWEETAPPLE: Okay. Well, I want -- Your Honor, she has -- she produced at deposition a document that I put into evidence that she stipulated to. She did not give me the copy that was signed by her clients. Her client signed a settlement agreement referencing that Mrs. Sahm was incapacitated repeatedly.

So I do ask that she produce here the complete document, not the one she gave me at the deposition.

THE COURT: Do you have that document?

MR. SWEETAPPLE: Ms. Garcia?

THE COURT: Ms. Garcia?

MS. GARCIA: Excuse me?

THE COURT: Do you have that document, Ms. Garcia?

MS. GARCIA: I do, Your Honor, but I don't intend on using it.

THE COURT: Right. But wasn't it ordered to be

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turned over and it wasn't turned over? So shouldn't it have been turned over?

MS. GARCIA: Well, it was turned over --

MR. SWEETAPPLE: Not with the signatures.

MS. GARCIA: -- at the depositions.

MR. SWEETAPPLE: Not with the signatures. I put in evidence what I was given by her, and I don't have one with the signatures.

THE COURT: Do you have one with the signatures?

MS. GARCIA: Yes. He said it was hearsay when I showed it to him earlier.

MR. SWEETAPPLE: No, I said I want --

MS. GARCIA: This is --

MR. SWEETAPPLE: -- I --

MS. GARCIA: -- it's marked as Exhibit X.

THE COURT: You don't have to enter it as evidence, but it -- but --

MR. SWEETAPPLE: I --

THE COURT: -- he's entitled to it, and he may want me to receive it in as evidence --

MS. GARCIA: Okay.

THE COURT: It sounds like it does, so --

MR. SWEETAPPLE: I'm going to substitute this and when I was presented with this, I said, I want

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to substitute this for what's in evidence. I did not object to hearsay.

So this is a settlement agreement signed by the Bernstein side on March 11th, and it is being substituted for which --

THE CLERK: Plaintiff's 5.

MR. SWEETAPPLE: Plaintiff's 5, Judge. Or it can be in addition, but this is the executed copy.

THE COURT: Ms. Garcia, what's your position with respect to -- I guess, do you have the same position that you did when they moved Plaintiff's 5?

MS. GARCIA: I'm sorry, Your Honor?

THE COURT: Do you have the same position that you did when they moved Plaintiff's Exhibit number 5 into evidence, or any additional --

MS. GARCIA: Let me see. Plaintiff's 5 was not accepted, and I don't see it anywhere.

THE CLERK: It was not objected to.

MS. GARCIA: There is no Plaintiff's 5. So --

THE COURT: Madam Clerk's indicating it was received without objection. Do you have the date, Madam Clerk?

THE CLERK: At 11:09, it was --

THE COURT: At 11:09 today?

THE CLERK: Oh --

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THE COURT: I know it'd be -- we --

THE CLERK: At 11 --

THE COURT: We --

THE CLERK: I'm sorry. 11:10 it was admitted.

THE COURT: I know we've been working hard, but apparently it was admitted at 11:10.

MS. GARCIA: I'm sorry?

THE COURT: I have -- this is -- yes. Sorry. Right here.

THE CLERK: Yes. Do you want to -- do you want --

THE COURT: Yeah. It's this one. This is how it starts.

MR. SWEETAPPLE: Yes. That was a transmission --

THE COURT: So do you have any additional objections to this signed?

MS. GARCIA: No, Your Honor. So what numbers? And I apologize for --

THE COURT: I -- I'm going to receive -- I'm not going to substitute it. I'm going to receive it in evidence as -- what's Plaintiff up to?

THE CLERK: I believe the next one would be 12.

THE COURT: 12. I'm going to receive this one, the signed one, as Plaintiff's Exhibit number 12.

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(PLAINTIFF EXHIBIT 12 RECEIVED INTO EVIDENCE)

MS. GARCIA: Is there an ID number or just Exhibit 12?

THE COURT: Exhibit number 12. ID 12, Exhibit 12.

MS. GARCIA: And just before we do that, Your Honor --

What'd I do with this file? Of there it is. It's that one. Okay. What was Plaintiff's 11? I don't see an 11 in the order.

THE CLERK: 9-22-23, the order.

MS. GARCIA: I have that as 10. 5, 6, 7, 8, 9, 10.

THE CLERK: That was another order.

THE COURT: 10 was another order.

MS. GARCIA: An Order Appointing a Limited Guardian is 9, and an Order Granting -- number 9 was a Notice of Appearance and a Joinder. One second. Number 9, Plaintiff, Notice of Appearance and Joinder and Objection filed by the Alleged Incapacitated Person. Plaintiff 9. It was the objection, right --

MR. SWEETAPPLE: Yes.

MS. GARCIA: -- to the examination committee.

THE CLERK: That's 8.

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MS. GARCIA: 8. 9 is a Notice of Appearance and Tenancy Order, 11 and 12. Okay.

THE COURT: Madam Clerk, you don't have to apologize. You're fine.

THE CLERK: Okay. Thank you.

MS. GARCIA: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MR. SWEETAPPLE: Your Honor, I do have the Sunbiz report moved in as 13 --

THE COURT: All right.

MR. SWEETAPPLE: -- if Counsel wants to take a look at it. Are you finished? I'm sorry.

MS. GARCIA: No.

MR. SWEETAPPLE: Oh, I thought you were finished.

MS. GARCIA: No. Two more. Okay. We'll read that as one. And then -- wait, I'm sorry.

Okay. That's a -- that's in reverse order. I could put it in the right order for you. The pages weren't in the right order.

MR. SWEETAPPLE: Thank you.

MS. GARCIA: Okay. This is Defense MM for identification. These are the text messages between me and Mrs. Patwell that were produced for the relevant time frame of May 1st, 2023 and May 22nd,

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2023.

MR. SWEETAPPLE: Object to hearsay on anything that Ms. Garcia wrote. She can certainly authenticate and testify to it in court.

THE COURT: All right. Ms. Garcia?

MS. GARCIA: I guess the same objection as last time. This is a business record. This is my statements. It's also a business record and it's a statement of previously existing state of mind.

THE COURT: I'm going to sustain the objection as to hearsay. So those will be marked for identification purposes as MM.

MS. GARCIA: That's it for now, Your Honor.

MR. SWEETAPPLE: And Your Honor, Ms. Garcia --

MS. GARCIA: Yes.

MR. SWEETAPPLE: -- if you want to take a look at this, I do have the current Sunbiz filing showing dissolution as of September 27th, 2024.

MS. GARCIA: Do you have a copy for me and a copy for the Court?

MR. SWEETAPPLE: I can print it out.

MS. GARCIA: Yeah, print it. Uh-huh. Okay, so this is --

MR. SWEETAPPLE: I think this is --

THE COURT: Plaintiff's 13 --

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MR. SWEETAPPLE: -- Plaintiff's 13, Your Honor.

THE COURT: Any issues with the -- Plaintiff's 13?

MS. GARCIA: No, Your Honor.

THE COURT: Received by stipulation of the parties as Plaintiff's Exhibit number 13.

(PLAINTIFF EXHIBIT 13 RECEIVED INTO EVIDENCE)

MS. GARCIA: Can I --

Thank you for your patience, Your Honor.

THE COURT: No problem. Do you have additional documents that you need to admit?

MS. GARCIA: I'm sorry?

THE COURT: Do you have any additional documents that you need to admit?

MS. GARCIA: Not at the moment, no, Your Honor.

THE COURT: All right. So we have your witness that's set to go?

MR. SWEETAPPLE: Yeah, we're discussing whether or not we can save time by just calling Dr. Bloom since she stipulated, Dr. Cheshire. I don't know if she'd stipulate to Dr. Bloom or not. We put it in just for judicial notice at the prior hearing.

THE COURT: I don't --

MR. SWEETAPPLE: Do you have any objection to Dr. Bloom's report coming in?

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MS. GARCIA: Yes, I definitely would like to cross-examine Dr. Bloom.

THE COURT: Okay. Is -- can -- is Dr. Bloom available at 1:30?

MR. SWEETAPPLE: 1:30.

THE COURT: All right. So do you want to take a 15-minute break and then we'll get back together at 1:30 and we'll pick up with your defense witness?

MR. SWEETAPPLE: What I'd like to do is have an hour-long lunch during 15 minutes and that isn't going to happen.

THE COURT: Well, what I'd like to do is after that witness, do you have any other witnesses or evidence that --

MR. SWEETAPPLE: I'm discussing with Ms. Lewis, just trying to save time, because --

THE COURT: Sure.

MR. SWEETAPPLE: -- I want to get through this today. So I may not call Dr. Cheshire. She has a --

THE COURT: Okay.

MR. SWEETAPPLE: -- court reporter --

THE COURT: That's fine. So you have one, possibly two, other witnesses. Anything other than the two doctors?

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MR. SWEETAPPLE: I -- if Mr. Bernstein does not show up, I'm going to read three snippets from his party deposition.

THE COURT: Okay. And then Ms. Garcia, how many witnesses?

MS. GARCIA: That would, of course, would be improper without proper presentation.

THE COURT: I'm -- how many witnesses do you intend to call?

MS. GARCIA: Depending what happens with Dr. Bloom, one or two.

THE COURT: Okay.

So what I'll do is -- we'll take 15. We'll get your one witness on. If you decide whether or not you're going to call Dr. Cheshire, then maybe we'll do both of them and then we'll break. I'll give you guys an hour for lunch. And then I'll let Ms. Garcia make her motion and call her witnesses, depending on my ruling on her motion. And then we should have all of the evidence in so that this portion is -- can be submitted to the Court. Sound good?

MR. SWEETAPPLE: Yeah. Except I will read the party deposition for less than 60 seconds.

THE COURT: We will -- we'll take that -- we'll

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take that up at the appropriate time.

MR. SWEETAPPLE: Okay.

THE COURT: All right. I'll be back in -- I guess now it's ten minutes.

MR. SWEETAPPLE: Thank you.

MS. GARCIA: Thank you, Your Honor.

THE COURT: Thank you.

(OFF THE RECORD)

THE BAILIFF: Come to order, Court's back in session.

THE COURT: Everybody can be seated.

Well, it looks like everybody's back. Mr. Sweetapple, let me turn it over to you to call your next witness.

MR. SWEETAPPLE: Thank you, Your Honor. May it please the Court, before I do, I ask if Ms. Lewis can assist us here. I am led to believe that this mental health report --

UNIDENTIFIED SPEAKER: I'll call you back. I just got a call from a court. I'll call you back. Bye.

MR. SWEETAPPLE: This report would need to be under seal and also that no one other than the doctor can be observing this presentation. So I'll let Ms. Lewis address that. I'm not an expert in

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guardianship or mental health.

MS. LEWIS: Your Honor, there -- generally mental health reports, any reports that are offered by the committee members are filed under seal. They're not publicly accessible.

There was an incident in the guardianship and mental health matter where somebody, we still don't know who, obtained copies of the original committee reports and gave them to a member of the press, which did a story about Mrs. Sahm and showed copies of her confidential medical committee reports on -- I think it was CBS12.

So we have a concern that if there are public observers on the Zoom, because we have no idea who leaked those reports, although some of the people that are on the Zoom today are people who have attempted to intervene in the guardianship and mental health, that they would take that testimony and go back to the press. Because this is information that would be confidential in a guardianship and involve very sensitive information, I believe that Mr. Sweetapple's going to ask the Court to dismiss the observers from the Zoom during Dr. Bloom's testimony.

THE COURT: All right.

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MR. SWEETAPPLE: That is correct. I am making that request based on --

THE COURT: Ms. Garcia?

MS. GARCIA: I'm going to object to that. This is an open and public courtroom. They're the ones that are bringing this issue up. They want you to make a determination of someone's capacity at a certain date and time based on the testimony of a committee member. So I firmly believe this is open. They're the ones that brought it out into the open. They're the ones that have moved this into evidence.

THE COURT: I guess my -- while the guardianship proceedings are -- certainly have a different level of privacy, this is a foreclosure action. So I guess what authority do I have to prohibit the public from having access to the Court? Is there a statute or anything that says that -- because let's say, for example, this was a car crash and it was a loss of consortium claim, or there was testimony about a traumatic brain injury or something like that, where -- it would be the same issues. It would still be a public Courtroom. I wouldn't be able to deny the public access.

MS. GARCIA: So candidly, Your Honor, the only statute that I'm aware of is --

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MS. HOGUE: Your Honor, may I speak?

THE COURT: Are you a counsel of record?

MS. GARCIA: She's not, Your Honor.

MS. HOGUE: No, I'm not --

MS. GARCIA: She's a --

MS. HOGUE: I -- my name is Ms. Hogue. I'm a member of the Guardianship Improvement Task Force. And if I could just say, nothing about any of the --

MR. SWEETAPPLE: I object. I object, Your Honor, I object --

MS. HOGUE: Well --

MR. SWEETAPPLE: -- to someone who's not counsel.

THE COURT: Hang on.

MS. HOGUE: -- even in --

THE COURT: Hang on.

MS. HOGUE: -- even in probate hearings, there's a statute and it says a closed probate hearing is forbidden. The only person -- it's Rule 5.540, Hearings. And it specifically says, "An election to close the hearing may be made before the hearing by filing a written notice." And the only person that can close it is that person who's been adjudicated incapacitated.

So even if this was a probate --

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THE COURT: Okay.

MS. HOGUE: -- proceeding, hearings are open.

THE COURT: Okay.

MS. HOGUE: So I'll put myself on mute, and thank you, Your Honor.

THE COURT: Thank you, ma'am. I just -- I don't see -- I don't see any legal basis for -- to close a circuit civil proceeding that is not a probate action. It's not a guardianship action.

MR. SWEETAPPLE: And what about sealing the reports that are in evidence?

THE COURT: If the reports that are in evidence are reports from the proceedings, then I think there is a basis to seal that evidence because it's evidence that is -- that comes from a closed proceeding. So I would -- I would order that those be sealed pending further order of the Court. But as far as the testimony, I'm not going to -- I'm not going to dismiss the observers.

MR. SWEETAPPLE: Understood.

MS. LEWIS: And that -- so that would just apply to the Dr. Brennan Cheshire report that's in evidence. Okay?

THE COURT: Got you. You --

MR. SWEETAPPLE: May I proceed?

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THE COURT: Sure.

MR. SWEETAPPLE: Thank you, Your Honor.

THE COURT: Who are you calling?

MR. SWEETAPPLE: I'm calling Dr. Bloom.

THE COURT: Dr. Bloom? Dr. Bloom, would you raise your right hand for me?

Dr. Bloom, can you hear me?

Dr. Bloom, can you hear me?

MR. SWEETAPPLE: Is he on mute?

THE COURT: He's not on mute. He's not responding. Dr. Bloom?

He can't hear. Is he connected to audio? It looks like he's connected to audio. Let's see if I mute him and ask him to unmute himself. Let's see if that works.

Dr. Bloom, can you hear us?

Perhaps if he disconnects and reconnects, and then -- can someone communicate with him to ask him to disconnect and reconnect?

MS. GARCIA: Uh-huh.

THE COURT: Mr. Bloom, can you hear us -- or Dr. Bloom, can you hear us?

MR. SWEETAPPLE: I can write a note and put it on the screen.

THE COURT: It comes up reversed.

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MR. SWEETAPPLE: Does it?

THE COURT: Learned that the hard way.

MR. SWEETAPPLE: You've done -- we've done that before.

THE COURT: I can try to send him in a chat. Dr. Bloom, can you please try to reconnect?

You may need to turn up the speakers on his computer.

Does anybody have Dr. Bloom's phone number to call him?

MR. SWEETAPPLE: Ms. Lewis, are you trying to call him?

MS. LEWIS: Yeah, he -- I'm assuming he's not answering because he's on his Zoom. Let me see if I can --

MR. SWEETAPPLE: I see the screen coming on.

THE COURT: That's why I think perhaps his speakers are just --

MR. SWEETAPPLE: All right.

THE COURT: -- not --

MR. SWEETAPPLE: Can we chat to him and turn up the speakers?

THE COURT: I have asked him to reconnect.

MR. SWEETAPPLE: Okay.

THE COURT: He's not responding. He's not

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doing anything.

MR. SWEETAPPLE: I hope he's not getting into trouble. Cynthia, why don't you stand in front of the camera and show him that you're calling him?

MS. MILLER: Let me --

THE WITNESS: Can you hear me?

THE COURT: Yes.

THE WITNESS: I can't hear you.

THE COURT: Oh.

MS. MILLER: I'm going to write a note --

MR. SWEETAPPLE: Can you hear me from here?

THE WITNESS: Am I -- unmute is -- I'm unmuted.

THE COURT: Right. We can hear you.

MR. SWEETAPPLE: Can you hear us now?

THE COURT: I think it's his computer speakers.

MR. SWEETAPPLE: Pardon?

THE COURT: I think it's his computer speakers. He either needs to reconnect, or --

MR. SWEETAPPLE: Okay. Let's not use --

MS. LEWIS: That's very creative, Your Honor.

THE COURT: It wasn't me.

MS. MILLER: I -- by any means necessary.

THE COURT: I like it, but it wasn't me.

MS. LEWIS: Oh, okay.

MS. MILLER: If she gave me credit, I would've

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taken it.

THE COURT: Honesty's the best policy. I'm going to use it.

MS. MILLER: I would've, yes.

THE COURT: So he's just turned his video off, though. He -- maybe -- can you tell him to give you a phone call?

MS. MILLER: Yes.

MR. SWEETAPPLE: Are you calling your office line?

MS. MILLER: I can answer it from here.

MR. SWEETAPPLE: You can? Okay.

THE COURT: I think he's reconnecting. Paging Dr. Bloom, can you hear us?

Are you able to hear us, sir?

MS. MILLER: Dr. Bloom? Hello?

THE WITNESS: Hello?

MS. MILLER: Hi, Dr. Bloom.

THE WITNESS: Hi. I'm -- I'm not hearing you. That's what I --

MS. MILLER: I don't think --

THE COURT: Yeah, that's not on mute.

THE WITNESS: I didn't see that, but I'll try it again. Okay.

THE COURT: He indicated that he would try

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again?

MR. SWEETAPPLE: What'd you have him do?

MS. MILLER: He's going to log off and then log back on.

THE COURT: Okay.

MS. MILLER: And then worst case, we should be able to actually give him a number he can call in to speak through.

THE COURT: Right.

Do you want me to step off the bench so that we can work out the AV kinks and then I'll come back once it's working? Do you want me to stare at you all while we're working our way through this?

MR. SWEETAPPLE: How about if we just see if this miraculously works before we do that?

THE COURT: Sure.

MR. SWEETAPPLE: Dr. Bloom, can you hear me?

THE COURT: It does not appear that he can hear you.

MR. SWEETAPPLE: No, it does not. So how about if we just ask the Bailiff to summon you when we're --

THE COURT: All right.

MR. SWEETAPPLE: -- working? Thank you.

Dr. Bloom. Can you hear us?

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MS. MILLER: He can't. Let me see if I can do it.

(OFF THE RECORD)

THE COURT: Dr. Bloom, can you raise your right hand for me?

MS. MILLER: He can't hear you. He has --

THE COURT: He can't hear me? I think it's because you're talking on the phone.

MS. MILLER: I can hear --

THE COURT: So what --

MS. MILLER: So you have a --

THE COURT: -- what Dr. Bloom's going to need to do is he's going to need to put his video on mute, or I can mute him. He's going to --

MR. BLOOM: I hear him now.

THE COURT: Can you hear me now?

MR. BLOOM: Yeah.

THE COURT: Okay.

Can you raise your right hand for me?

MR. BLOOM: Yes.

THE COURT: Do you swear or affirm the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE COURT: All right. You can put your hand

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down now. And Mr. Sweetapple, you may inquire.

MR. SWEETAPPLE: Thank you, Your Honor, may it please the Court.

TESTIMONY OF DR. STANLEY BLOOM

DIRECT EXAMINATION

BY MR. SWEETAPPLE:

Q. Dr. Bloom, would you please state your full name for the record?

A. Stanley Bloom.

Q. And are you a licensed medical doctor?

A. Say again, please?

Q. Are you a licensed medical doctor?

A. Yes, I am.

Q. And how long have you been licensed?

A. About 50 years.

Q. And where are you licensed?

A. In New York and New Jersey.

Q. And have you ever been appointed by a Florida Court to conduct a -- an examination of an alleged incompetent or incapacitated person?

A. Yes, I have.

Q. On how many occasions have you been so appointed?

A. Say again, please?

Q. And how many -- for how many years have you

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been appointed by Florida courts to --

A. Since -- since 2013.

Q. All right. So a dozen years?

A. Yeah.

Q. And how many examinations of alleged incapacitated persons have you conducted for the Florida courts?

A. I average about 150 to 200 a year. About a thousand.

Q. All right. And do you have your records in front of you regarding an examination you conducted on May 5th --

A. Yes, I do.

Q. -- '23 of Patricia Sahm. You have that?

A. Yes, I do.

Q. All right. And can you tell the Court what you did on that date?

A. Say again, please?

Q. Can you tell the Court what you did on that date?

A. I did -- I interviewed the alleged incapacitated person.

Q. All right. And how long did you spend --

A. It was a year ago, I couldn't tell you.

Q. All right. And that -- I -- that was on Zoom,

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was it not?

A. Uh-huh.

Q. All right. And do you -- do you remember your mental diagnosis of her, or would you need to review your records?

MS. GARCIA: Objection to foundation.

THE WITNESS: No, I remember. I thought she had dementia. Probably Alzheimer's type.

MR. SWEETAPPLE: All right.

MS. GARCIA: Objection to foundation.

THE COURT: What part of the foundation is lacking?

THE WITNESS: Pardon?

THE COURT: There was an objection, and I asked --

MS. GARCIA: Well --

THE COURT: -- for clarification on the objection.

MS. GARCIA: Qualifications specifically in this case. As far as appointment, was he even appointed?

THE COURT: Overruled.

BY MR. SWEETAPPLE:

Q. Were you appointed by Judge Burton to conduct an examination of Patricia Sahm?

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A. I did. Are you talking to me?
Q. Yes, sir. Were you appointed by Judge Burton to conduct this examination of Mrs. Sahm?
A. Yes, I was.
Q. All right. And under mental diagnosis, what did you conclude?
A. I concluded that she had dementia. She had a loss of long and short term memory. She was cognitively impaired, and she was not oriented to time, place, or person.
Q. Was she clear regarding her finances?
A. No.
Q. Did she know specifics regarding her assets?
A. No.
Q. Did she know how much money she had?
A. No.
Q. Was she aware of the guardianship?
A. She didn't understand the concept.
Q. Did she remember receiving copies of the Petition?
A. I didn't ask her that specifically.
Q. Okay. And did she -- did she remember seeing her attorney?
A. I didn't -- she did not.
Q. All right. Did she know what medication she

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was taking?

A. No, she did not.

Q. Did she know who the governor or vice president is?

A. No.

Q. Could she multiply nine times seven?

A. Could she what?

Q. Multiply nine times seven.

A. No.

Q. Did she know how many quarters are in $6?

A. No.

Q. Could she subtract seven from 100 serially?

A. No.

Q. Was she aware of the pending litigation regarding this property?

A. No.

Q. And what is a M-O-C-A score?

A. Say again, please?

Q. What is an M-O-C-A score?

A. I -- I -- I'm having trouble hearing -- hearing you.

Q. I see in your report that her M-O -- MoCA score is 18 out of 30. What is that?

A. Yeah. She -- she had a MoCA score of 18.

Q. Can you explain to the Court what that is?

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What is a MoCA score?

A. That's a -- a screening test for Alzheimer's disease. I did not perform the test, but I saw the report from another examining member --

Q. Right. And --

A. -- member who had performed it.

Q. I see in your report that Stephanie Cheshire and Brennan Cheshire were present when they --

A. Yeah. She did the -- she did the examination.

Q. So you did review a MoCA score regarding her Alzheimer's?

A. Yeah, with Stephanie.

Q. Right. And what does a score of 18 out of 30 indicate?

A. It indicates there's --

MS. GARCIA: Objection. Foundation.

THE WITNESS: -- cognitive impairment. It's a screening test, but it indicates -- above -- above eight -- above 17 indicates moderately severe cognitive employment -- disability.

BY MR. SWEETAPPLE:

Q. And she had these conditions on May 5?

THE COURT: Hang on. There's an object -- hang on. There's an objection to foundation.

THE WITNESS: Did she what?

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THE COURT: There's an objection to foundation. The objection is overruled. Next question.

MR. SWEETAPPLE: Thank you.

BY MR. SWEETAPPLE:

Q. Did she have these conditions when you saw her on May 5, 2023?

A. Yes.

Q. And did you consult with Dr. Cheshire or Mrs. Cheshire regarding --

A. Yes, I did.

Q. All right. And I see that you did a functional assessment. And did you find that Ms. Sahm is able to travel alone on public transportation?

MS. GARCIA: Objection. Leading.

THE WITNESS: I did not think so.

THE COURT: Overruled.

THE WITNESS: No.

BY MR. SWEETAPPLE:

Q. Did you find that she was able to drive her own car?

A. No.

Q. Did you find she was able to shop alone for food and clothing?

A. No.

Q. Okay. Those were your findings, no?

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A. No.
Q. What did you find with regard to her ability to take her own medication?
A. I thought she did not have the ability to manage her medication.
Q. What did you find with regard to her ability to manage her own or handle her own money?
A. I thought she did not have that ability as well.
Q. All right. So you were asked in Section 6 to indicate if you thought Ms. Sahm lacked the ability to exercise the following rights:
Did you in fact find that she lacked the ability to knowingly marry?
MS. GARCIA: Objection. Leading.
THE WITNESS: Yes.
THE COURT: Overruled.
BY MR. SWEETAPPLE:
Q. And what about the contract? Did she lack the ability to contract?
A. Yes.
Q. Did she lack the ability to -- or to exercise the right to have a driver's license?
A. Yes.
Q. And to travel?

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A. Yes.
Q. Did she lack the right to seek employment?
A. Yes.
Q. And to determine her own residence?
A. Yes.
Q. Did she lack the ability to consent to medical treatment?
A. Yes.
Q. Did she lack the ability to apply for government benefits?
A. Yes.
Q. Did she lack the ability to sue or be sued?
A. Yes.
Q. And what about manage or dispose of her property?
A. Yes, lacked the ability.
Q. All right. And did you sign a report for the Court on May 5th, 2023?
A. Yes.
Q. All right.
MR. SWEETAPPLE: And I can show him a copy on the screen if needed, Judge, to see -- have him authenticate it. Is that necessary?
THE COURT: Are you seeking to enter it into evidence?

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MR. SWEETAPPLE: Yes.

THE COURT: How would it not be hearsay?

MR. SWEETAPPLE: Pardon?

THE COURT: How would it not be hearsay?

MR. SWEETAPPLE: All right, so I'm not -- I won't move it in.

BY MR. SWEETAPPLE:

Q. So you did issue a report, correct?

A. Correct.

Q. And provided it to Judge Burton?

MS. GARCIA: Objection. Leading.

THE COURT: Overruled.

THE WITNESS: Say again?

BY MR. SWEETAPPLE:

Q. You did issue a report and provide it to Judge Burton?

A. Yes.

Q. Were you asked to testify in any proceeding?

A. Yes.

Q. All right. And did you give testimony consistent with that testimony you've given today?

A. I did what?

Q. Did you give testimony in the proceeding before Judge Burton consistent with the proceeding -- with the testimony you gave today?

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A. You -- you're breaking up. I'm sorry.

Q. My -- I apologize. Did you give testimony in the proceeding before Judge Burton that is consistent -- was consistent with that testimony you gave here today?

A. Yes.

Q. All right. And these conditions that you have described here, could they have just occurred the day before the meeting or the week before your examination?

MS. GARCIA: Objection. Calls for speculation and foundation.

THE WITNESS: No.

THE COURT: Overruled.

THE WITNESS: Unlikely.

BY MR. SWEETAPPLE:

Q. All right. How long do you believe these conditions were present?

A. Well, Alzheimer's disease is a slowly progressive irreversible disease that occurs over time, and it's not an acute disease.

Q. And so over how long of a period do you believe she's progressed to this stage?

MS. GARCIA: Objection. Calls for speculation.

THE WITNESS: It's hard to say. It could -- it's been presumably some time, but I can't say when it began.

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THE COURT: With respect to the speculation objections, the doctor has testified -- he's a licensed doctor for approximately 50 years in two states. He's testified that he has, for the past 12 years, been appointed to inspect incapacitated persons. He's inspected approximately 1,000 individuals in total. I find that he has established that he's qualified to render an opinion, so I'm overruling the speculation objection.

BY MR. SWEETAPPLE:

Q. Based on a MoCA score of 18 out of 30, is -- has this been an acute case of Alzheimer and dementia?

A. That test is -- does not distinguish acute -- acute versus anything. It's just a screening test for cognitive ability.

Q. All right. And you don't rely on that exclusively, do you?

A. Huh?

Q. You do not rely on the MoCA test exclusively. You interview the patient, correct?

A. I'm sorry, you're breaking up again. I'm sorry.

Q. I take it you do not rely on the MoCA screening test alone. You do a detailed interview of

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the patient, correct?

A. I don't rely exclusively on this free test to render my opinion.

MR. SWEETAPPLE: If I could have one moment, Your Honor?

THE COURT: You may.

MR. SWEETAPPLE: Thank you, Doctor. I have no further questions at this time.

THE COURT: All right. Cross-examination.

THE WITNESS: Thank you.

THE COURT: Ms. Garcia, it might help if you -- if you're by that microphone. I think his audio is coming from that phone.

MS. GARCIA: By the phone?

THE COURT: Yeah.

CROSS-EXAMINATION

BY MS. GARCIA:

Q. Good afternoon, Dr. Bloom.

A. Good afternoon.

Q. Nice to meet you, sir. When asked a question on direct about your report and your findings, you testified that you found that Ms. Sahm had dementia, correct?

A. Can you lower the microphone? Maybe I can hear you better. Not that low.

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Q. I'm short.

A. Ah. Okay.

Q. On direct, you testified that your report made a finding that Ms. Sahm had dementia, correct?

A. I'm really sorry. You're breaking up. On the report what?

THE COURT: You testified that Ms. Sahm had dementia.

MS. MILLER: Maybe try speaking into the phone.

BY MS. GARCIA:

Q. In -- when you were asked a question about your findings, isn't it true that you testified that your report stated that Ms. Sahm had dementia?

MR. SWEETAPPLE: Objection.

THE WITNESS: Did my report state it in the report? I'd have to read the report to see if it was stated there.

BY MS. GARCIA:

Q. Do you have the --

A. I can't tell you off -- off the top of my head.

Q. Do you have the report in front of you, sir?

A. Yes, I do.

Q. Could you please refer to your report, Page 1?

A. Which report do you want? The 23rd? The year

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-- the first one or the second one?

Q. The first one, Your Honor. I'm sorry. The first one, Dr. Bloom.

A. I don't have the third one. I have a first and second one.

THE COURT: She said the first one.

BY MS. GARCIA:

Q. The report dated that you are -- that the attorney had read the statements off the report to you, and you were confirming what he was saying. Your report dated May 5th, 2023.

A. Yeah, that's good. I can hear you now.

Q. Okay.

A. Yeah. What about it?

Q. Isn't it true that on direct you testified that your report stated that Ms. Sahm had dementia?

A. No. Here I -- I testified that I believe she had dementia. I didn't testify the report had dementia.

Q. Isn't it true that in your report, you only stated she had long-term or short-term memory?

A. She has a loss of long- and short-term memory, correct.

Q. How long -- first of all, how did you appear at this --

A. How do I --

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Q. -- evaluation? Were you there in person or on Zoom?

A. How do I -- I'm sorry?

Q. How were you there to analyze or to evaluate Ms. Sahm?

A. I interviewed her.

Q. Did you do it in person or on Zoom?

A. I believe I did it on Zoom. My memory is a little vague on it. It's a long time ago, but I believe I did it on Zoom.

Q. And when you did this review of Ms. Sahm, was Stephanie Cheshire and Brennan Cheshire present at that --

A. You know, I -- I did two exams on her and they're over a year ago. And I know I did one remotely. And I know I recall, at least in one of them, that Stephanie Cheshire was there. But I can't tell you which one or, you know, when -- when they were there. It's too long ago.

Q. Isn't it true that these reports and these evaluations are supposed to be done independently of the other committee members by law?

A. When we were trained -- when we were trained, we were encouraged to review our reports with other members of the examining committee.

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Q. But you can't rely on their findings?
A. I -- I do not rely on their findings.
Q. But you relied on the MoCA test score of 18 out of 30, correct?
A. I rely on my interview, any medical information that I receive, any discussions I have with members of the examining committee, the medical, past history, the psychiatric report, which I have access to, and any other information that is made available to me. I do not rely on any one specific thing.
Q. Didn't you testify on your direct examination that a MoCA score of 18 was --
A. Can you talk directly into the microphone? Can you get real close? I can't hear you.
Q. On -- in your direct testimony, am I correct when I --
A. Say again?
Q. -- in your direct testimony, you testified that a MoCA score of 18 is an acute cognitive deficiency, correct?
A. Incorrect. I did not say acute.
Q. So when the attorney told you it was acute and you said, yes, that's not true, that an 18 is actually a mild cognitive impairment function?
A. She had -- it indicates that there is

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significant cognitive impairment. That's what I stated. And that's what I mean.

Q. So who conducted the MoCA test in this -- out of the three of you?

A. Stephanie Cheshire. Stephanie Cheshire.

Q. And you were aware that she doesn't have the ability to conduct MoCA tests legally, she doesn't have the training or certificate?

MR. SWEETAPPLE: Objection. Predicate.

THE WITNESS: That's not true because I've done other cases with her and in fact she is trained to do it.

THE COURT: Overruled.

BY MS. GARCIA:

Q. You said Stephanie is the one that conducted it. Mrs. Stephanie Cheshire, correct?

A. You have to get close to the microphone again, please.

Q. Did you -- did you state that [redacted] is the person that conducted the MoCA test?

A. Stephanie Cheshire is the person that performed the test, correct.

Q. And is Stephanie Cheshire the social worker?

A. I believe she is, but I -- I'm not intimately familiar with her credentials. I'm sure they -- they're

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available to you if you wish to see them.

Q. Are you aware that Stephanie Cheshire allowed her social worker status to expire and she's still conducting MoCA tests illegally?

MR. SWEETAPPLE: Objection. Predicate.

THE COURT: Sustained.

THE WITNESS: I don't know if that's factual or not. I can't tell you.

THE COURT: Speculation. And he doesn't know. Next question.

BY MS. GARCIA:

Q. How long were you on the Zoom when you conducted this evaluation?

A. How long was I? Say it again.

Q. How long were you on Zoom when you conducted this evaluation of Ms. Sahm?

A. How long did it -- the time I conducted the evaluation? I can't tell you. It's over a year ago.

Q. When you testified on direct that you didn't ask Ms. Sahm if she remembered receiving copies of the petition, is that true or is your report true?

A. I have a -- I didn't hear the question completely, but I have a copy of the petition if that's what you're asking.

Q. On direct you testified that you did not ask

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Ms. Sahm if she remembered receiving copies of the petition, but your --

A. I didn't ask who?

Q. Mrs. Sahm. The --

A. Oh. Oh, I hear what you're saying. Yeah, she -- she apparently did not remember. Right.

Q. Why is your testimony inconsistent with your report?

A. I don't think it's inconsistent. If you point out the inconsistency to me, I'll try to clarify it for you.

Q. On direct you testified that you did not ask her about receiving a petition. However, in your report, you state that she doesn't remember receiving the petition. Which statement is true?

A. I stated what?

Q. Let's go -- I'm going to move on. Let's go to Page 2 of your report, sir.

A. Which report are we looking at, '23 or '24?

Q. '23.

A. May? The May report?

Q. Yes.

A. Okay. And what do you want to know?

Q. Page -- can you please look at Page 2? Look at

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4.0.

A. Page 2, 4.0?

Q. Yes.

A. Right.

Q. Isn't it true that your recommended course of treatment was that the AIP is in good physical health, and she can continue to live independently?

A. Right. That's what I wrote.

Q. Where in this report does it say she has Alzheimer's or severe mental cognitive issues?

A. I'd have to look at the report whether it says it or not, but that's indeed what she has.

Q. Is that based on your May or on your second report that wasn't used in court?

A. Say again, please?

Q. I'll move on. Can you please look at point -- 5.0, functional assessment, on your report. It's on Page 2.

A. You're saying -- you -- item 3? Is that what you're asking me about?

Q. Item 5.0, functional --

A. Yeah.

Q. -- assessment.

A. Yeah. Yeah, okay. Go ahead.

Q. Are you aware of Florida Statute 744.102 that

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discusses what determines whether an AIP is incapacitated or not?

MR. SWEETAPPLE: Form. Calls for a legal conclusion --

THE WITNESS: I couldn't cite it.

MR. SWEETAPPLE: -- he's not here as a legal expert.

THE WITNESS: I couldn't review or state what that says specifically. If you want to read it to me, I will tell you whether of I'm aware of it or not.

BY MS. GARCIA:

Q. Okay. Are you aware --

THE COURT: Hang on. There's an objection. Overruled based on the question and answer.

BY MS. GARCIA:

Q. Are you aware that to find someone incapacitated, you need to consider their healthcare of themselves, their ability to feed themselves, their appearance, and their ability to clothe themselves?

A. I've done over 1,000 evaluations. I'm quite aware of the requirements that -- that you need to determine whether a person is incapacitated. And based on the evaluation I did, I rendered an opinion that indeed she is incapacitated.

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Q. Okay. So let's look at Section 5.0. Isn't it true that you found that she can shop alone for clothing and food? You have a Y next to it.

MR. SWEETAPPLE: Your Honor, this calls for a legal conclusion. Judge Burton made a legal conclusion based on the statute --

THE WITNESS: That's a typo. It's no. It's Y, no.

THE COURT: Overruled.

THE WITNESS: The Y is a typo.

BY MS. GARCIA:

Q. Isn't it true on the next line you said that she, Mrs. Sahm, can prepare her own meals, correct?

A. I have to look at the report because I certainly don't remember.

Q. Look at Page 2, 5.0, functional assessment.

A. Yes. Yeah.

Q. She --

A. Yes, she can prepare her own meals.

Q. And if you go to the next page.

A. Yes.

Q. It's the fifth one down. Isn't it true you found that Ms. Sahm could take care of her own personal appearance?

A. Yes.

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Q. And isn't it true you found Ms. Sahm could socialize with her friends?

A. Yes.

Q. Isn't it also true that Florida has denied you receiving your license to be a doctor here since 1984?

A. The Court has denied me what?

Q. The Florida Department of Health, where doctors are licensed in the state, you have been rejected to be a doctor in the state since 1984; isn't that true?

A. No.

Q. You've applied to be a doctor in Florida and were denied, correct?

A. Did I what?

Q. You applied to be a licensed physician or a gynecologist, I think, in Florida?

A. I'm not a gynecologist. I'm not a gynecologist. I'm a urologist.

Q. Urologist. Okay.

A. And I did not apply for a license in the state of Florida.

Q. Ever?

A. Ever.

Q. Are you aware that I did a 119 request for your application here and with the Department of Florida

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and there's proof --

A. Am I aware --

Q. -- that you were denied being a doctor in the state?

A. Am I aware of the allegation? No, I'm not aware of the allegation.

Q. Are you aware that when --

MR. SWEETAPPLE: Your Honor, I move to strike the question and answer. There's no predicate for any of this.

THE COURT: Overruled.

BY MS. GARCIA:

Q. Are you aware that there was -- there's a relationship, a legal relationship, between the other two committee members, Dr. Stephanie Cheshire and Brennan Cheshire, and that's against the laws --

MR. SWEETAPPLE: Objection.

BY MS. GARCIA:

Q. -- for committee members?

THE COURT: I'm going to sustain the objection. It calls for --

THE WITNESS: I have no knowledge of what the rules are, nor is it relevant to what I do.

THE COURT: But I'll allow his answer to stand.

BY MS. GARCIA:

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Q. You testified on direct that you gave testimony in front of Judge Burton in relation to this finding, correct?

A. Yeah, I believe I did. I believe I did, yeah, but my memory is vague on it.

Q. Isn't it true that you actually did not testify in Judge Burton because the parties --

A. It's quite possible. It's quite possible. All of this happened over a year ago and I'm not sure of times and dates, and who I testified in front of and who I didn't testify in front of. So it's possible I'm incorrect. I don't know.

Q. So your last statement wasn't true, then?

MR. SWEETAPPLE: Objection. Argumentative.

THE WITNESS: Same answer.

THE COURT: Overruled.

BY MS. GARCIA:

Q. Isn't it true that a MoCA score of 18 out of 30 only signifies a mild cognitive impairment?

A. Mild to moderate. And it's only one part of the diagnosis. There are multiple factors that you consider when making the diagnosis, one of which is the MoCA test.

Q. Isn't it true that to have a moderate cognitive impairment, the score must be between 10 and

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17, not 18 or above?

A. I beg your pardon?

Q. Isn't it true that according to the MoCA test, that to have a -- to have a moderate cognitive impairment, the score must be between 10 and 17?

A. There's a cutoff point. At 17 and 18 it's -- it's moot.

Q. Where is that in the MoCA testing protocols?

A. I'm giving you my opinion. My report is based on my opinion.

Q. And your opinion was based partially on this MoCA test, correct?

A. My opinion is based on my evaluation, the report of the neurologist, my conference with my other members of the examining committee, the medical information that's available to me, the interviews that I carry out, if I carry out any with a family member. It is not based on a MoCA test.

Q. There's nothing in your report that refers to you reviewing any medical records, sir. So did you --

A. There's nothing in my report what?

Q. There's nothing in your report that refers to you reviewing medical records. Is your testimony here --

A. Uh-huh.

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Q. -- today now that you reviewed medical records to make your decision hearsay outside medical records?

A. When medical records are available, I review them. The medical records that I have is the record from the Neurological Disorders Clinic by a neurologist who found that, "Patricia Sahm has Alzheimer's disease, is unable to make any decisions about where she will reside, lacks proper character judgment, cannot decipher general -- genuine relationships from scams or tricks. She is not able to determine who is safe to socialize with. As a result, she is unable to handle her own financial affairs or any legal contracting. If you have any questions, you can call the office." That is the report from Fernando Norono, neurologist.

Q. Date -- date, please?

A. June 26th, 2024.

Q. Okay. June 26th, 2024. You're relying on a report that's a year and two months after this to make your findings, sir?

A. As I said before, I don't rely on any one thing. I rely on all the information available to me plus my own evaluation.

Q. Which was on Zoom for a time you don't remember, a length of time you don't even remember?

A. Say again?

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MS. GARCIA: I'll withdraw that question, Your Honor.

BY MS. GARCIA:

Q. Did you read Dr. Sugar's report?

A. Did I read whose report?

Q. Dr. Sugar, who gave an opinion for the AIP's attorney. Did you read his report?

A. I don't have that. I don't have that in front of me right now.

Q. But have you read it?

A. I don't recall reading it.

Q. Are you sure?

A. I don't recall reading it.

Q. Now you talk -- you keep talking about a second report you did. Isn't it true that you -- the three committee members were removed in 2024?

A. Isn't it -- isn't it --

MR. SWEETAPPLE: Your Honor, I'm going to object.

THE WITNESS: -- isn't it true what?

MR. SWEETAPPLE: Your Honor, I'm going to object going into the next year's report and activities. Although it would be helpful in my case, it's just not relevant.

THE COURT: Overruled.

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BY MS. GARCIA:

Q. You referred to the fact that you did a second report in 2024, correct?

A. There was -- I'm sorry, I didn't hear you.

Q. You referred to the fact that you did a second report in 2024, correct?

MR. SWEETAPPLE: Your Honor, outside the scope of --

THE WITNESS: I evaluated her twice, correct.

MR. SWEETAPPLE: Outside the scope of direct.

THE COURT: Overruled.

BY MS. GARCIA:

Q. And isn't it true that that was not used by the Court, and the Court appointed three new committee members?

A. Isn't it true what?

Q. That those reports were not used in 2024 and the Court appointed three new committee members.

A. You're breaking up. Something about 2024 and 2023.

Q. Isn't it true that after you wrote the report in 2024, that they were not used because the Court appointed three new independent committee members?

A. I -- I'm not aware of that. That's -- it's possible.

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MS. GARCIA: Can I have a moment, Your Honor?

THE COURT: Sure.

MS. GARCIA: One second, Your Honor.

THE COURT: Okay.

MS. GARCIA: I have no other -- I have no other questions of this witness, Your Honor.

THE COURT: Okay. Any redirect examination, Mr. Sweetapple?

MR. SWEETAPPLE: I don't have any further questions of this witness. However, I am going to ask for leave to call Ms. Lewis for two minutes as to why the parties stipulated to --

THE COURT: May I dismiss -- Dr. Bloom?

MR. SWEETAPPLE: Yes, I'm finished with Dr. Bloom.

THE COURT: All right. Thank you very much, Dr. Bloom. You can log off the Zoom.

MR. SWEETAPPLE: Thank you, Dr. Bloom.

THE WITNESS: Thank you. Am I dismissed?

THE COURT: Yes.

THE WITNESS: Thank you very much.

THE COURT: Thank you.

MR. SWEETAPPLE: I'd like to, if I could, Your Honor, briefly call Attorney Lewis just with regard to what happened with regard to the 2024 panel,

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since there's been an attempt to create some impression that he was disqualified somehow.

THE COURT: All right. Is she on the witness list?

MS. GARCIA: No.

MR. SWEETAPPLE: No, but this is by way of rebuttal.

THE COURT: All right. Why don't we --

MS. GARCIA: I object, Your Honor. It's prejudice. He could have reasonably understood that when he was calling this witness, that there would be issues as to the admissibility or lack of admissibility testimony or use of these reports.

THE COURT: But his reports are not in evidence.

MR. SWEETAPPLE: And 2024 was not a relevant time period.

THE COURT: And my -- the decision that I have to make is not whether or not she qualifies as an incapacitated person. I have to -- I -- we're getting way far-field. But you know what? I'll let you call Ms. Lewis. I'll let you cross-examine her. And I'll take the evidence for what it's worth, which may not be germane to the Court's conclusion, but --

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Come on up, Ms. Lewis.

MR. SWEETAPPLE: I don't think it is relevant to the Court's conclusion. However, I think there's been a misimpression created.

THE COURT: Would you raise your right hand?

THE CLERK: Do you solemnly swear or affirm that the evidence you're about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE COURT: All right. Watch your step on your way up.

Mr. Sweetapple, whenever you and Ms. Lewis are ready, you may inquire.

MR. SWEETAPPLE: Thank you, Your Honor.

TESTIMONY OF KATHRYN LEWIS

DIRECT EXAMINATION

BY MR. SWEETAPPLE:

Q. Would you please state your name?

A. Yes. My name is Kathryn Lewis.

Q. And how are you employed?

A. I am a partner at Kitroser Lewis & Mighdoll.

Q. And are you a licensed Florida attorney?

A. Yes, I am.

Q. How long have you been so licensed?

A. Since 2008.

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Q. And are you counsel for Charles Revard, the guardian of Ms. Sahm?

A. I am.

Q. And were you involved with regard to evaluations of Ms. Sahm again in 2024 after the 2023 that is the subject of this controversy?

A. In 2024, myself and Mr. Kitroser were representing Mr. Revard at the time that those evaluations were performed. We did not personally have any involvement in the actual evaluations themselves.

Q. And did counsel for anyone request that there be a reevaluation in 2024?

A. Yes. We filed a petition to determine incapacity and a petition to expand the guardian's powers in order to give the guardian control or ability to make decisions regarding Mrs. Sahm's residence and social environment, which were two rights that were not removed in 2023.

Q. And did the Court grant that expansion?

A. Yes.

Q. All right. And did -- was there a new examination committee appointed?

A. Originally, after we filed a petition to determine incapacity in 2024, the Court reappointed the committee from 2023 to evaluate Mrs. Sahm again.

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Q. And what happened?

A. They did their evaluations. They filed their reports. Thereafter, Attorney Laura Burkhalter, who had been court appointed to represent Mrs. Sahm in the 2024 incapacity proceedings, filed a written objection to those committee reports. And as part of the grounds for her objections, she stated that because this was the original committee from 2023 that had previously found Mrs. Sahm incapacitated, that it was an infringement on Mrs. Sahm's presumption of capacity.

Q. And was a new committee appointed?

A. Yes. We actually agreed, Mr. Kitroser and I, on behalf of Mr. Revard. We agreed to the appointment of a new committee to remove that from being an issue.

Q. And that committee, did it also determine that she was incapacitated?

MS. GARCIA: Object to relevance.

THE WITNESS: It did.

BY MR. SWEETAPPLE:

Q. And did they recommend an expansion of --

THE COURT: Sustained.

MR. SWEETAPPLE: No further questions, Your Honor.

THE WITNESS: Okay.

THE COURT: Any cross-examination with respect

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to --

MS. GARCIA: Just brief on that.

CROSS-EXAMINATION

BY MS. GARCIA:

Q. Were you the attorney in May of 2023 in the guardianship and mental health case?

A. I don't -- I -- I personally was not involved in the case in May of 2023. I'm not sure whether or not Mr. Kitroser had been retained by Mr. Revard at that point in time. Personally, I'm not sure.

Q. Isn't it true that your law firm and Mr. Revard weren't even brought into this case until June of 2023 by agreement?

A. I don't know --

Q. -- of Ms. Amber -- Ms. Patwell?

A. I don't know why -- what standing Ms. Patwell would have to agree as to whether or not Mr. Revard retained my law firm.

Q. So you don't know if it was actually testimony given to Judge Burton, do you, in May of 2023 or June of 2023?

A. Personally, I don't know. I believe there was an agreement among the parties. Ms. Patwell withdrew her objections to the committee reports. You, on behalf of the Bernsteins, did not pursue an objection from what

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I understand. And because there was an agreement, the Court entered an order adjudicating Ms. Sahm incapacitated.

Q. Isn't it true that the order doesn't actually have a date of adjudication and determination of the incapacity? It's blank?

MR. SWEETAPPLE: Object to best evidence. Best evidence.

THE COURT: How is it -- wouldn't the order be the best evidence?

MS. GARCIA: I'm sorry?

THE COURT: Wouldn't the order be the best evidence?

MS. GARCIA: Well, since there's a lot of issues here going to the mental impressions of the capacity, non-capacity, and the ability to enter into contracts at that time, I think it's very relevant that there was no due process finding of incapacity by the Court --

THE COURT: I --

MS. GARCIA: I could ask that question.

THE COURT: I guess I don't see how, with all due respect to Ms. Lewis' knowledge of the date, whether or not the order contained the date, is relevant to the issues that we're here to decide so

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I'll sustain the objection as to best evidence. If you want to provide the order, show me whether or not it has a date, I can read it.

MS. GARCIA: I'll do that because it's in evidence.

Okay. Thank you.

THE WITNESS: Thank you.

THE COURT: All right.

THE WITNESS: May I step down, Your Honor?

THE COURT: Any redirect examination?

MR. SWEETAPPLE: No, Your Honor.

THE COURT: All right. Yes, ma'am. You may step down.

Any additional witnesses or evidence on behalf of the plaintiff?

MR. SWEETAPPLE: I just want to read from the party deposition if I could.

THE COURT: Okay.

MR. SWEETAPPLE: Briefly, and I don't think we have copies of the transcript. I --

MS. GARCIA: No. Hold on, Your Honor. I object fully. He cannot just use the depo. This is improper impeachment. You want to use a deposition for a witness, you can use it if you find that the witness is dead, which he's not. He's greater than

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a hundred miles, which he's not. He's out of state, which he's not. And it doesn't appear that he's absent. He never gave proper notice prior to the -- to the -- to the trial. Of using a deposition, you can't use a deposition to impeach a witness when he's not here and he's available. He could have been subpoenaed. So I believe it violates your 1.330, and basically he cannot use the deposition under 1.330(a). And he hasn't given a proper notice. It's a due process hurdle he has to overcome, and I can cite all the case law if you'd like, Judge.

THE COURT: Sure. Cite me a case that says he can't use the deposition of a party upon it.

MS. GARCIA: As the way he wants to use it, when the party's available and he didn't subpoena him. He can't come in here now and just read the deposition without proper notice.

THE COURT: Okay. Cite --

MS. GARCIA: Proper --

THE COURT: -- cite me a case that says that.

MS. GARCIA: They said that basically -- let me see. Okay, the Fourth District has a case that says that the rule --

THE COURT: What's the name of the case? What's

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the citation?

MS. GARCIA: I'll get it. Give me one second. First of all, there's a hearsay burden to overcome under Rule 1.330, and basically they said that under Dinter v. Brewer, 420 So.2d 932, Florida Third DCA, 1982, the Court found the hearsay was inadmissible because it didn't satisfy the provisions of the former testimony rule. In other words, the rule itself is only exception to the hearsay rule --

THE COURT: Isn't prior sworn testimony of a party opponent taken at a deposition subject to cross-examination specifically an exception of the hearsay rule?

MS. GARCIA: Cross -- cross-examination, Your Honor, but --

THE COURT: Subject to cross-examination. Not cross-examination.

MR. SWEETAPPLE: I believe -- I believe the rules, Your Honor, allow the party -- opposing party's deposition to be used at any time for any purpose. That's been my use of them for over 40 years, and I've never had anybody say I couldn't do that so I -- I'm ready to be corrected if I'm wrong.

MS. GARCIA: I believe it's a due process violation to allow him to use a rule against a party

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who has not testified, who he's not subpoenaed, he's not called as a witness, and he's coming in here using the deposition without proper notice. The rule does say you have to give me notice and a copy of the deposition. My client never -- and it's also he has to be unavailable if he wants to use the deposition, or he would use it on proper cross-examination. You can't use a deposition as direct testimony, not the way he wants to use it. It's not following the proper rules.

MR. SWEETAPPLE: Mr. Bernstein was here at our last sitting and I have deposed him, and intended to cross-examine him. He's not here today and I believe I'm entitled to use his testimony from the deposition as a party opponent for any purpose at any time. She can call him if she chooses to. He's a party.

THE COURT: Rule 1.330(a), Use of Depositions. "Upon any hearing of a motion, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice of it so far as admissible under the rules of evidence applied as though the witness were then present and testifying in accordance with any of the following provisions."

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Subsection (2), "The deposition of a party or of anyone who is a person or agent designated may be used by an adverse party for any purpose." So I am overruling your objection.

MS. GARCIA: And also, Your Honor, (a)(1) does discuss the fact that if you want to use it for the purpose of contradicting or impeaching any testimony of the deponent as a witness, you do have to follow the evidence code. You do have to give proper notice. You can't just come into the Court with a deposition that hasn't even been read.

THE COURT: When was this deposition taken?

MR. SWEETAPPLE: This deposition was taken October 2, 2024.

THE COURT: All right. And was it listed as a potential exhibit or item of evidence?

MS. GARCIA: No, Your Honor.

MR. SWEETAPPLE: We took this -- we took this after all that occurred. It -- we had -- it took us forever to get Mr. Bernstein in for the deposition, if you recall.

THE COURT: All right, when did you determine that you were going to use your deposition?

MR. SWEETAPPLE: I was going to use it for cross-examination today. However, I noted that for

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some reason, Mr. Bernstein, who sat next to her the entire proceeding in August, is not here so I --

THE COURT: Is Mr. Bernstein present on Zoom? If so, can you unmute yourself? Deputy, could you sound the hall for Mr. Bernstein?

THE BAILIFF: Mr. Bernstein.

THE COURT: All right. Deputy has indicated that Mr. Bernstein is not present, so I find that he's not availed himself to be cross-examined here in Court. So it would not be fair to the other party to not allow that portion of his testimony to not be provided to the Court, so I'm overruling your objection.

MR. SWEETAPPLE: Your Honor. If I may, I'm reading from Page 76, starting at Line 4.

Question: "And how many times did you meet with her before the guardianship was filed?"

Answer: "Probably most of the times."

Question: "Well, after the guardianship was filed, did you still meet with her and try to get her to sign a settlement?"

Answer: "I have to look at my notes and figure that out, but -- "

Question: "Didn't you appear at her house on more than one occasion before she signed the settlement

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agreement to meet with her?"

Answer: "I did."

Question: "Okay. You had the settlement agreement in your hand when you met with her, right?"

Answer: "I did."

Question -- this is at Page 77, Line 3. "Didn't you -- so you met with Mrs. Sahm after she had been -- after the guardianship had been filed, right, at her house?"

Answer: "Yes."

Question: "On more than one occasion, correct?"

Answer: "Yeah, most likely."

Then on Page 88 at Line 2, "Okay. So we're -- so you were helping -- you were helping Patricia Sahm, Senior, find an attorney?"

Answer: "Yeah."

Question: "Okay. And you asked everybody in the guardianship abuse group who you could get to represent Patricia Sahm, Senior?"

Answer: "Correct."

Question: "And so how did you learn that Ms. Patwell had been hired after you recommended that someone go find an attorney for Mrs. Sahm?"

Answer: "How did I learn? I think through

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Patty, Junior, or something."

That's all I'm reading, Your Honor.

THE COURT: All right. Is there any portion of the deposition that you would like for me to consider according to the rule of completeness, Ms. Garcia?

MS. GARCIA: Your Honor, I would need time. I will do that before the close of my case.

THE COURT: Okay. All right. Is there any additional witnesses or evidence?

MR. SWEETAPPLE: Your Honor, I have no further evidence with regard to our motion.

THE COURT: All right and then motion on behalf of -- let me turn to Ms. Garcia first for your motion, understanding that you had entered evidence, but we just did that for expediency sake. This is now the close of the plaintiff's presentation.

MS. GARCIA: Has -- I'm sorry. The plaintiff has rested?

THE COURT: Yes, ma'am.

MS. GARCIA: Okay. Your Honor, I move -- I'm moving for a directed verdict pursuant to Rule 1.480. The plaintiff has closed his case, and the plaintiff has not proved the necessary elements of the case. Firstly -- (coughs) excuse me, Your

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Honor. The plaintiff has not proved by clear and convincing evidence that Ms. Sahm was incapacitated in May of 2023. The witness that testified was not forthcoming as far as remembering what happened, misrepresenting to the Court the cognitive based on the MoCA test, misrepresented that he testified in front of Judge Burton, which didn't happen. There's testimony by missus -- I'm sorry, Ms. Lewis. She wasn't involved in the case at the time so nobody could confirm that there was any ever actually hearing or determination by Judge Burton that the client was incompetent.

Also, Ms. Sahm did not have her due process or her right, the contract taken away by the Court at the time of settlement was entered into. The evidence that is in evidence is evidence is that the settlement was entered into on May 22nd, and there was no finding of incompetency by the Court, by any Court order or by any due process hearing, until June by agreement of the parties for a limited guardianship for Charlie Revard, who's her cousin. At the time -- there's no proof that at the time that the settlement was issued, that there was any nefarious conduct by either myself or Ms. Patwell or the other attorneys, Morgan Weinstein.

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There -- the -- simply put that the plaintiff has not carried their burden for this Court to determine, first of all, if there was any competency or not at the time. Further, they haven't proved pursuant to the law that -- or rebutted by clear convincing evidence, like Harmon v. Williams, 596 So.2d 1139, a Florida Second DCA case. It says, "The Court holds that a person is presumed competent to contract unless incompetency is established by due process of the law." So this Court basically would have to make a proactive finding that prior to any adjudication that you're going to take away, retrospectively, a client's right to contract with a lawyer. It's clear that she had a lawyer, Amber Patwell, who was assigned and accepted by the Court, and then there was a settlement that was entered into. They waited 14 months to try to set it aside. Then they tried to come in with allegations of the exception to the rules.

So the Court determines by clear and convincing evidence, he believes that the client, they did not prove incompetency sufficient for you to prospectively negate a legitimate contract, that the -- that the guardianship court didn't negate, and nobody had even thought for the year, then you'd

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have to get to the next level of the argument which would be that there had to be some undue influence or some fraud. None of that has been proven as far as this settlement that was entered into that's -- that was validly entered into with her having an attorney present, and the evidence that is in the other committee report that is in evidence, Your Honor, does say that she can contact -- she can contract with the help of an attorney, which she did.

So there's nothing that has been proven here in his case in chief that would give Your Honor the ability to take away her presumed competency to contract. And there's nothing in the evidence so far that proves any fraudulent activities or undue influence related to the execution and timing of the contract. In fact, the evidence that was presented through the court orders in the dates and times show that as soon as Weinstein was hired April 12th, and then there was no stipulation done and no settlements were negotiated. Mr. Weinstein had nothing to do with it at that point. The evidence shows that in May, there was a hearing in the bankruptcy court wherein -- and the attorney the retainers in evidence represented the estate that

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they admit has no rights.

At one point -- a dead man who they never told the Court was dead. And then Ms. Sahm that, according to Mr. Sweetapple's testimony at the last hearing, or his proffers, were that she was incompetent. He was traveling with her under Power of Attorney, but in the meanwhile, they're still moving forward hiring lawyers and filing defenses that are not legally proper. Filing a -- filing a claim in a federal bankruptcy court for an estate that you've admitted has no rights is an affront of the Court. Filing claims for dead people for years, including the affidavits or evidence for dead people, is improper. So I don't believe that he's met his burden according to the law for either the declaration of an incompetency and/or fraud or undue influence to set aside the agreement.

So those are some of the specific reasons, Your Honor. You have in evidence basically that we would ask the settlement to stand as is because the plaintiff has clearly not proven his case.

THE COURT: Okay. Ms. Garcia. Sorry. Mister Apple -- Mr. Sweetapple?

MR. SWEETAPPLE: May it please the Court, the evidence in this case is clear that the Bernsteins

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knew at all times that Ms. Sahm had declined into incapacity, and of that there could be no doubt. Ms. Garcia knew the same thing, because, as you noted, she tried not to put in a signed settlement agreement that she forwarded to Mr. Raymond and -- in March of 2024, and that agreement signed -- prepared by her and signed by all of her clients repeatedly recites that Mrs. Sahm, Senior, is incapacitated. And I'll read to you some of those quotes. I had my -- I had my highlighted copy, and the unhighlighted copy, but --

THE COURT: Page 2 of Plaintiff's 12, "Whereas Walter Sahm, Junior, is now deceased and his estate is pending in Marion County, and his now incapacitated wife, Patricia Sahm, as a Power of Attorney, trust bringing guardian with her daughter, Joanna Sahm, whereas the estate, the trust, and the incapacitated surviving spouse --

MR. SWEETAPPLE: Exactly.

THE COURT: -- on Page 3.

MR. SWEETAPPLE: This is -- this is -- this is an admission of their knowledge of her incapacity. They signed this in March. It's an admission of Ms. Garcia's knowledge of her incapacity, and yet what do we see? We see Patty Sahm, Junior, the same

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person Judge Burton found was taking advantage of her mother, and allowing a signature or a notarization of a revocation for Power of Attorney to occur using the Bernstein's agent that Mr. Bernstein admits he's helping, through Patty, Junior, to get an attorney for his opponent, Mrs. Sahm. There's always the suggestion throughout this case, including cross examination, Ms. Inger, that somehow I was substituted in this case, but Patty worked with Mr. Weinstein. You can see through the communications, had Mr. Weinstein come in, a friend of Mr. Hall's, to try to take over so they can backdoor a settlement taking advantage of Mrs. Sahm, Senior.

MS. GARCIA: Objection. Facts not in evidence.

THE COURT: Overruled.

MR. SWEETAPPLE: So Mr. Weinstein lasts a few days. He never -- he never sends me a stipulation for substitution of counsel. I've represented Mr. and Mrs. Sahm since the beginning in this case. I represented Mrs. Sahm individually, and then when her daughter told me she had a Power of Attorney and Mrs. Sahm told me she had a Power of Attorney, I initially was authorized to deal with Joanna Sahm. But the bottom line is they knew that I was the

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attorney in this case, and all of this is occurring without any attempt to have me join in on either of these settlements. And you're going to see if -- and this is not appropriate at this time, but you're going to see I was not copied at my e-mail address with communications that had been represented that I didn't respond to.

So what happens? Well, this fraud that's occurring involving Patty, Inger Garcia, and the Bernsteins and Ms. Patwell, who was brought in by the Bernsteins, is just --

MS. GARCIA: Objection. Facts not in evidence.

MR. SWEETAPPLE: -- a continuation of a fraud that the bankruptcy court already occurred by Ms. Garcia, and the State court and three days before the guardianship is filed, the Federal court grants interim relief from an automatic stay that Ms. Garcia obtained. And if you look at Paragraph D -- attached to the motion as Exhibit D is a copy of the suggestion of bankruptcy for defendant and notice to cancel sale set for April 4th, 2023, parenthetically, the suggestion of bankruptcy, filed on April 3 by attorney Inger Garcia on behalf of certain defendants, including debtor, Elliot Ivan Bernstein of the State court case.

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The suggestion of bankruptcy is factually false and legally incorrect, and was designed to mislead the State court and/or the clerk of the State court that the canceling -- the April 4th, 2023, foreclosure sale of the real property scheduled in the State court because the suggestion of bankruptcy stated that, "This action is founded on the claim from which a discharge would be a release and that seeks to impose a charge on the property of" -- this is the second fraudulent bankruptcy. The first one, the boys are -- the sons are all assessed $43,000. This is the second fraudulent bankruptcy, but Ms. Garcia is representing the Bernsteins. They're fully aware of the guardianship, as is she, because watching all of this occurring, the first thing I do when I hear for the first time that there's been some alleged revocation of a Power of Attorney, which would not have in any way affected my direct representation of Mrs. Sahm, who was my client and always competent, the entire time I knew her, but I'm dealing now with Joanna for the last couple of years at Mrs. Sahm's direction.

So when I call Mrs. Sahm, and I put this in a notice so that all counsel would be alerted that we are watching you, don't continue with your

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fraudulent conduct. What do I do in my request for judicial notice? "One, Plaintiff is the surviving spouse and owner of the note, which was the subject of the incident matter. Two, undersigned counsel has been advised that a revocation of the current Power of Attorney held by Mrs. Sahm's daughter, Joanna Sahm, has recently been executed. Three, undersigned counsel spoke directly with plaintiff, Patricia Sahm, yesterday. Mrs. Sahm indicated she was unaware of any such revocation and still wanted undersigned counsel to represent her in this matter. Four, the Court is further advised and requested to take judicial notice of the pending guardianship matter," and I cite them. So while on May 5th, all three committee members find that she's unable to manage her litigation, and miss -- and Ms. Patwell is not counsel of record. There are attempts by -- documents prepared by Mrs. Garcia, Mr. Bernstein is going to the alleged incapacitated person's house, and on the 22nd of May obtains her signature when no one else is there.

MS. GARCIA: Objection. Facts not in evidence.

THE COURT: So I don't mean to cut you off, but this is a motion for directed verdict.

MR. SWEETAPPLE: And so what I -- what I'm

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going to show is the evidence --

THE COURT: Which means --

MR. SWEETAPPLE: -- in this case --

THE COURT: -- I draw -- I draw all inferences and conclusions in the light most favorable to the non-moving party.

MR. SWEETAPPLE: Exactly. And this is not a motion. This isn't a properly directed verdict application anyway. It's not a trial.

THE COURT: I --

MR. SWEETAPPLE: This -- and I -- you need to hear the entire case, but when I got to the end of the case, what I'm going to show you --

THE COURT: I thought you've rested your case.

MR. SWEETAPPLE: Yeah. But I'm saying when you hear her case, there's going to be more coming out that's going to --

THE COURT: So --

MR. SWEETAPPLE: -- implicate them in the fraud on the sanctions.

THE COURT: -- so I find, based on what I've heard so far, in the light most favorable to the non-moving party, a reasonable fact finder could find that you've established your claim. And I'm going to respectfully deny the motion for directed

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verdict, so let me turn now to Ms. Garcia to call any witnesses or evidence that she would like to produce.

MS. GARCIA: Your Honor. I'm sorry, Your Honor. I thought you said after this witness that you were calling a lunch break.

THE COURT: I would like to get this case concluded today. We've really spent a lot of time, so -- you have a witness, I think, that's on Zoom. I'll give you -- I can give you a short break, but we're going to conclude today. So how -- you have Mr. Stransbury, I think you said you were going to call, and who else?

MS. GARCIA: And myself.

THE COURT: And yourself?

MS. GARCIA: And potentially Ms. Bernstein.

THE COURT: Okay. So --

MS. GARCIA: And now that he's done that to Mr. Bernstein, I have to see if I can find him.

THE COURT: He's done what to Mr. Bernstein? Since --

MS. GARCIA: Now that he read his deposition testimony with no proper notice, and --

THE COURT: Okay. When we took a ten minute break, you said you had perhaps one witness, Mr.

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Stransbury, who's on Zoom. Now you're telling me you have four witnesses.

MS. GARCIA: Well, I -- I'm testifying, definitely.

THE COURT: Okay. All right, what we'll do is -- Madam Court Reporter and Madam Clerk, how long do you all need for a break? You're in charge. 30 minutes?

THE CLERK: No, I just need ten, Your Honor.

THE COURT: Ten? Madam Court Reporter?

THE REPORTER: I just need a restroom break.

THE COURT: All right. Why don't we take -- we'll take 20 minutes. There's snacks downstairs, I think. There's restrooms. We'll pick back up.

(OFF THE RECORD)

THE COURT: All right. Looks like everybody's present. So let me turn to Ms. Garcia.

Who's your first witness?

MS. GARCIA: Your Honor, what I'd like to do under the rule of completeness, I'd like to move in the entire deposition of Mr. Bernstein. I have a copy provided to counsel, but they need to make a copy because I don't have an extra one.

THE COURT: Okay. Do you have any legal objection?

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MR. SWEETAPPLE: Your Honor, I showed her my copy of the transcript. The -- you -- the rule of completeness allows you to read portions that relate to the testimony. I object to her putting in her client's testimony. It's an opposing party that has the right to use the transcript, not the party. She needs to call in what she wants --

THE COURT: The rule of completeness allows if you publish a portion for them if they wish to publish portions that provide context, so what additional portions that provide context are you seeking to admit?

MS. GARCIA: The entire deposition goes into the whole theory of him supposedly manipulating and being involved to an excess of undue burden. And if you read the deposition in and of itself in its completeness, you'll see that that's not true. You'll see what his actual testimony is, not just portions. And the document of the doctrine of completeness allows if one party introduces in trial, the adverse party may require the introduction of the other parts of any other writing or recorded statements which ought in fairness be considered. And it ensures that the judge and the jury, the fact -- finder of fact is to view the

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incomplete statement in its full context. So you'd have to hear his deposition to have the proper full context of his testimony.

It's also an explanatory evidence rule, and it allows otherwise inadmissible hearsay to be admissible under the rule to correct any confusion or wrong impression created by the admission of the original evidence.

MR. SWEETAPPLE: Your Honor, I don't dispute that's the law. I read brief portions showing that Mr. Bernstein was involved with the alleged incapacitated person repeatedly at her house bringing a settlement agreement, and that he was involved in obtaining her counsel, Ms. Patwell. Anything that she wants to read or introduce that in any way deals with those topics, I have no objection to.

MS. GARCIA: That's true.

MR. SWEETAPPLE: She clearly has a right. She has somewhere where this -- someone can show that that didn't happen the way he described it, or I didn't read everything that was relevant, by all means, but the idea she's going to read 80 pages of testimony --

THE COURT: Well, I don't think she's going to

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read it. I think she's going to submit it to the Court to allow --

MR. SWEETAPPLE: Yeah. But I don't think that's permissible either.

MS. GARCIA: It is the one -- third, Rule 109 --

MR. SWEETAPPLE: She hasn't shown he's unavailable. He's not dead. He's not outside the jurisdiction --

THE COURT: That's not the rule of completeness. The rule of --

MR. SWEETAPPLE: The rule of completeness deals with what I just said, the topic.

THE COURT: It would deal with an otherwise inadmissible hearsay statement such as her offering her own client's statement, if it needs to be provided to give context.

MR. SWEETAPPLE: Right.

MS. GARCIA: And it promotes the transparency since only one part of the statement was shown. It prevents you from having a biased view of the entire situation. It allows a level playing field. It ensures both sides have an equal opportunity to present her case.

THE COURT: Over the plaintiff's objection, I

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will receive it as -- what -- we have --

THE CLERK: 27.

MR. SWEETAPPLE: -- Defense Exhibit number 27. The entire transcript?

MS. GARCIA: Yes.

THE COURT: The entire transcript as -- according to the rule of completeness. 90.108.

(DEFENSE EXHIBIT 27 RECEIVED INTO EVIDENCE)

MS. GARCIA: So we'll send you a copy?

MR. SWEETAPPLE: Do you have --

MS. GARCIA: I have one copy so --

MR. SWEETAPPLE: That's my copy that's highlighted.

MS. GARCIA: -- so I can provide one to the Court --

THE COURT: Can --

MS. GARCIA: I don't have a certified copy.

MR. SWEETAPPLE: We can print out a copy and give it to you.

MS. GARCIA: Okay.

UNIDENTIFIED SPEAKER: I can try to do that. I could e-mail it to the Court and --

THE COURT: If you e-mail it -- if you e-mail it to me, I can get it printed out. If you e-mail it to the county.

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MS. GARCIA: So I have a procedural question, Your Honor. Since I plan on testifying and I need to refer to the different exhibits while I'm testifying to either refresh my recollection or to talk about my mental process, do I sit in the witness stand with my exhibits, or -- I'm not sure, Your Honor. Do I sit at the table --

THE COURT: It may -- it may be easiest for you to sit at the table as long as you're by a microphone so that we can pick you up because I'm not going to be able to -- I'll probably be able to see you at the table better than I can see you up in the witness stand.

MS. GARCIA: Right. I could stand here too, if you'd like, Your Honor. It's up to you.

THE COURT: You could be seated so you can go through your exhibits.

MS. GARCIA: Okay. So I call my first witness, myself, Your Honor.

THE COURT: All right. Would you raise your right hand? Do you swear or affirm the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE COURT: All right. You can put your hand

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down now.

Go ahead, Ms. Garcia.

MS. GARCIA: Good afternoon.

THE COURT: Good afternoon.

MS. GARCIA: My name is Inger Garcia. I've been an attorney since 1991 in Georgia. In Florida I was licensed in '97. However, in 1989 I worked under Judge Kastrenakes' prosecutor's office for Janet Reno in an internship and for chief judges. I've been litigating since the late '80s. I'm aware of the rules and the procedures in Court as well as testimony, impeachment, and honesty and integrity to the Court.

MR. SWEETAPPLE: So Your Honor, at some point after we complete the background, I'm going to request that she ask her question about herself and then answer it so I can make objections when we get into the relevant evidence.

THE COURT: All right.

MR. SWEETAPPLE: Or do you want me just to interrupt and object if it's irrelevant or improper?

THE COURT: I think asking her to ask herself questions is -- it's not going to work. So yes, just interrupt if you believe that she's providing testimony that is not permissible under the evidence

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code.

MR. SWEETAPPLE: Okay. Thank you.

MS. GARCIA: Okay. Your Honor, this is a case of a fairly long term foreclosure between the Sahms and the Bernsteins, and BFR, the company. I came into this case in January of 2023 to file a motion, a 1.5 for a motion and a motion to continue a sale. When I was -- prior to that, there had been a bankruptcy filed by BFR -- involuntary bankruptcy filed in Palm Beach County. You have the retainer agreement from Mr. Shraiberg in evidence, Your Honor, as Defense Exhibit 13. I attended those Court hearings. First of all, I analyzed this case and determined very quickly during many, many foreclosure cases because I've done a lot of foreclosure litigation over the years in real estate. I've been involved in real estate since I'm 18 years old, worked for John Ritter as a -- who was a real estate attorney back in the late '80s. I'm very familiar with foreclosures and the requirements and a proper protocol for a plaintiff to get a final judgment. I'm also fully aware of when someone dies, you have --

MR. SWEETAPPLE: Your Honor, I'm going to object to any legal conclusions, legal opinions

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here. She's here as a fact witness.

THE COURT: So a witness, no matter how qualified or skilled, is not able to testify as to legal conclusions. That's for me to decide, so --

MS. GARCIA: Okay. So I'm here to testify to my mental impressions that I've gained as a litigator in this case by observing the bankruptcy in the initial involuntary bankruptcy over the summer of 2022 and over the course of representing the Bernstein's in the foreclosure case. And then subsequently as of August 2023, representing Patty Sahm, Junior based on an injunction that was filed against her in the mental health and the guardianship cases. So I've been able to have -- and then I also was at the hearing in April or May -- no, April of 2023, where Mr. Bernstein had filed individual bankruptcy. And I was at that hearing. So I've been able to observe by analyzing all the cases as a united. There's a trust case, Your Honor, also where the funds are being held -- $277,000 has been held to pay this settlement, to pay for this foreclosure. There's a court order that money's been available?

MR. SWEETAPPLE: Objection. It's not -- that's -- it's outside of the evidence.

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THE COURT: She's testifying. She's providing evidence, right?

MS. GARCIA: Yes.

MR. SWEETAPPLE: Have you given that court order to the judge?

MS. GARCIA: I'm testifying from my knowledge as an opinion attorney.

MR. SWEETAPPLE: You said there's a court order. That's evidence, Your Honor.

MS. GARCIA: I can move the Court order in, Your Honor, from that case. We can do judicial notice. The Shirley Bernstein Trust case. I can get the citations. We can -- I'd be happy --

MR. SWEETAPPLE: You said that --

MS. GARCIA: -- to do --

MR. SWEETAPPLE: Your Honor, she said there's a court order reserving $277,000 to pay this settlement.

THE COURT: Right.

MS. GARCIA: This -- the Court order reserving funds. The Court order specifically states that the funds that are in the trust -- that -- the Court registry, to be used to satisfy the mortgage.

THE COURT: Okay. And do you have a copy of that order?

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MS. GARCIA: I don't, but I can pull it off the docket, Your Honor, and do judicial notice.

THE COURT: Are you objecting to the judicial notice of the Court?

MR. SWEETAPPLE: I -- I'd like to see it. I'm not involved in that case. That involves other family members and --

THE COURT: Okay. I'm overruling the objection.

MS. GARCIA: Actually, Mr. Sweetapple is involved in that case because he filed a motion recently to release those funds for other purposes.

MR. SWEETAPPLE: Okay. I garnished --

MS. GARCIA: For the purposes --

MR. SWEETAPPLE: I garnished monies. I went to the jeweler based on a federal judgment that's pending.

MS. GARCIA: So he is aware of the case, and he is aware of the Court order and there have been e-mails back and forth. But by looking at the overall picture, Your Honor, what I gleaned, my knowledge, is that when I came into this foreclosure case in January of 2023, I saw massive, massive legal technical and fraud issues on the Court. I had brought it up to Judge Bell who came in, Kastrenakes

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resigned, I believe, like the day before the hearing. So Judge Bell came in for a short time frame, continued the hearing -- continued the sale from January, 2023 to April of 2023.

And then at that point, then BFR filed. It was -- it was an involuntary bankruptcy filed. When it got converted to Chapter 7, the clients couldn't afford an attorney, so they just let it get dismissed and then sanctions were moved forward. But in that court, again, I determined by looking at the retainer that's in evidence and looking at the notice of appearance that was filed with Mr. Shraiberg for a dead man, and I brought it up to federal court. I said Judge, they're filing still for Walter Sahm, who's dead. And you have his birth certificate and his death certificate in the record stipulated to as Exhibit --

MR. SWEETAPPLE: I'll stipulate it. It's in the record.

THE COURT: I think it was seven or eight.

MS. GARCIA: He died in -- he died in 2021, I think, I believe January 2021. And after Mr. Sahm passed away, there was no substitution of counsel of the estate. And also in evidence is proof that the estate, when they did their notice of inventory,

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they did not list this --

MR. SWEETAPPLE: I'm going to object to the predicate. On what basis should there have been a substitution of the estate in a joint note?

THE COURT: I guess the problem that I'm having is, I don't understand why if we keep wanting to talk about the 1.540 motion, we haven't done both of them at the same time.

MR. SWEETAPPLE: Well, Your Honor, I think when you look at the Court file, with all due respect, you're going to notice that Ms. Garcia has never noticed one motion for hearing ever. She never moved to set the 1.54. She never moved to enforce the settlement. She's never set anything because her whole conduct is dilatory.

THE COURT: Okay. But that's not a legal objection to her testimony right now.

MR. SWEETAPPLE: I know. But --

THE COURT: My question is --

MS. GARCIA: It goes --

THE COURT: -- how is the 1.540 --

MR. SWEETAPPLE: I'm happy to hear that now.

THE COURT: -- issues relevant.

MR. SWEETAPPLE: I'm not.

THE COURT: No, but how is it relevant to what

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we're here for?

MS. GARCIA: It is it's relevant here because I believe that when they're accusing me and Mrs. Patwell, my client, of fraud on the court, there's a reason this case was settled. And I'm trying to explain the mental process and the reason, legally, of why observing the different inconsistent behaviors and inconsistent filings in court orders that are not accurate that are inconsistent with transcripts. And --

MR. SWEETAPPLE: Your Honor, she asked to bifurcate --

THE COURT: I asked -- I asked the -- I asked the question. So I'd like -- so she's answering my question.

MS. GARCIA: It's relevant to the issue of this, what is the fairness to put to Patricia Sahm for settling a case for an amount less than a final judgment and to make a decision in the settlement. What you do is you look at the facts of the case and you look at the potential defenses and the cost and the expenses, and you look at what is pending and what has happened where so you know. So I'm trying to explain to the Court my mental process and what I see is the reason this case was settled. So the

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Court understands, this wasn't a rush to go settle a case for an amount that wasn't fair and reasonable and understandable based on the affidavits of summary judgment, based on the final judgment, based on the pending pleadings, based on the different frauds that I can explain to the Court.

THE COURT: But how is your -- the -- how is the -- your intent as to why you wanted to settle the case relevant to the issue of whether or not the settlement agreement should stand?

MS. GARCIA: One of the factors to determine if you're going to set aside a settlement, you have to find by clear and convincing evidence it was undue influence or fraud. So I'm explaining to the Court why there was no undue influence or fraud by the facts of the case and explaining to the Court that the actual behavior of Ms. Sahm's attorneys, the different attorneys in the different courts with the inconsistent misrepresentations, is one of the reasons why this case was settled by Ms. Patwell and I, is that we saw the risk as far as the damage and the costs and expenses, and it wasn't worth it to either client to not resolve it how they resolved it.

THE COURT: Are you trying to testify as to why

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Ms. Patwell decided to settle the case?

MS. GARCIA: I can tell you based on my conversations with her of why we both agreed that this was a fair and reasonable settlement, and it was proper.

THE COURT: So how is that not hearsay, I guess?

MS. GARCIA: Because I'm testifying in my mental impressions of -- based on conversations --

THE COURT: We're in a loop. I understand that the defendants want to settle the case. Obviously, the defendants want to settle the case, but I -- the issue really for the Court is whether or not the settlement agreement that the plaintiff, Ms. Sahm, ended up signing, with Ms. Patwell's assistance, with the defendant's assistance, whoever. Whether or not there was undue influence, fraud, coercion, anything like that, how is your intent relevant to that?

MS. GARCIA: I believe that the actions of Mrs. Patwell and I, and prior to her, Mr. Morganstein [sic], who was retained specifically to settle the case independent of me and independent of anyone else prior to any thought process of a guardianship appearing in April 13th. He was retained by Mrs.

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Sahm independent. I've never met Mr. Weinstein. He's not a friend of Kevin's. The representations are that we somehow or another brought in this attorney to nefariously settle a case. She independently found --

MR. SWEETAPPLE: I'm going to object. I --

MS. GARCIA: -- Mr. Weinstein, entered to an agreement with him on April 12th and my testimony from personal knowledge, and from reviewing the different documents and speaking to my clients is that he left quickly after Mr. Sweetapple would not cooperate with the substitution and because a phone call was made to him claiming to be --

MR. SWEETAPPLE: I'm going to object to hearsay.

MS. GARCIA: -- Ms. Sahm to terminate him when that's not who made the phone call. So he was run off just like Ms. Patwell was run off.

THE COURT: And what is your basis for that knowledge? Is it not hearsay? Were you there for the phone call? Did you hear the phone call?

MS. GARCIA: I did not hear the phone call, but from speaking to Mr. Weinstein and speaking to --

THE COURT: Somebody told you something out of Court and you want me to consider it for the truth

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of the matter asserted. That is hearsay.

MS. GARCIA: Not necessarily, Your Honor. I want you to consider it to understand our frame of mind that we were attempting to do this in good faith. We weren't nefariously running to settle a case after guardianship was filed. We -- there was prior settlement negotiations, which does go to the elements and the facts of the case. Is --

THE COURT: So then why don't you focus on what role you have taken as opposed to what you've heard other people do or what you believe Ms. Patwell wanted to do or what the conversations Ms. Patwell had with you as opposed to things that are clearly hearsay.

MS. GARCIA: Okay. The role I took was when I was informed that there was -- Mr. Weinstein was going to be the attorney, I contacted him and asked him if he was going to be jumping in as her attorney. And he said, yes. And the day before the bankruptcy hearing, he couldn't come to the bankruptcy hearing to tell the bankruptcy court that Ms. Sahm had hired him to settle. So I told the bankruptcy court as an officer of the Court that day in April of 2023, that Mr. Weinstein had been hired and that the Power of Attorney of which the

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claim in his case was made was revoked. And I told the Court, I said -- and I had the transcript, and I told the Court, I said, Judge, I don't believe that they know -- Mr. Shraiberg knows that the Power of Attorney was revoked, but he's traveling.

If you look at his first retainer that's in evidence, that was in 2022, what he said, he represented the estate, which now we know has no rights, which I was misled the entire time about the state having rights. That's why I negotiated with Mr. John Raymond for months, for the whole month of March. So they filed claims in the -- in the bankruptcy court based on a Power of Attorney that didn't exist and based on a claim for a party that doesn't have any rights, which he'd admitted over and over again in this case and in e-mails, that the estate of Walter Sahm never substituted in. The estate did not -- Walter Sahm was never a creditor, but they're going into federal court and representing that the estate has rights and secure judgements against my clients and securing orders that are simply not based on truth.

MR. SWEETAPPLE: Your Honor, I'm going to object to this. The best evidence is the bankruptcy court, a file, and the retainer shows that Mr.

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Shraiberg represented Mrs. Sahm individually as well as the husband's estate. There has never been a claim in this case that the estate has any rights. The only ones that have been adjudicated to have committed fraud in the bankruptcy court are in the first instance, the Bernstein's children, and in the second instance, Ms. Garcia. So to sit here and delusionally respond to -- with her view of what's happening, whether -- what she did, in fact, she's involved in -- like when did she learn that the committee had found universally that Mr. Sahm was incompetent? And what did you do after that? And why didn't you contact me when I was counsel of the record? Why didn't Ms. Patwell substitute --

THE COURT: Okay. We -- we've gone beyond -- we've gone beyond legal objection. I'm sustaining the objection. If you want to argue the case, you could argue the case. If you want to testify to facts that you want me to consider subject to cross-examination, stick to the facts --

MS. GARCIA: Okay.

THE COURT: -- that you want me to consider.

MS. GARCIA: So I will testify that, Your Honor, that in the month of March, 2023, I was negotiating a settlement of this matter with John

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Raymond who represents the estate and represents Joanna Sahm as the trustee. The trustee is the one that owns most of the assets and controls the assets.

During that time frame when we were negotiating, I was led to believe that the estate had rights, and that Ms. Sahm was incapacitated because Joanna Sahm had testified in bankruptcy court in 2022 that she was representing her mom under Power of Attorney under pre-guardian. Her mother had mild cognitive issues that she had been asked by her dad to handle the financial affairs. So under the belief of filings in federal court by an estate that really had no rights and by Patricia Sahm, Senior, who had no idea that her daughter was signing her name on retainers and hiring lawyers in court. I began negotiating with the parties that appeared to be the correct parties, which was the estate and Patricia Sahm under the Power of Attorney. So at the time I asked numerous questions -- and it's in my e-mail that's in evidence --

THE COURT: Can I ask a question?

MS. GARCIA: Uh-huh.

THE COURT: Wasn't Patricia Sahm represented by counsel? Why were you negotiating with her

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directly?

MS. GARCIA: I wasn't. I was negotiating with John Raymond directly, but he represents -- his law firm, Nelson Mullins, represents Joanna Sahm and Joanna Sahm is the only person who really has been participating in this. Patricia Sahm has had nothing to do with the case.

THE COURT: But didn't Mr. Sweetapple represent Patricia Sahm throughout the -- this proceeding? Not the -- I'm not talking about the bankruptcy proceeding. Wasn't she representing Patricia Sahm, and then wasn't Joanna Sahm in agreement with that representation?

MS. GARCIA: Joanna -- he was representing Patricia Sahm through supposedly Power of Attorney for Joanna Sahm.

MR. SWEETAPPLE: I'm going to object, Your Honor, to her concluding that I represented Mrs. Sahm individually and her husband from the beginning of this case.

THE COURT: So that's kind of my question is why is it that you are -- why are you having communications with someone that is represented by counsel without communicating through counsel?

MS. GARCIA: He was in -- Mr. Sweetapple was

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included in some of the communications. And Mr. Raymond told me to send him the settlements and to negotiate there. And then he told me -- he was answering my questions about who was the actual parties of interest. There was a confusion as to who the party of interest was because they're telling the bankruptcy court the estate is a party of interest. Raymond -- Mr. Raymond is the estate attorney in the probate case.

THE COURT: Okay.

MS. GARCIA: And in his law firm, Eileen O'Malley, also was Joanna's attorney who filed the guardianship petition three days after they found out that the mom had hired Mr. Twig -- I mean, Mr. Morganstein [sic]. So I went to Mr. Raymond, and they asked me to send them purported -- proposed settlements. So we were going back and forth with the settlement and the language, and then as we were going through it and there -- I was led to believe that Patricia Sahm was in incapacitated. So Joanna Sahm was the decision maker under the Power of Attorney and the estate had rights because they filed a creditor's claim in bankruptcy court, which was at the time, I believe pending, we were -- we were trying to resolve it with the attorneys who

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told me to resolve it with them. All these attorneys were working together in different courts. So at that point we started drafting the language based on the representations that were made to them. But as I found out after 20 days and 20, 30 hours of drafting this, then I was told and I was informed that Ms. Sahm didn't need a guardian and she wasn't in a guardianship, therefore she is capacitated. So therefore, then I could settle it with her through her lawyer.

THE COURT: Mr. Sweetapple, right? Because then she would be represented directly by Mr. Sweetapple?

MS. GARCIA: Through her lawyer. So what happened is, there was a bankruptcy pending. So the case stopped, Mr. Sweetapple filed his notice in -- on April 17th, right? Because between the time frame that I was told, March 31st, that we're not the right party, the state has no rights, and Patricia Sahm doesn't need a guardian, and Joanna has a private attorney. Okay. So I'm told this by one attorney.

THE COURT: Who?

MS. GARCIA: I'm told different things by different attorneys.

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THE COURT: Who?

MS. GARCIA: Mr. Raymond, who is the estate attorney with the most knowledge of the estate's rights.

MR. SWEETAPPLE: If I can just say something. First of all, I really think that Ms. Garcia should get an attorney based on the things she's saying. I'm looking at the e-mail from Mr. Raymond to her that says, my -- this is Mark. My reading of the note makes it clear to me what the note and mortgage -- that the note and mortgage passed the Wi-Fi by operation of the law. Again, Mr. Sweetapple speaks for her, the estate has no say in the matter. And these series of e-mails are sent to me at R. Sweetapple at sweetapple.com, which is an e- mail that doesn't exist. So she's told repeatedly by Mr. Raymond, contact Mr. Sweetapple. He's the one who's handling this. And yet there's no communication with me from Ms. Garcia or Ms. Patwell and all of these things she's talking about are orchestrated by Patty Junior. So I -- as an officer of the court, I have to caution her that this dialogue she's engaging in may not be helpful to her.

MS. GARCIA: So what happened, Your Honor is from March 13th to March 30th, I was led to believe

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I was negotiating with the right parties. I was then told the state has no rights.

THE COURT: Based on what? What led you to believe that? You introduced that e-mail, that Mr. Sweetapple is directing me to, into evidence.

MR. SWEETAPPLE: I'm --

THE COURT: That was the first -- the first e-mail that we talked about where I had the highlighted copy of it. What about that leads you to believe that you shouldn't have talked to Mr. Sweetapple?

MS. GARCIA: At this point in time from March 13th to March 30th, I was led to believe and asked to negotiate with Mr. Raymond.

THE COURT: I hear you saying that.

MS. GARCIA: Then what happened --

THE COURT: I'm asking you what led you to believe that?

MS. GARCIA: The fact that they -- that Walter Sahm had passed, and that Mr. Shraiberg and Joanna testified in the federal court, not once but twice, that the estate was the creditor, and the estate owned this judgment. So therefore there's a bankruptcy and there's an estate involved. I'm allowed to negotiate with the bankruptcy attorney in

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the estate versus filing an adversary to see if we can get to some agreement at some point, which I understand at that point had the bankruptcy step pending at that point, then if it was done in March and we settled it in March, there was -- there were signature -- the -- that particular agreement, there were signature lines for all the different parties and cooperation language that if the estate has rights, we'll do it here. If we need the foreclosure rights. We'll do it here. So everybody was included. It was supposed to be a global settlement, Your Honor. It wasn't like we were going around the judgment.

THE COURT: But not the person that represented her in the case that you were trying to settle?

MS. GARCIA: They were -- they were going to be part of the settlement, Your Honor. And he was copied on some of these e-mails, and he was included in some of these conversations, and he knew this was ongoing.

THE COURT: Okay.

MS. GARCIA: So what happened in -- at the end of March while you know this step, the bankruptcy pending, I believe, then come April 11th, Ms. Sahm decided she wanted to terminate Mr. Sweetapple and

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hire mister -- sorry, you were saying --

MR. SWEETAPPLE: Your Honor.

MS. GARCIA: Morgan Weinstein. Okay.

MR. SWEETAPPLE: Your Honor.

MS. GARCIA: Nothing came of that.

MR. SWEETAPPLE: Your Honor. Ms. Garcia has testified under oath that she has tremendous experience and foreclosed with her notes, and it was obvious to her that this note passed by operation of law and was not an estate asset. And she's sitting here telling you that she had to deal with an estate lawyer. Here's March 27th. Again, that's sent to the wrong e-mail address to me. That -- to her from Mr. Raymond, as I informed you before, this is just Sweetapple that's representing the party -- plaintiffs in this matter, and all responses should come from his office.

THE COURT: Right.

MR. SWEETAPPLE: This idea that -- this idea that because there's a state claim that's mentioned in a bankruptcy, that somehow now she can go deal -- that she can go behind my back, go to the bankruptcy court, get miss -- get Mrs. Patty to find another lawyer, Mr. Weinstein. She -- she's very familiar with all these other lawyers that they're trying to

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bring in and no communication with me by anybody. This is all being done to subvert a judgment that's worth three times what they're settling for, and her settlement, which she told you in court under oath, they're identical. The March settlement is $375,000. When they go see Mr. Sahm, it's now 225.

THE COURT: Okay.

MS. GARCIA: Okay.

THE COURT: I don't understand what the legal objection is. I hear --

MR. SWEETAPPLE: Well, it's hard in this context.

THE COURT: I know it's hard in this context for -- Ms. Garcia has already testified. For whatever reason, she's decided that she'd like to testify again. She's a member of the bar. She's got plenty of experience. This is how she chooses to proceed. This is how she chooses to proceed, and we'll take it as it comes. But I can't have you interrupting her testimony with your argument why her testimony is wrong. You'll get a chance to cross examine her when she's done testifying.

MR. SWEETAPPLE: Well, it's -- when she tells the story and it's always got hearsay that Mr. Raymond did this, then instead of me saying, it's

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hearsay, please stop, I'm now showing you the hearsay she's telling you -- what she's just telling you, is not true. Okay. It is not -- it's -- and so I'll reframe myself.

THE COURT: It not being true is not a legal objection.

MR. SWEETAPPLE: True. And I'm trying -- I'll just interrupt her in the middle of her story when she starts saying, this was my mental impression, based on what A, B, and C told me.

THE COURT: Or you could just wait until your cross examination.

MR. SWEETAPPLE: I can do that.

THE COURT: And let her testify in the form of narrative.

MR. SWEETAPPLE: Let all the hearsay come in and do it later.

THE COURT: I don't -- whatever you want to do, but what you can't do is interrupt her and argue your side of the story while she's testifying.

MR. SWEETAPPLE: But in all --

THE COURT: So either object with a legal objection or don't and cross examine her.

MR. SWEETAPPLE: In all deference of the Court, as awkward as it is, I have -- we never had a time

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where the Court has refused my request to make a witness who is pro se or a lawyer ask the question of themself and answer it. There's no way I have any idea what she's going to say, what she's responding to, how I should object, and I -- there's nothing I can do either -- that either interrupt her or correct her because this is not the way you take evidence. So I --

THE COURT: I have never -- I have never -- and with all due -- I have never had a witness say, please state your name. My name is John Parnofiello. And what do you do? For I've never seen that before.

MR. SWEETAPPLE: After background, I've done it all the time because otherwise --

THE COURT: I've never seen that.

MR. SWEETAPPLE: -- otherwise I can't do my job.

THE COURT: I -- okay. I've ruled. Go ahead, Ms. Garcia.

MS. GARCIA: Okay. So

MR. SWEETAPPLE: I'll just wait until she's finished and I'll --

THE COURT: I'm not telling you what to do. You either say objection. You state your legal basis,

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three words or less, I will rule. Or you wait until the end, and you can cross examine.

MR. SWEETAPPLE: Understood.

MS. GARCIA: So after negotiations failed in March, that settlement agreement was not entered into. A bankruptcy was filed by Mr. Bernstein individually. Now, Mr. Bernstein filed an, in evidence Exhibit 18 -- Defense Exhibit 18, is clearly a suggestion of bankruptcy filed by Mr. Bernstein pro se. That suggestion of bankruptcy was delivered to the Court personally by Mr. Bernstein and Ms. Bernstein, and they went to the clerk, and the clerk canceled the sale based on that suggestion of bankruptcy. The -- in the bankruptcy hearing that resulted in that order, which I will be contesting, they decided to use a strategy of saying that my bank -- that my suggestion of bankruptcy was a fraud, but my suggestion bankruptcy was not used.

MR. SWEETAPPLE: Objection. Speculation.

THE COURT: I don't understand. If you wanted to refer to all of these hearings, why didn't you all just provide me with the transcripts of these hearings?

MS. GARCIA: I did move into evidence all the transcripts for the -- from the -- well, not just

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for a file that Your Honor did the last hearing, all the -- all the --

THE COURT: This has been pending for I don't know how long, and this -- I will agree with Mr. Sweetapple, this is one of the most awkward ways of taking testimony or evidence. And if you're going to just tell me what happened in different hearings that you were a part of, the -- isn't the record the best of evidence? Couldn't you just provide me the record and let me know what was said in the different hearings? As far as why they did these things, that's -- you're just speculating as to that. That's not something I can consider as evidence. That's your legal argument. I'm really, really not sure of what we're doing here with respect to the motion, but I want to give you your due process, so --

MS. GARCIA: What I what I'm explaining to the Court is that, again, they go into court to file a motion to lift the stay again for a party that they've now admitted does not have any rights. Under any Power of Attorney.

MR. SWEETAPPLE: Objection. Hearsay. Speculation.

THE COURT: Sustained.

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MS. GARCIA: Okay. The bankruptcy hearing speaks for itself as far as the order, when you see the order's entered in the name of the estate. So you can consider that to see that's now a party that had has no legal rights based on everything that's been testified to in this Court. The suggestion of bankruptcy that they're claiming that I filed that was fraudulently and entered an order that I was not a party and never saw this order until months and months later, is not true. And there's an evidence that the suggestion of bankruptcy to cancel the sale was done by Mr. Bernstein, not me. Mine was filed as a courtesy. It contained one sentence that had no intentions or no misrepresentations in my opinion, but they're trying to make -- they're trying to use that fraud here to infer that we did other nefarious things when it comes to the settlement. That's why it's important and relevant because there's been numerous times and that will be into 1.540, that deal with the transcripts from the guardianship and the mental health case, which I did provide to the Court. I filed it all in court and I asked them if they would stipulate to it, but they didn't. But I will deal with that in the 1.540. So you'll see why it's so frustrating to me that

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there's orders entered that I firmly believe as an attorney are not appropriate.

MR. SWEETAPPLE: I'm going to object, Your Honor, to her feelings and her opinions.

THE COURT: And it's not relevant.

MR. SWEETAPPLE: The document speaks for itself.

THE COURT: Sustained. The objection is sustained.

MS. GARCIA: Okay. So what happens then, Your Honor, during the bankruptcy, the daughter, Joanna Sahm, files within three days of finding out that Mr. Morganstein [sic] was hired to settle the case, files a guardianship to be appointed, which she wasn't appointed in the end. Charlie was -- Charlie Revard was appointed by agreement by Amber Patwell in June.

MR. SWEETAPPLE: I'm going to object. Hearsay. Speculation.

MS. GARCIA: It's in the Court file. It's been stipulated to Your Honor.

THE COURT: It is. So I -- I'm not really sure why you're testifying to it.

MS. GARCIA: Okay. So what happened then, Your Honor, I didn't deal with Mr. Sweetapple directly

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because my understanding was he was terminated when, first of all, when Twig came in, then there was a bankruptcy pending. And then Mr. Sweetapple himself filed a notice in court that he has in evidence, on April 18th, that basically he doesn't have any more jurisdiction, that there's a pending guardianship. So basically there he's admitting that there's nothing he could do here. His hands are tied. So at that point in May, Ms. Patwell is retained on May 1st. Ms. Patwell is approved by the Court through the stipulations and substitutions that are all in evidence. So come --

MR. SWEETAPPLE: Objection. That's a lien of the guardianship case.

MS. GARCIA: Ms. Patwell's retainer that as in evidence also states very specifically she was retained for the foreclosure case. So it was represented to me that we would attempt to resolve the foreclosure case through the guardianship case with the approval of Judge Burton, because when a contract is then entered into after reports, which of course we'll get into the contestations of those, but prior to the adjudication, those contracts are presumed valid. And I firmly believed that we had a good basis to do it, and that Ms. Sahm was actually

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competent enough to enter into the contract. She had an attorney's advice. The attorney reviewed it. The retain -- the settlement was given to Ms. Patwell in early May, I think, May 5th or May 8th. She had until May 22nd --

MR. SWEETAPPLE: I'm going to object. Best evidence of that.

MS. GARCIA: My testimony. I'm the one that gave it to her.

MR. SWEETAPPLE: Where's the document? Where's --

THE COURT: You gave Ms. Sahm --

MS. GARCIA: No. Miss -- Ms. Patwell --

THE COURT: Okay.

MS. GARCIA: -- on behalf of -- after she was hired by Ms. Sahm, her retainer -- retained her for the foreclosure and for the guardianship and mental health case. So she's officially her attorney.

THE COURT: Is that in evidence?

MS. GARCIA: Yes. It's in evidence. It's in the retainer. The retainer --

MR. SWEETAPPLE: No. It's under objection --

MS. GARCIA: -- says specifically for foreclosure.

MR. SWEETAPPLE: -- she's testified previous

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under her argument. Where's the -- where's the document where she transferred the settlement or anything to Ms. Patwell?

MS. GARCIA: It's in evidence, Your Honor, as Exhibit -- let's see. 26. Defense 26 is the Retainer. Defense 25 is the Stipulation for Substitution, the guardianship case with Laura to --

MR. SWEETAPPLE: Ms. Garcia testified she transmitted the settlement agreement to Ms. Patwell --

THE COURT: Defense Exhibit number 26.

MS. GARCIA: 26 is Ms. Patwell's retainer.

THE COURT: Yes.

MR. SWEETAPPLE: The testimony, Your Honor, was that she transmitted the settlement agreement to Ms. Patwell on the 8th of March -- or May. And there's no writings between Ms. Garcia and Ms. Patwell transmitting any settlement agreement ever. And she submitted that. And she says they were all hacked from her computer in her depo.

MS. GARCIA: I don't know if I'm supposed to respond, but --

MR. SWEETAPPLE: So I object -- I object to her statement. The best evidence of any transmission of the settlement agreement on May 8th would be a

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scanned document, an e-mail, some writing. Ms. Patwell was on the West Coast of Florida.

MS. GARCIA: It was transmitted --

THE COURT: I'm just reviewing --

MS. GARCIA: Yes.

THE COURT: -- the Exhibit number 26. So --

MS. GARCIA: The settlement agreement was transmitted to Ms. Patwell. I have text messages which I had produced and from my point of view, it's when I'm talking to her.

Are you hired?

Yes.

You know, here's a settlement, go over it with your client --

MR. SWEETAPPLE: And I --

MS. GARCIA: -- whatever you decide.

MR. SWEETAPPLE: -- I -- any writing where she's -- I object. Best evidence would be the text message that shows that she scanned a settlement agreement with Ms. Patwell.

THE COURT: So are you withdrawing your objection to the hearsay of the text messages?

MR. SWEETAPPLE: No, not as to Ms. Patwell, as to her. She says she sent in a text message, the settlement agreement to Ms. Patwell. And first I

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heard it's May 8th and now it's in the text message. Show me where, please, best evidence would be. Where is this -- where and when is this settlement agreement sent to Ms. Patwell?

THE COURT: Do you have --

MS. GARCIA: I don't --

THE COURT: -- an e-mail or is it through your text messages that you sent --

MS. GARCIA: No, I transmitted through an e-mail, Your Honor, but my e-mail that I was using at the time lost over a million e-mails. I had been constantly hacked, and I've had to transfer vendors. I could -- I have not been able to recover those. Ms. Patwell moved from one e-mail to another. She couldn't recover it. But I have text messages with her and her acknowledgement that she showed it to her client, talked to her client independent.

And I also have here proof, just, Your Honor, so you know, that at one point I'm working with the FBI and with investigators and private investigators to determine the source of the people who keep showing up to my house and the source of the hacking. At one point I received an e-mail that's described as Kevin Hall, but when you look at the real address, it says, johnraymond@nelsonmullins.com

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via Gmail at some gibberish.

So I've given this to the investigators to try to figure out where my e-mails are going, who's erasing them, who's --

THE COURT: Okay.

MS. GARCIA: -- erasing my calendars, but it was transmitted to her. She obviously had it. And she agreed in writing to -- on May 22nd after going over it with her client numerous times --

MR. SWEETAPPLE: Move to strike.

MS. GARCIA: -- independent --

MR. SWEETAPPLE: Move to strike. Best evidence with your writing.

THE COURT: With respect to the best evidence rule objection. The best evidence rule only applies if there is a writing.

MR. SWEETAPPLE: She said there is.

THE COURT: She's testified that there is not because she's been hacked, and she's lost her e-mails, and Ms. Patwell has lost her e-mails. I'm overruling your objection. Go ahead.

MS. GARCIA: So what happened during that time frame, Your Honor, from May 5th to May 22nd, basically Ms. Patwell was -- had the -- had the settlement that -- I basically took the one I had

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done with Mr. Raymond and updated it to change it to the right parties, which I realized at that point was not the estate and otherwise, based on what I learned, and changed it to include protections and for release of funds. And also the clients had determined the price of 225.

THE COURT: Had you had any communication with Ms. Patwell prior to -- prior to Ms. Sahm signing the engagement form?

MS. GARCIA: No. I never even heard of her. Just like I never even heard of Mr. Weinstein. I had nothing to do with the representation. In fact, I refused to talk to Ms. Sahm or do anything throughout the records or anything without her having a lawyer. There was no way that I was going to talk to her or have any communication directly with anyone without her having a lawyer that would look at it. And I told those lawyers in writing and in the phone many a times, this is your client, you do what you want. If it's not acceptable, let me know. If you want to make changes, make your changes. I had zero to do with the approval of it on that side.

What happened? Come May 22nd when it was executed, the clients came to my house. They signed

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it at my house. Then with Ms. Patwell's knowledge and permission, which is also in my e-mails, she allowed me to send my clients to the house to sign it because it had already been negotiated and finalized. And then my understanding is she also got on the phone with the client again and made sure. And the client signed it.

So once that happened, Ms. Patwell and I immediately informed the guardianship court because she was the guardianship attorney, and she also had the retainer for this case. But because Mr. Sweetapple apparently did not receive the DocuSign for the stipulation, which is in evidence for signage --

MR. SWEETAPPLE: Objection. This is all speculation.

MS. GARCIA: You -- he testified that he did not receive the stipulation, so --

THE COURT: He hasn't testified.

MS. GARCIA: -- I'm saying -- maybe he didn't. I don't know.

THE COURT: He hasn't testified.

MS. GARCIA: Okay. So the bottom line is that the stipulation was never entered into. So at that point, Amber Patwell -- well, let's -- let me file

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my -- let me go ahead and file my appearance in the foreclosure case now because I've been retained to represent it -- represent her in the foreclosure case also.

So the case was settled. And at that point, I firmly believe that they -- when they filed the -- they filed the guardianship, the timing of it was during the bankruptcy. When I disclosed to the Court that the case was being settled with another lawyer, this guardianship happened. So the settlement had already been pretty much communicated and agreed to as far as the concepts prior to the bankruptcy being dismissed and prior to the guardianship being filed.

But because of the delays in Ms. Sahm being able to have her attorneys with Mr. Morgan Weinstein leaving and then Amber coming in and then them filing the guardianship and her stipulating in with Laura and everything he had to do with the timing, it took a few, you know, weeks to get it finalized and to get it executed.

So that settlement was executed in good faith, and it was settled in, not only my client's favor, but significantly in Ms. Sahm's favor. Because if you look at the risks, if you look at the rewards of

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settlement and Judge Burton and the transcripts are there -- I don't know if you'll stipulate to the transcripts, but I'd love to have you have all the transcripts. I can -- I'll move them into evidence today if you'll take them -- take judicial notice. They've been filed in a court file for months.

I had ordered all the transcripts and analyzed them to determine for the guardianship case and the mental health case. So Judge Burton started looking into the settlement because there were allegations made immediately over there, including in the answer, and I think the response is that the case is settled, Judge, we settled the foreclosure case and we're contesting these three committee members. Okay. So at that point, the settlement is entered into, there's an objection pending on the committee --

MR. SWEETAPPLE: She testified she settled on the 22nd.

MS. GARCIA: -- after the settlement was entered into, Ms. Patwell and her client obviously made the decision to agree to do a limited guardianship, because --

MR. SWEETAPPLE: Under speculation. The document speaks for itself.

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THE COURT: Sustained.

MS. GARCIA: So the guardianship was entered into by agreement in July -- I mean, sorry, June 27th, to bring in Charlie Revard. Mister -- Judge Burton held numerous hearings and ordered Ms. Patwell to turn over all of her notes, which was one of the documents I was trying to get into evidence that the judge didn't take in because it was hearsay. It was everything that Ms. Patwell turned over to the Court, all of her notes and notations that he read into the transcript and basically told us all at the hearing when Ms. Sahm was saying the house is worth $850 and I want -- you know, we can make money selling the house and he's explained to her in foreclosures how it works and how you can have appeal after appeal and bankruptcy. The bankruptcy, you guys need to --

MR. SWEETAPPLE: This is hearsay, Judge.

MS. GARCIA: -- you guys need to settle -- or not settle, but talk about what you want to do. And then he decided to throw it out of his court, and he threw it back to the -- to you, to the foreclosure court said, go handle it over there. I'm done.

THE COURT: Okay. The -- whatever happened in that action would be in the transcript of that

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action. Whatever Judge Burton said to explain is not hearsay because it's not off the truth of the matter asserted. It's the effect on the listener. But be that as it may it doesn't really matter. It has no moment to what we're doing here.

MS. GARCIA: Okay. So I -- and I firmly believe Ms. Patwell believed this was in everybody's best interest to resolve this case. The money was sitting in the Court registry ready to pay. And instead, here we sit a year and a half later. It took him over a year, I believe, to file the motion to set aside the settlement. I had tried to get the funds released literally within days, and I was blocked, but the attorney in the Bernstein -- in the -- in the Shirley Bernstein Trust released the funds. So basically the settlement was entered into voluntarily at the advice of Counsel.

MR. SWEETAPPLE: Objection. Legal conclusion.

THE COURT: Sustained.

MR. SWEETAPPLE: Move to strike.

THE COURT: Sustained.

MS. GARCIA: So speak of the reports, Judge, there's three reports and one of the people obviously testified today --

MR. SWEETAPPLE: Objection. This is argument.

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She has no personal knowledge.

THE COURT: I don't know what she's about to say. I need to hear what she says before --

MS. GARCIA: We reviewed the reports, specifically back at the time when they were -- when they were brought in. And then it was an independent report after the fact, by Dr. Sugar, which was relied on, without saying what was happening, that I felt comfortable up there looking at the reports, looking at the law, looking at the misrepresentations, looking at the 119 request I had put out, that today, even, when I saw the testimony about the MoCA test and mild cognitive, and testimony that didn't happen. And we felt comfortable that because one of the reports that's in evidence said that Ms. Sahm can enter into contracts with her attorney, and that's in evidence, Amber and I felt comfortable that we were doing the right thing and disclosed it to the guardianship court immediately. So there was no finding of incapacity at the time --

MR. SWEETAPPLE: Objection. Move to strike. No evidence they disclosed this to the guardianship court.

THE COURT: Is there any document that

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indicates that this is the case?

MS. GARCIA: Yes, Your Honor. Can I mark as Exhibit NN the transcripts that have been previously filed, and have you take judicial notice? I can tell you --

MR. SWEETAPPLE: I've never seen -- I've never seen them or been provided with them.

MS. GARCIA: You have been. It's been filed in court, and you were served with them, sir. I can tell you the docket entry numbers --

MR. SWEETAPPLE: Okay.

MS. GARCIA: -- and we're taking judicial notice of the entire file.

MR. SWEETAPPLE: Tell us when we've got transcripts of hearings.

MS. GARCIA: Hold on.

MR. SWEETAPPLE: And this --

MS. GARCIA: I'll tell you right now. Let me log in.

MR. SWEETAPPLE: -- it's got her list of -- and --

MS. GARCIA: And I have a -- I have a copy that I've already provided --

MR. SWEETAPPLE: And I just want to make --

MS. GARCIA: -- a copy --

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MR. SWEETAPPLE: -- okay. I want to make sure that, Your Honor, something that was said is accurate and noted. But I believe Ms. Garcia testified that she settled this case before the guardianship was filed -- the foreclosure case, it was settled before the guardianship was filed, is what she testified to.

THE COURT: Are you asking me that, or --

MR. SWEETAPPLE: I just want to make sure Ms. Garcia is not correcting that testimony because that's what she testified to.

MS. GARCIA: The settlement was obviously signed on May 22nd after the advice of Counsel on May 1st. But the concept between the parties and their discussions were -- I think began in January because they're family friends forever. And I had -- Ms. Bernstein had testified to that, that there were conversations had and there was a decision made already back then that they wanted to start to resolve it. And that's why in March I was trying to negotiate, and we had a bankruptcy, and then --

THE COURT: Okay. I don't --

MS. GARCIA: -- two attorneys later --

THE COURT: -- I'm not seeing any transcripts in the Court file.

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MS. GARCIA: Okay. The transcripts were filed, DE 264 through 275. I believe that's the transcripts. I filed them immediately after the last hearing. Let me see. No, that's not it. If I can find it.

THE COURT: 265 is a --

MS. GARCIA: No.

THE COURT: -- 22-page long transcript.

MS. GARCIA: Your Honor, it's -- no, 263. I filed a Notice of Filing for all purposes of the transcripts. I'm trying to see. So I think it -- I believe it starts --

THE COURT: It's a Notice of Filing, but there's nothing attached.

MS. GARCIA: Well, because it was large. So I think 265 is the first -- is one of the transcripts. It was a transcript in front of Judge Ferrero (phonetic) in the guardianship case from April 23rd, 2024.

THE COURT: Right.

MS. GARCIA: And that's one. Then the next one is 266. And that was the proceeding in the guardianship case on May 13th, 2024.

THE COURT: Correct.

MS. GARCIA: The next one was 267, which is the

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transcript from September 5th, 2023, in front of Charles Burton in the guardianship case. Because Burton was the attorney before --

THE COURT: The judge before Judge Ferrero.

MS. GARCIA: Right. Then 268 is the transcripts in the guardianship case where Ms. Patwell was present on October 17th, 2023.

MR. SWEETAPPLE: Your Honor --

MS. GARCIA: 269 --

MR. SWEETAPPLE: -- I have no objection to transcripts from the May proceeding.

THE COURT: Okay. So then you want me to take judicial notice of docket entries 263 through 274?

MR. SWEETAPPLE: Fine. Yeah, just the May -- I don't have any problem --

MS. GARCIA: 275.

MR. SWEETAPPLE: I have not read them or seen them, but I mean, we have orders that the Court wants to look at what Judge Burton was saying, right?

THE COURT: As opposed to having you all tell me what --

MS. GARCIA: Right.

THE COURT: -- what you gleaned from the hearing?

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MS. GARCIA: Through 275, Your Honor.

THE COURT: Okay. I will -- I will so judicially notice these files.

MS. MILLER: 274 is not a transcript.

MR. SWEETAPPLE: Huh?

MS. MILLER: 274 is not a transcript.

MS. GARCIA: Okay. So 274 is not a transcript, Your Honor.

MS. MILLER: 273 is not a transcript.

MR. SWEETAPPLE: What is a transcript?

MS. GARCIA: Would this be composite 27?

THE COURT: Well, if you're going to mark it for evidence purposes --

MS. GARCIA: Yes.

THE COURT: -- then the clerk is going to need a physical copy.

MS. GARCIA: Okay.

THE COURT: If you want me to take judicial notice of the Court filing, I could do that. And then on appeal, it would be transferred to the Court without it having to be marked as a separate exhibit. So it's probably easier for Madam Clerk and for trees.

MS. GARCIA: I would mark these, Your Honor.

THE COURT: If you have them, you can --

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MR. SWEETAPPLE: On the May and June proceeding?

MS. GARCIA: From all the proceedings.

MR. SWEETAPPLE: No, I'm -- we -- we're -- I would -- I object to this being a composite because she's saying from all the proceedings, and I don't think we're here to retry bankruptcy proceedings and trust case proceedings or whatever else has been filed.

MS. GARCIA: This is just the guardianship and the mental health cases.

THE COURT: And they're filed in the Court file, right?

MS. GARCIA: Yes, it --

THE COURT: Do you want to enter them into evidence, or do you want me to just judicially notice it and access it from the Court file?

MS. GARCIA: If it's the same effect and admitted into evidence as Exhibit 27, I'm okay.

THE COURT: Then if you want to -- then I will receive them into evidence without objection as Exhibit number 27.

The clerk will need a copy.

MR. SWEETAPPLE: As to -- as to the May and June?

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THE COURT: I think those are the ones that were in the Court file. That's all that she's asked me to judicial notice.

MR. SWEETAPPLE: And I have no problem with entering into evidence what you take judicial notice on from the dock. And so you don't have to have paper overwhelming you.

THE COURT: It's okay.

MS. GARCIA: No, Your Honor. It's eight different transcripts. It started May 23rd, 2023. Because they're entered -- they're entered into evidence. For instance, Your Honor, the August 14th, 2023, injunction --

MR. SWEETAPPLE: But that's --

MS. GARCIA: -- may say that there were findings made. If you look at the transcript on August 14, 2023, the judge specifically made no findings. It was an agreed extension for 30 days with no findings. And they entered an order making findings and they want you to rely on that when it's not true.

MR. SWEETAPPLE: Your Honor, you --

MS. GARCIA: So that transcript is clear, right?

THE COURT: Right. The transcript is going to

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be the best evidence of what happened at the hearing, which is why I'm saying, I don't understand why at 4:30 we're just now realizing that perhaps we should have given the judge the transcripts of the things that we've been discussing.

MR. SWEETAPPLE: And, Your Honor, she's attempted to collaterally attack these orders that haven't been appealed to her final and saying, oh, at this hearing and that wasn't said, so therefore it's not --

THE COURT: I don't take --

MR. SWEETAPPLE: -- it's not an order.

THE COURT: -- I don't take it as a collateral attack. I -- and if that's what I'm being asked to do, I'm not going to do that. I -- so I'm receiving those transcripts into evidence. Yes. Defendant's Exhibit number 28, which are purportedly the transcripts of the eight different court hearings that we're here for the purpose of what transpired at those court hearings.

(DEFENSE EXHIBIT 28 RECEIVED INTO EVIDENCE)

THE COURT: So since we've disposed of the need of discussing what happened at those court hearings, understanding that Mr. Sweetapple is going to need to have a chance to cross-examine you, what

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additional testimony do you have?

MS. GARCIA: Basically, my testimony is that this agreement that is being attacked was entered into the proper legal advice. The two attorneys of record --

MR. SWEETAPPLE: Objection. Legal conclusion.

THE COURT: You are giving me a legal conclusion.

MS. GARCIA: Okay. I believe, Your Honor, that we did nothing inappropriate, nothing nefarious, nothing conspiratorial, nothing improper when it came to entering into a settlement agreement with an attorney who was the attorney hired by Mrs. Sahm, accepted by the guardian court and filed a notice in this case. When there's co-counsel -- assuming that he -- that Mr. Sweetapple was still even the attorney after being terminated, I had no obligation to speak to him at that point. So --

MR. SWEETAPPLE: I object and move to strike. Where is there any evidence I was terminated?

THE COURT: Overrule the objection.

MS. GARCIA: So basically, Your Honor, once Mr. Sweetapple filed that notice on April 18th about the guardianship case, he knew that he had no authority to act. So just because you're the attorney of

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record does not mean you have authority to act. According to the bar rules, in fact, it says, you can't even discuss the facts with opposing counsel. You can't do anything when it comes to the case without --

MR. SWEETAPPLE: Object. Speculation.

MS. GARCIA: -- court authority.

THE COURT: Again, you're giving me legal conclusion.

MS. GARCIA: My opinion at the time --

THE COURT: Which is not a -- you can't opine on what the law is, no matter how experienced you are, right?

MS. GARCIA: Okay.

THE COURT: I get it. But you can't --

MS. GARCIA: I understand.

THE COURT: -- it's a --

MS. GARCIA: Okay.

THE COURT: -- it's a decision for me to make.

MS. GARCIA: I understand. So based on my understanding, I negotiated with the right person, which was Ms. Sahm. And Mr. Sweetapple was not reappointed to the case or authorized until recently again, when the guardian substituted back in. And in the meanwhile for over a year, nothing had been

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filed to set it aside. And I just firmly believe that the allegations that are -- that are against my clients and myself are just not clear and convincing evidence of us doing anything that is -- constitutes undue influence of fraud.

THE COURT: All right. To cross-examination?

MR. SWEETAPPLE: Have you concluded your direct?

THE COURT: Ms. Garcia, are you done on your direct?

MS. GARCIA: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. SWEETAPPLE:

Q. Ms. Garcia, you've told me under oath that you have tremendous experience in dealing with notes and foreclosures, right?

A. I have experience. Yes, sir.

Q. And you told me it was obvious to you that this note was a joint asset and that when Mr. Sahm died, Mrs. Sahm had the right to proceed to collect the note, right?

A. I don't recall telling that to you in those terms. What I do recall is being told that no substitution was necessary because the estate had no rights.

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Q. And you understood that from the first time you looked at this file, didn't you?

A. No.

Q. You looked at this note and this foreclosure case and you believe that a joint note between a husband and wife became an estate asset when Mr. Sahm died? You didn't know that it was clearly a survivorship right and you didn't testify to that in your deposition when I asked you?

A. I can say this much. Because of the filings in the federal court conflicted with the filings in the state court -- and then I'm told by the estate attorney to negotiate there, I firmly believe that there was a gray area on what rights does the estate really have? They're telling two federal bankruptcy courts that they are the -- the -- the owners. They are the creditor. So I don't know who to believe when all the attorneys are lying to me and -- and -- and confusing and misrepresenting the different situations.

Now, you, Mr. Sweetapple, did not -- my understanding is you brought in Mr. Shraiberg to do the bankruptcy case, but you didn't make any filings or representations there. Your position has always been constant and consistent that you can file for the dead man, but it didn't go to the estate. The -- the other

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attorneys were consistent with the estate is the one who has it and it's under a Power of Attorney under pre-guardianship, therefore your client wasn't competent for years, according to the confusion that was given to me.

So it's very hard when you have numerous attorneys in different courts and different representations made to different judges for whatever benefits you, when I'm trying to figure out -- begging you guys in e-mails who has rights, who do I go to? Who signs a settlement? What do I do? And that's in evidence. My questions.

Q. And I have you on here --

A. And I was -- and I was told different things by different attorneys at different times, depending on what met their needs.

Q. I have your e-mails right here. I'm going to put them into evidence shortly. But you knew well before your client filed this bankruptcy that this was an asset owned by Mrs. Sahm individually, based on your experience. And you've admitted that in your deposition, haven't you?

Please don't go off on a tangent. Just tell us whether or not you have admitted that you knew from the outset that this was a joint asset and that it belonged to Mrs. Sahm after her husband died?

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A. I don't believe that -- that was my knowledge at all times. I believe that it fluctuated based on the representations made to the courts and the filings made by the courts --

Q. What --

A. -- which caused confusion.

Q. -- mister --

A. When we have an estate saying it's ours and we are the creditor and filing for sanctions and -- and filing also for dead people -- but then it was a typo, and I corrected it. I get confused when I have five different lawyers telling me five different things. That's why everybody was included in this settlement and every court was referred to. Every case was referred to. Every attorney was referred to. So --

THE COURT: Other than Mr. Sweetapple.

BY MR. SWEETAPPLE:

Q. So you saw that Mr. Shraiberg appeared for Mrs. Sahm individually and for the estate, right, in the bankruptcy?

A. Yes. Through a pre-need guardianship according to the testimony of Joanna Sahm.

Q. And I'm going to show you e-mails, including -- here. Do you have another copy for the court?

MR. SWEETAPPLE: If I can approach, Judge? Yes,

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sir. I'll mark this as 14, I believe.

THE CLERK: Yes, sure.

BY MR. SWEETAPPLE:

Q. These are e-mails from Mr. Raymond. And you're -- on March 24th, you're writing, "To be clear, please clarify the following as soon as possible so I know as what to represent to the foreclosure judge and the estate judge in my motion to cancel sale on filing Monday. Is it true the estate has no rights to note that the foreclosure case and only Patricia Sahm, Senior is the beneficial other?" So you believe that was the case, right?

A. I asked for clarification because that's not what they filed in the federal court. They said that they had rights. So --

Q. Just --

A. -- I'm asking for clarification from the estate attorney of what to tell the Court --

Q. And you're --

A. -- on March 24th?

Q. -- and you're asking him, Mr. Sweetapple will represent Patricia Sahm, Senior through Joanna Sahm based only on that Power of Attorney.

Why would you be asking him the basis for my representation rather than calling me to find out when I

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undertook to represent Mrs. Sahm individually and how I was operated with regard to a Power of Attorney. Why are you asking him the scope of my representation and how I got it?

A. I found out about this Power of Attorney for the first time in the bankruptcy court when Joanna Sahm testified to the pre-need guardianship that she supposedly hired Mr. Shraiberg in the -- in the federal court. So therefore I was --

Q. And when would it go into effect? It went into effect on Mr. Sahm's death. And I represented Mr. and Mrs. Sahm for two years before he died, right?

A. I can finish --

Q. Did you -- did you -- did you -- did you ever -- did you ever focus on the fact that I can represent a live husband and wife and when the husband dies, continue to represent the wife, and there can also be a Power of Attorney? And that there's -- they're not mutually exclusive?

So why are you asking Mr. Raymond about my representation and making these assumptions? You -- you've testified last time we were here, and you keep testifying I've been substituted, I've been terminated, I have no rights, I can be ignored.

So --

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A. On --

Q. -- why are you asking anybody other than me --

A. -- on the same --

Q. -- what my rights are?

A. -- on the same day on March 25th at 5:05 p.m. when I wrote that e-mail asking -- I said, I need clarification of these six questions so I could determine who would go in the settlement. I asked about is Joanna Sahm the trustee. Is she the PR? Is she -- if she's not a party to the foreclosure and she's not a guardian, is it true that her own involvement in the foreclosure is solely based on Power of Attorney?

But then I asked -- then I sent you an e-mail that same day, by the way, in this chain, at 7:49, and I asked you, I'm requesting that you agree to cancel the sale, do an immediate mediation with the plaintiff. Please let me know your client's position so I can form it in my -- support my motion. So --

Q. And --

A. Because you guys were bouncing me around so much and filing different ownership rights and different representations. I had to ask you guys a question to find out who needs to be in any settlement. That's what that was about. Me asking --

Q. Ms. Garcia --

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A. -- you guys to please tell me the truth once and for all of who do I need to include in the settlement?

Q. -- Ms. Garcia, I have a pleadings address where both counsel of record -- and you're sending e-mails to an address that I have never used on any document ever. And you -- and you complain that I don't respond to you. There is no rsweetapple@sweetapple.com, or whatever it is. Rsweetapple@sweetapple.com. It's sweetapplelaw.com. And pleadings. So -- and then on March 27th, let's keep going through this, where you continuously e-mail me at a non-existent address, even though we're both in the same pleadings file. And if you get this answer on the 27th, as I informed you before, this is just Sweetapple is representing the party plaintiffs in this matter and all responses should come from his office.

A. And at that point, I also then wrote to you and Mr. Raymond and Mr. Raymond copied you, by the way, at that address on March 30th at 4:22. He copied you --

Q. At the same address you used.

A. -- at the address.

Q. At the same address you used. That is not my pleadings address or my address.

A. Well, I wouldn't know that. He's -- if he's

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responding to you at that address in an e-mail chain with me, I'm going to assume he has the right address. And I do believe there's a plea -- another e-mail that we -- that's in evidence now, that I will look for, that I sent to that address, and you did respond. So you have responded at that address before.

Q. No. No, I never -- I've never responded to that address and never got any of these e-mails. But you were repeatedly told that you would have to communicate with me. And at this time -- at this time, you knew that I had filed shortly after this. The fact that I had contacted my client -- she's had no recollection of signing a revocation of a Power of Attorney.

A. Objection to hearsay.

Q. And I became concerned and filed with the Court a notice that the client indicated she had no knowledge of signing a revocation, that she wanted me to continue with the case. But I also let the Court know that I was concerned about her mental capacity and that a guardianship had been instituted. So you knew I was telling the world that her competency was at issue, right?

MS. GARCIA: You did file once you were told by your client, Joanna Sahm, who you had been working

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through a Power of Attorney only, not with the mother. You told her -- or she testified that she had met with you and Mr. Mullins and -- or Mr. Raymond, and you all had to try to decide what to do. And I guess you all decided to file a guardianship --

MR. SWEETAPPLE: I didn't decide -- what do you mean, you all?

MS. GARCIA: -- on April 17th.

MR. SWEETAPPLE: -- I didn't decide to file the guardianship. I was told there was a guardianship filed.

MS. GARCIA: Okay. And so you --

MR. SWEETAPPLE: And I put you on notice and the world on notice.

THE COURT: So -- I -- are -- is this cross-examination or --

MR. SWEETAPPLE: Yes, Judge, because I'm not --

THE COURT: -- or you all just arguing with each other about this string of e-mails that I can read?

MR. SWEETAPPLE: Yeah. --

THE COURT: Can we move on?

MR. SWEETAPPLE: -- e-mails now. I'm talking about my filing with the Court, the notice --

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THE COURT: Can we move on, please?

MR. SWEETAPPLE: Okay. Yes.

BY MR. SWEETAPPLE:

Q. The order determining limited due capacity.

Judge Burton said, this Court, having reviewed the file, having considered the reports of the examining committee, and being fully advised in the premises, finds, based on clear and convincing evidence presented, one, the ward suffers from incapacity of the following nature and scope: unspecified dementia, impaired memory and cognition, and then lists the lack of capacity to contract to assumed lawsuits, et cetera. Do you know that this order that was entered by the judge was based on May 5th reports and you were representing the Bernsteins during this proceeding, right?

A. On June 27th, I believe it is. It's your Exhibit 13 or -- no, 3. This order was entered into after the settlement was completed by the same attorney who entered into the settlement and this order to determine limited capacity was entered by agreement? Not by me, because nobody approached me. I would've definitely contested it because I had been ready to fight the insanity of these reports that were --

Q. Ms. Garcia, you were counsel of record in this case, and you've never filed an appeal of this order.

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You represented your client's in this proceeding in the guardianship court they had counsel, you, and your clients were involved from day one and knew about these guardianship examinations, didn't they?

A. These orders -- this order was sent into by agreement of Ms. Patwell. And --

Q. Where does it say the Court's duty based on agreement? So you see or -- see copies of for it -- your --

A. I've seen the communicate. I --

Q. You're served. You're served with this.

A. I was e-mailed during this time frame. I remember after the fact when you all were going back and forth between Eileen O'Malley, who was Joanna's attorney, because Joanna applied to be the guardian. And the Court was not inclined to allow Joanna or Patricia Junior to be guardians because there was a fight among the two daughters.

Q. And you were --

A. So there -- because the estate documents stated that Charles Revard would be the successor trustee, Ms. Patwell determined at that point, okay. The foreclosure case is done. Now I have to deal with my client in the incapacity case at that point because the foreclosure case was already done. The settlement

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had been signed. She filed objections to the reports. At that point, the agreement was made without me agreeing. I think Kevin Hall accidentally agreed because he was led to believe that everybody agreed from my understanding.

But you all entered into this order. And well, I mean, you all, I don't mean you Mr. Sweetapple because you had nothing to do with this case. Eileen O'Malley and Amber Patwell. So Joanna and her -- Joanna and her mother's attorney, Ms. Patwell, agreed to allow Charlie to have some limited rights moving forward, not retroactively. And by the way, no motion was ever filed in that -- in that case to set aside a settlement, which is where the Court then -- had they gone to this Judge Burton at the time and said, Judge, we got a problem. We want to set it aside. Judge Burton started listening to it, and you'll see in the transcripts he started saying, the paper, a privilege is waived. Accusations started flying quick. And you'll see what he said in the transcript from. But this order was entered -- this order was entered very be voluntarily.

Q. Ma'am, from the very beginning, your clients involved with the guardianship, right?

A. My clients did not do much in this guardianship at all. Originally -- my original client,

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which was the Bernsteins, we filed a notice of interest because they were making allegations against us in the settlement in the guardianship case. And I believe there's testimony that the whole reason that the guardianship case was even filed was to stop the settlement. It was -- it was purposely timed and done solely to stop the settlement in my opinion.

Q. And this order determining limited capacity that you were served a copy of has never been appealed or vacated, has it?

A. There's been many, I don't know how you call it rumblings or filings that deal with the fact that this violated Ms. Sahm's rights to due process because there was no hearing held and there was no actual determination made by the judge --

Q. Who filed -- who filed that?

A. It was done by an agreement.

Q. Who filed that?

A. I'd have to look at the file, but I do recall reading differing pleadings and allegations in this case. I mean, because I think Ms. Patwell did a wonderful job for her client. I completely disagreed with entering into an order of capacity when you had so many good defenses, but that doesn't make an attorney bad or good if we disagree. I'm telling you this that I

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did not agree to this limited incapacity order. I firmly believed at the time we did the settlement agreement that they would win this issue. But after the fact it was determined to be settled in June 27th, because it wouldn't have had an effect on the settlement because the settlement was done. This was moving forward. So my client, the Bernsteins, were out, there was nothing for them to do. We were done, over. I thought we were gone. The money was going to registry ready to go on May 23rd. And then all of a sudden, all these nefarious allegations come out about me and Ms. Patwell in our actions.

Q. And so do you have any order -- this is a -- this was an order determining limited in capacity by Judge Burton (phonetic). Is there any order or opinion in any way vacating this?

A. There's filings that --

Q. Is there any order or opinion vacating this yes or no, please? And then explain.

A. There is no order vacating this. No.

Q. No. And the judge says he relied on the May 5th guardianship examinations, doesn't he?

A. I don't know.

Q. Doesn't he say that right in the preamble?

A. He says that he reviewed the files. He

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considered the reports.

Q. Okay. And you were a --

A. And he was forming --

Q. -- council of record -- you were a council of record for your clients in this proceeding, correct?

A. It -- yes.

Q. Yes or no?

A. Yes. And it also says he was informed of the agreement of Patricia Sahm, and it says, and all interested parties, but I never agreed to this because as usual orders keep getting submitted to the courts without my agreement or my knowledge, or that are inconsistent with the file. And the only reason that I haven't filed these orders to date is because my client hasn't paid me in two years and has no money.

Q. So you got this order --

A. When I get money, I will address all these issues, sir, because I'm tired of these representations being made that aren't true.

Q. So when you got this order on June 27th, '23, a year and a half ago, it was mailed to you think it is erroneous and you've not attacked it because you haven't been paid, but when you get paid, you're going to attack it.

A. Well, now that the ongoing --

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Q. Is that your testimony?

A. My testimony is I have not attacked it yet because I can't afford to as a sole practitioner. My client can't afford to pay me because his funds are held up, and the fact that we're still ongoing and using these orders, knowing that they're not true, it's an ongoing fraud that I will deal with now that it's timely again.

Q. And when did you move to enforce the settlement agreement? It was allegedly entered on May 22nd, 2023. When did you file a motion to enforce it?

A. I did not file a motion to enforce it because we were dealing with this in the guardianship case, I think through June, July, August, and Judge Burton was having hearings on it and doing discovery and disclosures. And Ms. Patwell and I decided, let's just wait and let the guardianship court, or whoever, rule on it, because the allegations from day one have been about our affairs conduct. And at that point, her and I both took a pause and said, you know what we feel like we did the right thing, but there's allegations out there. Let a court determine what they believe.

Q. Isn't the settlement agreement captioned in the foreclosure case number?

THE COURT: Yes. There is 12.

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MS. GARCIA: Let's see. Defendants -- it's Defendant 6.

BY MR. SWEETAPPLE:

Q. Don't you mention that there's a foreclosure case and the case number is listed on the bottom of the first page?

A. Well, I can say this documents --

Q. Can you answer yes or no?

A. -- the document speaks for itself. However, it's not captioned in the foreclosure case. It's caption settlement agreement. And it says that the interested parties are Bernstein Family Realty, the Bernstein Family members, Patricia Sahm, and now at that point, after being told she's the sole owner and surviving spouse of Walter Sahm, and for good and valuable consideration, we acknowledge we entered the settlement agreement, and this settlement agreement deals with all the cases. It cite the Marion County case. It cites the --

Q. Show me where it cite --

A. -- foreclosure case.

Q. Show me where it cites the probate case that you say you're litigating. Where's the probate case mentioned here?

A. Under the first page, sir. The second

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paragraph on the recitals, it says, on June 24 -- June 24, 2021, it was an order admitting a will to probate and appointing personal representative Joanna Sahm --

Q. That's not the mental health case.

A. -- that was entered into for Walter Sahm and Marion County case 2.1P002326 --

Q. Then it says, Patricia Sahm has full authority to resolve the mortgage and no foreclosure matter. Okay. There's no mention of anything about a guardianship in this document. Is there no case number involved in the guardianship, right?

A. I'd have to look through it.

Q. Take a look.

A. Now let me see. At this point in time, this was May 22nd. There was no guardian appointed yet. So this was May 22nd, 2023. So there would be no guardian to mention, but --

Q. And you were dealing with --

A. -- I go through -- sir, I'm sorry.

Q. -- Ms. Patwell. And you decided to settle this. You and she agreed on the 22nd of May. You testified that's when you agreed to settle it, right? May 22nd.

A. That's when the settlement was actually signed. The agreement between the clients had been much

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earlier on maybe as early as January, February, March where they had their communications and agreements. However, there was the bankruptcies and then there was her having to hire attorneys and then the guardianship case was filed. So there were numerous delays that were outside of my control.

Q. And you here's your testimony on page 69 at line 5. And then basically we said, okay, we agree on the 22nd. She said, we agree, let's get it done. I'll file my appearance. So she agrees with you on the 22nd of May. And that's when she files an appearance at 6:37 at night.

A. Did --

Q. Right? That's what you testified to -- you and Amber agreed on May 22nd to settle the case. And then she files her notice of appearance.

A. On the 22nd is when she had made her final decision with her client, independent of me or anyone else after reviewing with her client. They hadn't, like I said, I think since the 5th of the 8th.

Q. So you were negotiating with --

A. She decided --

Q. -- for how long -- for how long when she was in counsel of record? You knew I was council of record. You knew she wasn't council of record. How long were

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you negotiating with her before May 22nd?

A. I knew of Amber once she was retained. I assume about May 2nd, May 3rd, because the guardianship case had been filed, and she was hired to do the foreclosure in her retainer and the guardianship.

Q. And she appeared in the guardianship, but didn't appear in the foreclosure, right?

A. She did eventually file a notice of appearance, but she had been retained specifically for that case told and represented that to me so I relied on it.

Q. She told you -- she told you I had been retained in the foreclosure, and you negotiated with her, and she hadn't appeared. So you know, I'm counsel of record. You don't send me any proposed settlement agreement. You don't talk to me. You know I represent Mrs. Sahm, but you're dealing with Amber Patwell, who's told you she's been retained in a foreclosure, but hasn't appeared to the case, right?

A. She filed her notice as you know, on the same day in the foreclosure case.

Q. No. The evening.

But --

A. The evening. In the evening.

Q. The same day.

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Right. Your clients all went to Mrs. Sahm's house -- how many people how many people did you send to Mrs. Sahm's house with this settlement agreement to get signed the evening of May 22nd?

A. I didn't direct numerous people to go. I asked -- Amber was out of town. Ms. Patwell was out of town, and I said, the clients are at my house. It's in text messages. I said, I can send them to the house to sign it. And she said, fine.

Q. So --

A. So I can't tell you how many people went, but I can tell you that the case had been settled before they got there. So there was no undue influence or pressure on Ms. Sahm that night. It had already been decided by both lawyers. We agreed to the logistics --

Q. Who did --

A. -- due to the location of the house and the location of Ms. Patwell, and the fact that nobody could afford couriers. So --

Q. So how many of your clients left your house and drove to see 84-year-old Mrs. Sahm by herself in her house the evening of May 22nd?

A. I think the only people that were at my house that day were Elliot and maybe Ms. Bernstein because the boys signed it at their houses. So they kind of made

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stops. So it started at my house and with approval of Ms. Patwell, it went like from my house, then it went to the different -- three different boys' houses. And then it went to Ms. Sahm's house.

Q. And this sound only doesn't have any signature by counsel, right?

A. No.

Q. And it doesn't have any date that the payment has to be made, right?

A. It does very specifically address, which we really covered on direct the fact. And I can read it to you again, if you'd like.

Q. I know if there's a date. What date -- what's it -- we're now -- we're now almost two years from the date this was allegedly signed. We're approaching that. When is the -- when is this money happening -- paid by of this agreement?

A. It will be paid within however quick. The clerk can cut a check once the judge makes a ruling that the settlement is binding.

Q. Well, you haven't asked for that --

A. Settlement wasn't binding.

Q. You haven't asked for that ruling. You haven't sued the guardian asking the guardian to sign anything. You just filed this in November of '23

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attached to some other document, right? You've never asked the Court to have [redacted] enforce this or Mr. Revard, the guardian, to sign this?

A. The --

Q. This -- right?

A. The agreement was provided immediately and the next day, Mr. Rose had it in the -- in the -- in the Shirley Trust case. And I asked him if I could release the funds and he said, don't release the funds. Let's see how it plays out in the guardianship. Ms. Patwell and I decided because now they became an issue as far as complaining about the settlement that we would let the guardianship court tell us where the money to go. So I didn't know where to pay the money once it was signed, but the money has been sitting there -- and it says very clearly on Page 4 about the payment and how and when it will be paid. And it says it would go to Ms. Patwell trust account, the two -- the 225. But then it says that they're being held in the registry to the benefit of the three young Bernstein boys. The parties agreed to cooperate at a hearing to be held to ensure the 225 are released directly to the trust of Ms. Patwell --

Q. What's the date, ma'am?

A. -- as directed by the court order.

Q. What's the date? What's the outside date that

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this asset be performed by?

A. The --

Q. Is there any such date in the agreement?

A. The only reason it hasn't been paid yet is because you're contesting the validity so --

Q. That's not what I asked.

A. -- can't ethically release the cost to Ms. Patwell.

Q. That's not what I'm asking you. I'm asking what --

A. It --

Q. Where's the material term of this agreement?

A. The material term -- there's 10 of them. If you look through the payment, it's very detailed and it says exactly what's going to happen. It says, the parties are going to cooperate for a hearing, but the parties didn't cooperate. Then it says, the Bernstein shall pay the entire check directly issued to the clerk registry. And then it says, if court orders are necessary, either in the Walter Sahm probate case in Marion County, or the Palm Beach foreclosure case, or in the Shirley Bernstein case, the parties agree to fully cooperate and file any needed joint agreed motions to confirm the settlement and to release the funds as agreed and to file a dismissal of the foreclosure. No

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party or person can interfere with the agreement or cause any further delays in releasing the funds or cause the property to settle the foreclosure.

Q. So what I'm --

A. Now what happened is instead of cooperation immediately in the guardianship, it got raised that they had a problem with the settlement. So because of case we asked Judge Burton for direction and then Judge Burton started holding hearings specifically about the settlement and the money, and the release, and everything else until finally he got frustrated and threw it back at the at the -- this Court to determine if this court believes it's settled or not.

And so what did you do in this Court to enforce

enforce --

THE COURT: This has been asked and answered so many times.

MR. SWEETAPPLE: Okay. And the record's clear. The record's clear. I apologize.

THE COURT: Can we please move on? How much more cross-examination do you need?

MR. SWEETAPPLE: Not many.

THE COURT: Then please ask leading questions.

MR. SWEETAPPLE: Right.

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THE COURT: I got it. There's no material. There's no date that it needs to be completed. There isn't a date in this is there. No.

BY MR. SWEETAPPLE:

Q. And there was never a motion before or after the argument was appointed. And so your clients did sign the March settlement agreement indicating that Mrs. Sahm, Senior was incapacitated and agreeing to pay her $355,000, right?

A. Let me look at the agreement. What exhibit number was that? That was Exhibit -- plaintiff.

Q. Do you need to look at that?

A. Yes. I do need to look at this settlement because that settlement was never used. So you are asking me to comment about my thought process during another settlement that's not this settlement. So I need to look at that settlement before I make any comments, sir. I'd like to refresh my recollection.

Q. You don't know that your client signed it and 355,000, you've already testified to that within the last two hours?

A. That was not the question. We -- you had added something to it, so --

Q. No. I asked you if your client signed that March settlement agreement that indicated that Mrs. Sahm

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was capacitated and provided for payment of $355,000.

A. So I need to look at that part about the statement you're making so I can understand why it's there and testify to you. What happened? Let's see.

THE COURT: It's a yes or no question. Did he sign it or not?

MS. GARCIA: He signed the -- he did sign the retainer. I mean, he did sign a settlement agreement, but --

THE COURT: Okay. Next question.

BY MR. SWEETAPPLE:

Q. Okay. And did you ever provide Ms. Patwell with that signed agreement where your clients had offered to pay 355 before you sent over $225,000 settlement agreement in May?

A. No. But I told her about it. I told her exactly what was going on. And in fact, her and I had many discussions about the rewards and the risks of the settlements and of the guardianships and of the bankruptcy and of what was in the best interest of our clients. And then each of us consulted with our individual clients and determined that this was in their best interest to end this madness once and for all and let everybody move on.

MR. SWEETAPPLE: All right. Let me, Your

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Honor, if you can one moment.

THE COURT: Sure.

MR. SWEETAPPLE: Okay.

THE COURT: These e-mail strings has just been brought to me, but it's not in evidence. So --

MR. SWEETAPPLE: Oh, what's that, Your Honor, the e-mails?

THE COURT: The e-mails. It's not in evidence.

MR. SWEETAPPLE: Yeah. I'll move that into evidence, Your Honor. That's with the notation that -- that's not my e-mail address on the -- those text -- those e-mails.

MS. GARCIA: Do I have a copy of it?

MR. SWEETAPPLE: Yeah.

MS. GARCIA: Is that what you handed to me?

THE COURT: It was used during the first, I believe 45 minutes of cross-examination.

MR. SWEETAPPLE: Yeah. You have a copy.

THE COURT: You all read them back and forth to me.

MR. SWEETAPPLE: I moved it in as 14, that one.

THE COURT: We received the evidence as Plaintiff's Exhibit number 14.

(PLAINTIFF EXHIBIT 14 RECEIVED INTO EVIDENCE)

MR. SWEETAPPLE: And as for the bankruptcy,

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Judge, the order granting end member relief that's in evidence when the Court specifically found that you had filed the suggestion, and you -- and that you were -- and that it was factually false and legally incorrect, and was designed to mislead the state court of the -- clerk of the Court. You haven't appealed that order either, have you?

MS. GARCIA: No. But I do plan on it now that it's being used in the way it's being used. I do have an attorney ready to go in there because --

MR. SWEETAPPLE: You don't think it is time barred, April 14, 2023? And we're now in January of '25?

MS. GARCIA: No. Not according to my bankruptcy lawyer. You said direct fraud on the Court.

MR. SWEETAPPLE: And who do you think committed a fraud on the bankruptcy?

MS. GARCIA: Joanna Sahm and her attorney, Mr. Shraiberg, who took on that case with no retainer based on a purported Power of Attorney of Joanna, although at the same time you're claiming that she's incapacitated and can't answer the contracts or do anything. Mr. Shraiberg appeared in the Court believing the Power of Attorney existed.

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So as an officer of the Court because I know his business partners, I told him at the hearing, Mr. Shraiberg, you may not be aware of this, but your client, Joanna Sahm, does not have a Power of Attorney anymore. Therefore you don't have a client, and the estate is not a client. And then I also explained to the Court at that time that the suggested bankruptcy that was actually used to cancel sale was not my suggested bankruptcy, but Mr. Shraiberg went ahead and gave the order to the Court, so we'll do it there.

MR. SWEETAPPLE: So did you -- did you file any motions for sanctions against Mr. Shraiberg or anybody?

MS. GARCIA: No, I don't like to go up there. Other lawyers normally, especially ones I've known for years and years, but --

MR. SWEETAPPLE: And so you don't think Mr. Shraiberg represented Joanna Sham in the bankruptcy --

THE COURT: It's not relevant. It's --

MR. SWEETAPPLE: Pardon?

THE COURT: The question is not relevant. The question's not relevant.

MR. SWEETAPPLE: All right. I -- I'm I have no

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more questions, Judge.

THE COURT: How many additional witnesses do you have, Ms. Garcia?

MS. GARCIA: Can I -- if I could have a two-minute break, I'd like be done.

THE COURT: Sure.

MS. GARCIA: If I could step outside.

THE COURT: Sure.

MS. GARCIA: Thank you, Your Honor.

(OFF THE RECORD)

THE COURT: All right. Both the plaintiff and the defendant have rested.

MR. SWEETAPPLE: Can I suggest, Your Honor, since you've been more than patient with this that we submit written?

THE COURT: That was what I was going to suggest. How long would it take for you all to correct a written closing arguments?

MR. SWEETAPPLE: Ten days, two weeks.

MS. GARCIA: Two weeks.

THE COURT: Two weeks.

MS. GARCIA: That way we can give you the memos.

MR. SWEETAPPLE: We get the transcript and --

THE COURT: What -- two -- - I just -- so

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there's a date on it. What's two weeks? Two weeks would be --

MS. GARCIA: Today's the 20 --

THE COURT: This is the 11th work for you all? I have seven days being the 4th and 14 being the 11th. You want the 12th? 13th? You tell me --

MS. GARCIA: 12th or 13th.

MR. SWEETAPPLE: What day -- what day is the 14th?

MS. GARCIA: The 14th is --

MR. SWEETAPPLE: Is that on Wednesday?

MS. GARCIA: Yes.

THE COURT: 14 days would be the 11th?

MR. SWEETAPPLE: How about --

MS. GARCIA: Could we do the -- could we do the 13th?

MR. SWEETAPPLE: That's what I was going to suggest.

MS. GARCIA: Because yeah, I'm --

THE COURT: Okay. You -- do you both agree to it? Could you just file the written closing arguments in the Court file, but also provide a courtesy copy of the division AO to the CAD?

MS. GARCIA: Yeah. On E courtesy?

THE COURT: Not the E courtesy, the -- scan it

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and e-mail it to Chambers.

MS. GARCIA: Okay.

THE COURT: Just make sure that the other side is copied on it so that everybody has it because otherwise it takes a couple days before it's docketed before I'd be able to see it.

MR. SWEETAPPLE: How about if we both do it at 5:00 on the 13th?

THE COURT: You can do that. However you want to do it. Just -- I'll keep my eye out for those. And then once I receive those, I will enter an order.

MS. GARCIA: And then, Your Honor, if there's any -- would you like to provide copies of the case is also there or statutes, or just cite them?

THE COURT: If there's something that's relevant and germane to your argument, you want me to review it, you can provide it to me like a briefing book.

MS. GARCIA: Okay.

THE COURT: I do have -- I have access to Westlaw so I can look it up, but if it's something that's very important, you may want to provide me a copy of this.

MS. GARCIA: Okay.

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THE COURT: Okay. Okay.

MR. SWEETAPPLE: Thank you for hearing us, Judge.

THE COURT: All right. Thank you all.

UNIDENTIFIED SPEAKER: Thank you.

MS. GARCIA: We do appreciate your time and your patience, Your Honor. Thank you.

THE COURT: All right. Have a nice --

(HEARING CONCLUDED AT 5:16 P.M. ET)

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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF ORANGE)

I, FLOR LOPEZ, Court Reporter and Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did report the foregoing proceeding, and that said transcript is a true record of the said proceeding.

I FURTHER CERTIFY that I am not of counsel for, related to, or employed by any of the parties or attorneys involved herein, nor am I financially interested in said action.

Submitted on: February 5, 2025.

FLOR LOPEZ

Court Reporter, Notary Public

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