

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

6  
7 WALTER E. SAHM,  
8 CHARLES REVARO AS GUARDIAN OF THE WARD PAMELA A SAHM,  
9 Plaintiff/Petitioners

10  
11 vs.

12  
13 BERNSTEIN FAMILY REALTY LLC,  
14 ALL UNKNOWN TENANTS,  
15 BRIAN O'CONNELL,  
16 et al.,  
17 Defendant/Respondents.

18  
19  
20  
21 WITNESSES: DR. STANLEY BLOOM

22 KATHRYN LEWIS

23 INGER GARCIA

24 DATE: JANUARY 28, 2025

25 REPORTER: FLOR LOPEZ

2	4
1 APPEARANCES	1 EXHIBITS
2 ON BEHALF OF THE PLAINTIFF, CHARLES REVAR, AS GUARDIAN	Exhibit Page
3 OF THE WARD PAMELA SAHM:	2 PLAINTIFF
4 Robert A. Sweetapple, Esquire	5 - E-mail from Ms. Garcia To Mr. Raymond,
5 Cynthia Miller, Esquire	3 Settlement Agreement 10
6 Sweetapple, Brooker & Varkas, P.L.	6 - Order from Bankruptcy Court 13
7 4800 North Federal Highway	4 7 - Request For Judicial Notice 13
8 Suite 306D	8 - Objection To Examine Committee 14
9 Boca Raton, Florida 33431	5 9 - NOAPIN and Joinder 27
6 Telephone No.: (561) 392-1230	10 - Order Appointing Guardian 37
E-mail: pleadings@sweetapplelaw.com	6 11 - Final Junction Order 19
E-mail: cmiller@sweetapplelaw.com	12 - Signed Settlement 42
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9 LLC., ELLIOT & CANDICE BERNSTEIN, INDIVIDUALLY & AS	14 - E-mail's from Mr. Raymond 231
10 NATURAL GUARDIANS OF MINOR CHILDREN, ALL UNKNOWN	8
11 TENANTS:	DEFENDANTS
12 Inger M. Garcia, Esquire	9 7 - Death Certificate of Walter Sahn 24
13 Postal Ctr	8 - Final Judgement 25
14 7040 Seminole Pratt Whitney Road	10 9 - Judicial Notice 15
15 Suite 25-#43	10 - Retainer E-mail 16
16 Loxahatchee, Florida 33470	11 11 - E-Mail from Morgan Weinstein 40
17 Telephone No.: (954) 451-2426	12 - E-Mails Sweetapple 42
18 E-mail: serviceinglaw@yahoo.com	12 13 - Letter 49
19 Also Present: John Parnofiello, Honorable Judge; Kathryn	13 14 - Report of Examining Committee 49
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21 Bernstein, Defendant; Hilary Hogue, Guardianship	15B - MTG 53
22 Improvement Task Force, on zoom; Zoraida Navarro, M.D.,	14 16 - Affidavit Of AMTS Due & Owing 54
23 Advocate for the Elderly, on zoom; Kathleen Bosse,	17 - State Record UC Active 55
24 Observing on zoom; Luanne Fleming, Observing on zoom;	15 18 - SUGG of Bankruptcy 56
25 Ale Carrino, Observing on zoom; Danny Mojo, Observing on	19 - Filing In MH Case (NOAPCIV) 57
zoom; William Stransbury, Observing on zoom	16 20 - NOAPCIV 57
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1 INDEX	1 STIPULATION
2	2
3 PROCEEDINGS 6	3 The hearing was taken at Palm Beach County Courthouse,
4 TESTIMONY OF DR. STANLEY BLOOM	4 205 North Dixie Highway, West Palm Beach, Florida 33401,
DIRECT EXAMINATION BY MR. SWEETAPPLE 89	5 on TUESDAY the 28TH day of JANUARY, 2025 at
4 CROSS-EXAMINATION BY MS. GARCIA 101	6 approximately 11:05 a.m. (ET); said hearing was taken
5 TESTIMONY OF KATHRYN LEWIS	7 pursuant to the FLORIDA Rules of Civil Procedure.
DIRECT EXAMINATION BY MR. SWEETAPPLE 121	8
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<p style="text-align: right;">6</p> <p>1 PROCEEDINGS</p> <p>2 THE COURT: Good afternoon, everybody. You all</p> <p>3 could be -- or I guess it's still morning. Good</p> <p>4 morning, everybody. You can be seated.</p> <p>5 MR. SWEETAPPLE: Good morning, Your Honor.</p> <p>6 THE CLERK: Good morning.</p> <p>7 THE COURT: Hold on one second.</p> <p>8 THE CLERK: You want to give the name, Your</p> <p>9 Honor?</p> <p>10 THE COURT: Sure.</p> <p>11 We're here on case 2018-CA-2317. May I have</p> <p>12 the appearances of the parties, please?</p> <p>13 MR. SWEETAPPLE: Your Honor, Robert Sweetapple</p> <p>14 and Cynthia Miller here on behalf of the plaintiffs.</p> <p>15 THE COURT: Good morning, Mr. Sweetapple, Ms.</p> <p>16 Miller.</p> <p>17 MS. GARCIA: Good morning, Your Honor. Inger</p> <p>18 Garcia on behalf of the defendants, BFR Limited and</p> <p>19 the five Bernstein individually.</p> <p>20 THE COURT: Good morning, Ms. Garcia.</p> <p>21 MS. GARCIA: I have one of my clients present,</p> <p>22 Mrs. Candice Bernstein.</p> <p>23 THE COURT: Good morning, Ms. Bernstein.</p> <p>24 MS. BERNSTEIN: Hello.</p> <p>25 MS. LEWIS: And good morning, Your Honor.</p>	<p style="text-align: right;">8</p> <p>1 I believe this is a collateral estoppel argument,</p> <p>2 and that Judge Burton clearly ruled that he relied</p> <p>3 on those, the Court indicated, well, the date could</p> <p>4 be hearsay.</p> <p>5 So I indicated that I would call Dr. Bloom and</p> <p>6 Dr. Cheshire. They're going to be 15 minutes each,</p> <p>7 half an hour each, but they're not available until</p> <p>8 1:30 and 2:00.</p> <p>9 THE COURT: Okay.</p> <p>10 MR. SWEETAPPLE: So after I put in these</p> <p>11 exhibits, which I believe Ms. Garcia has no</p> <p>12 objection to, I won't have any witnesses to call</p> <p>13 until then, and she can proceed.</p> <p>14 THE COURT: Okay.</p> <p>15 MR. SWEETAPPLE: All right, so if I -- if I</p> <p>16 may, the -- I'm going to move in and what exhibit</p> <p>17 number are we on now?</p> <p>18 THE CLERK: We're onto 5. So 5 would be the</p> <p>19 next one.</p> <p>20 MR. SWEETAPPLE: Thank you. And I can hand</p> <p>21 these to your clerk of the Court?</p> <p>22 MS. GARCIA: I'd like to also take them.</p> <p>23 THE COURT: Just -- I -- just show them to Ms.</p> <p>24 Garcia first, if there's any objections.</p> <p>25 MR. SWEETAPPLE: Yes. Well, I showed her</p>
<p style="text-align: right;">7</p> <p>1 Kathryn Lewis also on behalf on Charles Revard, the</p> <p>2 guardian. Although I'm not counsel of record, I'm</p> <p>3 here in advisory capacity in this case.</p> <p>4 THE COURT: Good morning.</p> <p>5 And let's see. Let me just put everybody on</p> <p>6 mute. Anyone -- any attorneys on Zoom that need to</p> <p>7 enter an appearance? No? Okay.</p> <p>8 All right. So we had begun taking evidence on</p> <p>9 Mr. Sweetapple's motion. And we bifurcated Ms.</p> <p>10 Garcia's motion. Then we were -- we ran out of</p> <p>11 time. We tried to call up the case for Hurricane</p> <p>12 Milton, tried to call up the case for Hurricane</p> <p>13 Helene. And now we're here for the conclusion of</p> <p>14 the presentation of evidence on the two matters.</p> <p>15 I think when we broke, we were in the middle of</p> <p>16 Mr. Sweetapple's direct examination. So Mr.</p> <p>17 Sweetapple, do you have any additional witnesses or</p> <p>18 evidence that you'd like to present?</p> <p>19 MR. SWEETAPPLE: Yes, Your Honor, if it pleases</p> <p>20 the Court. I showed Ms. Garcia a number of</p> <p>21 documents, most of which are for judicial notice,</p> <p>22 because it's my position, and this case is</p> <p>23 ultimately a matter of law. I did put in reports</p> <p>24 from the examining committee, but the Court was</p> <p>25 concerned about them being hearsay. And even though</p>	<p style="text-align: right;">9</p> <p>1 earlier. So you want me to just hand it to the</p> <p>2 clerk to mark?</p> <p>3 THE COURT: Let me see if Ms. Garcia has an</p> <p>4 objection. So that's --</p> <p>5 MR. SWEETAPPLE: For identification, at least.</p> <p>6 THE COURT: Sure. Sure. So Plaintiff's</p> <p>7 Exhibit number 5. What is the -- what is that</p> <p>8 document?</p> <p>9 MR. SWEETAPPLE: This is an e-mail from Ms.</p> <p>10 Garcia to Mr. Raymond, and a copy of a settlement</p> <p>11 agreement that she transmitted to him prior to the</p> <p>12 one that was executed in this case.</p> <p>13 THE COURT: Ms. Garcia, do you have any legal</p> <p>14 objection to Plaintiff's Exhibit number 5?</p> <p>15 MS. GARCIA: Oh, I -- well, I have the</p> <p>16 objection that he -- he's redacted the first page</p> <p>17 that I have. I guess for completeness, I have my</p> <p>18 chain of e-mails I would move in, I guess, without</p> <p>19 objection.</p> <p>20 But also, he's got an attachment here, but I</p> <p>21 don't see an attachment referred to in the e-mails,</p> <p>22 unless that's it.</p> <p>23 MS. MILLER: If you look at the top e-mail, it</p> <p>24 shows that there is an attachment.</p> <p>25 MR. SWEETAPPLE: So I can tell the Court that</p>



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<p style="text-align: right;">10</p> <p>1 the -- this was transmitted to me by my client. I  2 responded to my client. So this was actually -- was  3 all communication with my client. If she wants to  4 put that in for the Court to review on camera, I  5 have no problem. But I'm not waiving the privilege  6 by adding her e-mail to Mr. Raymond. And the  7 document she sent to Mr. Raymond was forwarded to me  8 by my client, and then I responded to my client.  9 That's the only redaction. And you'll see that if  10 you see her -- I don't think she even has that.  11 THE COURT: Do you have an objection to the  12 exhibit?  13 MS. GARCIA: No, Your Honor.  14 THE COURT: Okay. Then I will receive it into  15 evidence, without objection as Plaintiff's Exhibit  16 5?  17 MR. SWEETAPPLE: 5.  18 THE CLERK: Yes, Your Honor.  19 (PLAINTIFF EXHIBIT 5 RECEIVED INTO  EVIDENCE)  20 MR. SWEETAPPLE: Your Honor, number 6 is an  21 order from the Bankruptcy Court dated April 14th,  22 2023, which was three days before the filing of the  23 petition.  24 I'm asking the Court to take judicial notice of  25 that. I've shown this to Ms. Garcia, she was</p>	<p style="text-align: right;">12</p> <p>1 to our original exhibit list.  2 THE COURT: Is it, or --  3 MS. GARCIA: Unless there was documents  4 discovered that I -- was produced to him during  5 depositions, because I produced many documents to  6 him during deposition that you intend to use.  7 Secondly, had I known he was going to be moving  8 this in today, I would've called the attorney who  9 drafted this order, because --  10 MR. SWEETAPPLE: Your Honor, this is Exhibit J  11 to our motion to strike at your hearing. This has  12 been --  13 THE COURT: This is an order signed by a judge,  14 is it not?  15 MR. SWEETAPPLE: Okay, this is -- this was  16 signed by --  17 MS. GARCIA: Yes.  18 THE COURT: Hang on, Mr. Sweetapple, I -- I'm  19 -- Ms. Garcia is --  20 MS. GARCIA: Yes.  21 THE COURT: -- articulating to me her  22 procedural prejudice, so --  23 MS. GARCIA: Yeah, it's -- it is signed by the  24 judge, Your Honor. And it will be taken up in that  25 court for fraud. So he can use it how he wants</p>
<p style="text-align: right;">11</p> <p>1 involved in this proceeding and is the subject of  2 the sanction finding --  3 THE COURT: Sir --  4 MR. SWEETAPPLE: -- or my Motion for -- or my  5 Motion for Sanctions. Exhibit 6.  6 THE COURT: Is there any legal objection to  7 Exhibit number 6?  8 MS. GARCIA: Your Honor, he did not file a  9 proper or timely motion for a judicial notice, so I  10 object on that basis.  11 THE COURT: How are you procedurally prejudiced  12 by his introduction of this?  13 MS. GARCIA: Procedurally, Your Honor?  14 THE COURT: Yes, ma'am.  15 MS. GARCIA: Like I say, I've seen it before,  16 Your Honor. So --  17 MR. SWEETAPPLE: She was a party. She's filed  18 this proceeding, Your Honor, and was the counsel --  19 THE COURT: I believe this was attached to the  20 motion originally. So I hear that -- your objection  21 that you weren't given proper notice. I'm asking  22 procedurally, how are you prejudiced by the lack of  23 proper notice?  24 MS. GARCIA: First of all, I don't think it's  25 on this original exhibit list. And you limited us</p>	<p style="text-align: right;">13</p> <p>1 today, and we'll deal with it there.  2 THE COURT: All right, then I'm going to  3 receive Exhibit 6 over Objection, as Plaintiff's  4 Exhibit number 6.  5 (PLAINTIFF EXHIBIT 6 RECEIVED INTO  EVIDENCE)  6 MR. SWEETAPPLE: Number 7, Your Honor, is the  7 request for judicial notice I filed, in this case  8 filed.  9 And Ms. Garcia was e-served with this on, I  10 believe April 18th, 2023. It was mentioned in my  11 case, but I have not asked the Court to take  12 judicial notice of this. It's been shown to Ms.  13 Garcia.  14 THE COURT: That's Exhibit number 7?  15 MS. GARCIA: Do you have a copy, sir?  16 THE COURT: Ms. Garcia, what is your position  17 with respect to Plaintiff's Exhibit number 7?  18 MS. GARCIA: No objection.  19 THE COURT: All right. I'll receive this into  20 evidence as Plaintiff's Exhibit number 7.  21 (PLAINTIFF EXHIBIT 7 RECEIVED INTO  EVIDENCE)  22 MR. SWEETAPPLE: Exhibit 8, Your Honor, is the  23 objection to the examining committee, filed by Amber  24 Patwell (phonetic) as counsel for Patricia Sahn, in</p>



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<p style="text-align: right;">14</p> <p>1 Some of these that -- have mental health -- may</p> <p>2 have been filed under seal, so they -- that. I've</p> <p>3 shown this. This was in the underlying case, the</p> <p>4 Purager (phonetic) case.</p> <p>5 THE COURT: What's your position, Ms. Garcia</p> <p>6 with, I believe Plaintiff's Exhibit number 8?</p> <p>7 MS. GARCIA: No objection.</p> <p>8 THE COURT: It'll be received into evidence</p> <p>9 without objection as Plaintiff's Exhibit number 8.</p> <p>10 (PLAINTIFF EXHIBIT 8 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>11 MR. SWEETAPPLE: And then Your Honor, I have</p> <p>12 Ms. Garcia's appearance in the underlying case where</p> <p>13 Judge Burton issued his order, which I'm asking the</p> <p>14 Court to take judicial notice of.</p> <p>15 THE COURT: Ms. Garcia. What's your position</p> <p>16 with respect to Plaintiff's Exhibit number 9?</p> <p>17 MS. GARCIA: Same objection for the record,</p> <p>18 Your Honor, that he didn't properly file for the</p> <p>19 judicial notice, timely?</p> <p>20 THE COURT: I thought that at the -- at the --</p> <p>21 MS. GARCIA: But there's no objection.</p> <p>22 THE COURT: Okay. So there's no -- if there's</p> <p>23 no objection, then I'll receive it into evidence</p> <p>24 without objection. But I thought that initially</p> <p>25 there was a request for the Court to take judicial</p>	<p style="text-align: right;">16</p> <p>1 THE COURT: Yes, ma'am.</p> <p>2 MS. GARCIA: Okay.</p> <p>3 MR. SWEETAPPLE: Your Honor, I already put in</p> <p>4 Judge Burton's order determining a capacity, but I</p> <p>5 did not put in his order appointing under a guardian</p> <p>6 of the person who properly entered</p> <p>7 contemporaneously. So I'm moving for the Court to</p> <p>8 take judicial notice of that order as well.</p> <p>9 THE COURT: What's the date of that order?</p> <p>10 MR. SWEETAPPLE: It is June, I think, 22nd. Let</p> <p>11 me -- June 27th, 2023.</p> <p>12 THE COURT: Ms. Garcia, what's your position</p> <p>13 with respect to --</p> <p>14 MS. GARCIA: No objection.</p> <p>15 THE COURT: I'll receive it into evidence</p> <p>16 without objection as Plaintiff's Exhibit number 10.</p> <p>17 (DEFENSE EXHIBIT 10 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>18 MR. SWEETAPPLE: And lastly, Your Honor, is an</p> <p>19 order granting filing for protection against</p> <p>20 exploitation of a vulnerable adult, entered in the</p> <p>21 guardianship by Judge Burton.</p> <p>22 The date is dated -- it's dated September 22,</p> <p>23 2023, Your Honor.</p> <p>24 THE COURT: Uh-huh. Ms. Garcia?</p> <p>25 MS. GARCIA: Objection. Missing as to</p>
<p style="text-align: right;">15</p> <p>1 notice of the entire mental health --</p> <p>2 MS. GARCIA: Yes.</p> <p>3 THE COURT: -- and guardianship court file at</p> <p>4 the --</p> <p>5 MS. GARCIA: I think so, Your Honor.</p> <p>6 THE COURT: -- at the first hearing in August.</p> <p>7 So --</p> <p>8 MS. GARCIA: Okay.</p> <p>9 THE COURT: -- I don't find that there's -- I</p> <p>10 don't find that you weren't given proper notice, but</p> <p>11 there's no objection. So I'll receive it into</p> <p>12 evidence as 9?</p> <p>13 THE CLERK: Yes, Your Honor.</p> <p>14 (DEFENSE EXHIBIT 9 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>15 MR. SWEETAPPLE: And Your Honor, I did put in</p> <p>16 that --</p> <p>17 MS. GARCIA: So that was 8, right?</p> <p>18 THE COURT: 9. That was 9.</p> <p>19 MS. GARCIA: What was 8?</p> <p>20 THE COURT: 8 was the lack of -- or --</p> <p>21 THE CLERK: Objection to the examining</p> <p>22 committee --</p> <p>23 THE COURT: It was the objection to the</p> <p>24 examining committee report.</p> <p>25 MS. GARCIA: Okay, that's 8?</p>	<p style="text-align: right;">17</p> <p>1 relevance.</p> <p>2 THE COURT: What is the relevance, Mr.</p> <p>3 Sweetapple?</p> <p>4 MR. SWEETAPPLE: There's findings in this order</p> <p>5 that Judge Burton made regarding -- and I can read</p> <p>6 it to the Court.</p> <p>7 The respondent, who was is the younger sister,</p> <p>8 Patricia Sahm, Jr. -- this is on Page 4 of 14. "The</p> <p>9 respondent further testified that in March of 2023,</p> <p>10 a female notary arrived at the residence, then</p> <p>11 occupied by respondent and the vulnerable adult.</p> <p>12 Although the respondent suspected that the Bernstein</p> <p>13 family with whom the vulnerable is currently</p> <p>14 litigating against, or Kevin Hall (phonetic), an</p> <p>15 attorney involved in that litigation, sent the</p> <p>16 notary to the residence, the respondent claims that</p> <p>17 she took no action while the notary notarized the</p> <p>18 vulnerable adult's signature on documents that</p> <p>19 revoked the Power of Attorney in favor of the</p> <p>20 vulnerable adult's then-acting agent and trustee,</p> <p>21 Joanna (phonetic)."</p> <p>22 So this relates specifically to conduct that</p> <p>23 occurred at the time of the guardianship, that this</p> <p>24 Court is reviewing. And even though it -- even</p> <p>25 though there is a legal argument being made as to</p>



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<p style="text-align: right;">18</p> <p>1 why the Court, as a matter of the collateral 2 estoppel has defined incapacity, I'm also making a 3 record, factually, through the experts and the 4 testimony, to show the improper conduct. Because I 5 have asked for sanctions against Ms. Garcia, 6 including for her client's conduct at her direction. 7 THE COURT: All right. Anything further, Ms. 8 Garcia? 9 MS. GARCIA: Again, objection to relevance. The 10 time frame, 9-22-23 is after the fact. This is a 11 hearing that was not concluded. I'll testify, I 12 guess, to broadly perpetrated today, and I'll deal 13 with any other courts. 14 THE COURT: What -- I'm sorry. You gave -- you 15 handed me a 14-page document, I think. What's the 16 -- is this a permanent file injunction, or is it 17 time-limited? 18 MR. SWEETAPPLE: Pardon me? 19 THE COURT: Is this a permanent file -- I 20 apologize. I'm -- 21 MR. SWEETAPPLE: This is an order that has not 22 been appealed or vacated, of Judge Burton. 23 THE COURT: No, but some injunctions are safe 24 for a period of six months or eight months. Is 25 this --</p>	<p style="text-align: right;">20</p> <p>1 decision-making. 2 MR. SWEETAPPLE: And I'll be then calling Dr. 3 Bloom and Dr. Cheshire. I don't anticipate any 4 other witnesses unless there's some rebuttal 5 message. 6 THE COURT: And you said Dr. Bloom and Dr. 7 Cheshire would testify at -- 8 MR. SWEETAPPLE: 1:30 and 2:00, I have them on 9 stand-by on Zoom. 10 THE COURT: Okay. 11 MR. SWEETAPPLE: I tried to get them this 12 morning and I couldn't. 13 THE COURT: That's okay. All right, Ms. 14 Garcia, with respect to your motions, do you have 15 any witnesses or evidence that you'd like to admit? 16 MS. GARCIA: Evidence? Yes, Your Honor. 17 THE COURT: Or witnesses. 18 MS. GARCIA: I'm sorry? 19 THE COURT: Or witnesses. Either testimony or 20 evidence that you'd like to submit? 21 MS. GARCIA: Yes, Your Honor. But I have an 22 issue with me having to try my case in -- is in the 23 middle of his case. 24 THE COURT: Okay. 25 MS. GARCIA: His witnesses should be here</p>
<p style="text-align: right;">19</p> <p>1 MR. SWEETAPPLE: Oh -- 2 MS. MILLER: I think it lasted 60 days, Your 3 Honor. That's my recollection from the 4 guardianship. 5 MS. GARCIA: It was an agreed final injunction 6 that the Court made no findings. They put it in the 7 order anyway. And I have the transcript. I'll do 8 it with the other Judge now that they're using it 9 here in front of you. 10 MS. MILLER: That's not correct, Your Honor. 11 But that's, I suppose, an issue for Judge Burton to 12 take up. 13 THE COURT: All right. I'm going to receive it 14 into evidence over objection, subject, of course, to 15 Ms. Garcia explaining why it's not relevant for the 16 Court's consideration -- ultimate consideration. 17 But for the purposes of the hearing, I will admit it 18 into evidence, and you can tell me why I shouldn't 19 give it any weight. 20 (PLAINTIFF EXHIBIT 11 RECEIVED INTO EVIDENCE) 21 MR. SWEETAPPLE: All right, but you're going to 22 take judicial notice of it? 23 THE COURT: Yes. I'm admitting it into 24 evidence over their objection. But she's certainly 25 free to tell me why it should not bear in my</p>	<p style="text-align: right;">21</p> <p>1 timely. It was set for 11:00. He told us to be 2 here, and I object to him calling the witnesses at 3 1:30 and 1:15. It's just not the way the Court 4 operates. And I have to start my case in the middle 5 of his case. Because I'm going to move for directed 6 verdict. 7 THE COURT: Well, I can take a recess through 8 -- I haven't had a chance to review all the 9 documents that have just been judicial noticed. If 10 you'd like for me to step off the bench and you can 11 wait here while I read the documents -- 12 MS. GARCIA: I'd like to also -- well, should I 13 guess I can go over with him, my exhibits also. 14 THE COURT: Why don't you do that? Because I 15 -- it just seems like it's a better use of 16 everybody's time. I'm not prejudicing you from 17 moving for directed verdict. I'm just trying to be 18 economical with everybody's time. 19 MS. GARCIA: I understand, Your Honor. 20 THE COURT: So -- 21 MR. SWEETAPPLE: I can proffer to the Court, 22 and if the Court wanted to continue working, you 23 know, up -- at any time up to 1:30, that all I'm 24 going to do, is have the two examining committee 25 members testify as to what's in the report. So</p>



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<p style="text-align: right;">22</p> <p>1 there's not going be any surprise or anything that 2 she doesn't know is going to be coming now. 3 THE COURT: So do you want to show Mr. 4 Sweetapple -- do you want to take a couple moments 5 to show Mr. Sweetapple your exhibit? I'll step off 6 the bench. You show him your exhibits. I'll take 7 some of these and start reading them and then you 8 can come get me when you're ready? 9 MS. GARCIA: Okay. 10 THE COURT: All right. 11 (OFF THE RECORD) 12 THE COURT: You all can be seated. 13 All right, Ms. Garcia is present. The court 14 reporter is present. Mr. Sweetapple is present. 15 Have you all gotten a chance to go over Ms. 16 Garcia's evidence? 17 MR. SWEETAPPLE: Yes, Your Honor. 18 THE COURT: All right. Are there any 19 agreements to any of the evidence, or -- 20 MR. SWEETAPPLE: Limited. There is some 21 judicial notice that is entirely irrelevant to this 22 proceeding. If you take judicial notice of it, I do 23 want to alert you that we're going far afield here. 24 THE COURT: Okay. Let me see what Ms. Garcia 25 has to present.</p>	<p style="text-align: right;">24</p> <p>1 that the gentleman died in 2021, and they continued 2 to file pleadings in his name through 2024 without 3 telling this Court. They got final judgements. 4 They'd go to the Bankruptcy Court claiming there's 5 an estate issue, but then they had filed with his 6 name there. And my testimony will explain the 7 relevance of his date of death and what has happened 8 since. It's very relevant to our defense. 9 THE COURT: All right. So I'll receive this 10 into evidence over objection as Defense Exhibit 1 -- 11 or is it -- 12 MS. GARCIA: 8. 13 THE COURT: -- 7? 14 THE CLERK: 7. 7. 15 THE COURT: 7. Exhibit number 7. 16 THE CLERK: 7. 17 (DEFENSE EXHIBIT 7 RECEIVED INTO EVIDENCE) 18 MS. MILLER: I think you're doing -- are you 19 doing letters? You were -- 20 MS. GARCIA: No, that was for identification. 21 And then they would doing -- they did numbers for 22 the actual exhibits. But it has defendant on it. 23 So H is 7. 24 MR. SWEETAPPLE: Your Honor, I noticed that you 25 have a warning that we're recording. I just want to</p>
<p style="text-align: right;">23</p> <p>1 MS. GARCIA: May I approach? 2 THE COURT: Sure. 3 MS. GARCIA: Marked as H for identification is 4 a death certificate of Mr. Walter Sahn. 5 THE COURT: Okay. Any legal objection? 6 MR. SWEETAPPLE: Your Honor, I've indicated I 7 -- there's -- this is no issue as is, but it's 8 totally irrelevant to this proceeding. 9 THE COURT: Well, it might not be relevant to 10 your Motion, but is -- Ms. Garcia has a motion. 11 MR. SWEETAPPLE: But it's not bifurcated -- 12 MS. GARCIA: Yeah. 13 MR. SWEETAPPLE: -- for today. It must be set 14 at a later date. 15 MS. GARCIA: Yeah, my motion's not set for 16 today, Your Honor. Just the balance of this trial. 17 THE COURT: Okay. 18 MS. GARCIA: You get to determine that if and 19 when you rule -- or when you rule on the settlement, 20 then I would go ahead and do my discovery and set my 21 1.54 and 1.340. 22 THE COURT: So when is -- so what is the 23 relevance of this to -- 24 MS. GARCIA: The relevance to this, is that 25 you're going to see the orders and the pleadings</p>	<p style="text-align: right;">25</p> <p>1 make sure that the people on Zoom have been alerted 2 that they should not be recording this. I see Mr. 3 Hall and others on Zoom. 4 THE COURT: Right. So the only -- there's only 5 one record that can be kept of a proceeding, and 6 that is the court reporter's record. So I mean, the 7 recording is not prohibited -- it is prohibited. 8 It's not the official court recording. That's by 9 order of the Chief Judge, and by order of me. 10 What's that -- 11 MS. GARCIA: Okay. If I may approach? 12 THE COURT: Sure. 13 MS. GARCIA: I, the final judgment in this 14 case. 15 THE COURT: Thank you. Any legal objection? 16 MR. SWEETAPPLE: No, Your Honor. 17 THE COURT: I will receive it in to evidence 18 without objection as Defense Exhibit 8. 19 (DEFENSE EXHIBIT 8 RECEIVED INTO EVIDENCE) 20 MS. GARCIA: 8. Okay. 21 This one is J. I have it on the back. It's a 22 judicial notice. This was filed in this case, 23 January 2nd, 2023, by me. I made my initial 24 appearance. 25 MR. SWEETAPPLE: Just note my objection to</p>



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<p style="text-align: right;">26</p> <p>1 relevance, Judge. It has nothing to do with the 2 competency issue and the draw on the Court issue. 3 THE COURT: Miss, what's the relevance of your 4 motion? 5 MS. GARCIA: The relevance of my motion, Your 6 Honor, is I started from when I came in the case 7 from day one, disclosing to the Court, like all the 8 issues with the fraud and filing for dead people and 9 filing cases, the estate -- the bankruptcy cases for 10 the estate that had no rights, filing for Patricia 11 Sahm. 12 MR. SWEETAPPLE: Your Honor, the 1540 Motion 13 was not for the hearing today. 14 THE COURT: That -- that's what my confusion is 15 I -- it seems -- I -- I'm not saying that this isn't 16 relevant to your 1540 Motion, but I'm trying to 17 figure out what the relevance is to the Motion that 18 we're here for. 19 MS. GARCIA: The relevance is, Your Honor. 20 They're coming in here with unclean hands. Like for 21 instance, on Page 6, Paragraph 11, he was -- 22 Mr. Sweetapple continued to represent Walter Sahm 23 after his death, without informing the Court. And 24 even when there was a suggestion of death filed, he 25 continued to file pleadings. And then Walter Sahm</p>	<p style="text-align: right;">28</p> <p>1 no, it was hearsay. You're trying to -- first of 2 all, any communications from Mr. Raymond, I would 3 require testimony to authenticate in some form. And 4 then there's an affidavit -- 5 MS. GARCIA: Oh, sorry. I'm so sorry, the 6 affidavit. 7 MR. SWEETAPPLE: -- affidavit from a mister -- 8 THE COURT: We need to identify what it is for 9 the record. And then -- 10 MS. GARCIA: Okay. This is -- it starts -- 11 it's an e-mail chain that I produced to Counsel 12 during the deposition when we were ordered to waive 13 privilege or to appear and take privilege. And I 14 produced for the record, and this goes to the 15 settlement negotiations between me, Mr. Raymond and 16 Mr. Sweetapple, and dealing in March of 2023, during 17 the relevant time frame as to the capacity and the 18 negotiations between the lawyers. 19 THE COURT: Okay. 20 MS. GARCIA: And it's clearly one -- this -- 21 clearly what I'm asking questions of the attorneys, 22 and they're responding, this is the attorney for the 23 estate. And that's relevant to the issues of filing 24 in the bankruptcy, planning the estate rights, not 25 substituting the estate.</p>
<p style="text-align: right;">27</p> <p>1 -- now the final judgment entered in the name of 2 Walter Sahm, which was the -- what was settled. 3 So it's going to show that from day one in this 4 case, there has been issues as far as the final 5 judgment, the amount, the outstanding issues, 1.54 6 and 1.30 do affect the reasonableness of the 7 settlement. So the Court goes through the, you 8 know, the elements where you have, whether or not 9 they can even prove incapacitation at the time or 10 not, since it was before the finding of the Court, 11 first of all the threshold issue. And then next, 12 you have the issues that he's claiming, undue 13 influence, fraud. And I'm not sure what else he's 14 claimed. 15 THE COURT: Okay. I'm going to receive it into 16 evidence over objection as Plaintiff's Exhibit -- 17 MR. SWEETAPPLE: 9. 18 THE COURT: -- 9. 19 (PLAINTIFF EXHIBIT 9 RECEIVED INTO 20 EVIDENCE) 21 MS. GARCIA: The next one is K, Your Honor. 22 MR. SWEETAPPLE: I think you can just tell the 23 Court whether I objected to it or not. 24 MS. GARCIA: This one you were -- you objected 25 to relevance, I believe. MR. SWEETAPPLE: Well, this is where your --</p>	<p style="text-align: right;">29</p> <p>1 THE COURT: Okay. So your objection to it, is 2 hearsay? 3 MR. SWEETAPPLE: Well, in terms of, there's a 4 find an affidavit by William Stransbury. She showed 5 me an affidavit she wanted to put in. 6 THE COURT: I don't have an affidavit. 7 MS. GARCIA: I didn't attach that. 8 MR. SWEETAPPLE: Okay. So yeah, I'm -- so 9 you're not going to move -- so you're going to agree 10 with me, that doesn't come in? 11 MS. GARCIA: No, but I'm not doing it here. 12 I'll do it separately. Only, I -- 13 THE COURT: All I have is an e-mail. 14 MR. SWEETAPPLE: All right. Well, first of 15 all, there's a representation that's sent to me, 16 which is inaccurate. Second of all, you're going to 17 learn that she sent numerous e-mails to a different 18 e-mail address than my e-mail, repeatedly in March, 19 and never included me on any of these, despite Mr. 20 Raymond saying, include mister -- Mr. Sweetapple is 21 in charge, he's handling this, not me. 22 So if we get into these communications, I'm 23 going to have to, for completeness, cross-examine 24 her on the whole episode. And so I object to this, 25 unless she comes in and testifies to authenticate,</p>



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<p style="text-align: right;">30</p> <p>1 and I can ask her if -- for completeness, about  2 other e-mails and what she did.  3 THE COURT: So your objection is, it's not  4 authenticated?  5 MR. SWEETAPPLE: Yes. She would have to come  6 in and testify. Mr. Raymond is not here. So she'd  7 have to say, Mr. Raymond sent this to me. I  8 received it. And then I'm going to ask her about  9 other e-mails.  10 THE COURT: Okay. All right. Are you in a  11 position to do that?  12 MS. GARCIA: I can testify to receiving the e-  13 mails.  14 THE COURT: All right. So then I'll have it  15 marked for identification purposes, subject to it  16 being authenticated.  17 There's no other objection?  18 MR. SWEETAPPLE: Yeah, I -- I'm not  19 calling her, but I anticipate cross-examining her, based  20 on  21 her --  22 THE COURT: I wasn't sure if there was an --  23 it's highlighted, indicating that the part that the  24 Court wants -- she wants the Court to consider is  25 Mr. Raymond's statement, which seems to me to be</p>	<p style="text-align: right;">32</p> <p>1 statement to you not hearsay?  2 MS. GARCIA: I guess I can -- I guess I -- can  3 I have one moment, Your Honor?  4 THE COURT: Sure.  5 MR. SWEETAPPLE: I have no objection to her  6 portion of, you know -- she authenticates, I don't  7 have a chance to cross examine her and bring in her  8 other communications. But I -- to the extent she's  9 just trying to put in Mr. Raymond's communications,  10 I --  11 THE COURT: I just -- that's what I thought  12 with that. I only thought that because it's  13 highlighted in orange, but if that's not --  14 MR. SWEETAPPLE: I don't have a highlighted  15 copy.  16 THE COURT: That's not what you're seeking to  17 do then?  18 MR. SWEETAPPLE: Well I didn't -- she didn't  19 give me the highlighted --  20 THE COURT: Okay. This is what was handed to  21 me.  22 MS. GARCIA: Another exception, Your Honor.  23 THE COURT: All right.  24 MR. SWEETAPPLE: Yeah, I didn't -- that wasn't  25 -- I was looking at the bottom --</p>
<p style="text-align: right;">31</p> <p>1 hearsay. But if there's not an objection to that,  2 then --  3 MR. SWEETAPPLE: Well, that's it.  4 THE COURT: -- then it's just authenticity,  5 then we'll let it get authenticated.  6 MR. SWEETAPPLE: Well, I'm going to object on  7 hearsay, Judge. I thought we had her statements  8 here as well. So I will object to hearsay on  9 anything, just from Mr. Raymond to her.  10 THE COURT: Ms. Garcia, how is Mr. Raymond's  11 statement not hearsay?  12 MS. GARCIA: This e-mail is our communication  13 in relation to the settlement, and it's relevant.  14 And when I asked him questions, he responded.  15 THE COURT: Right. So hearsay is a statement  16 made out of court --  17 MS. GARCIA: This is --  18 THE COURT: -- for the truth of the matter  19 that's asserted. So how is it not hearsay?  20 MS. GARCIA: It's an exception under the  21 business rule. This is a -- this is a communication  22 from my law firm. It's a business record. This was  23 received by me, and I can authenticate this as a  24 business record.  25 THE COURT: Okay. And how is Mr. Raymond's</p>	<p style="text-align: right;">33</p> <p>1 MS. GARCIA: Here. I'll give you one. Similar  2 passages, the square that is highlighted.  3 MR. SWEETAPPLE: Sorry, I just --  4 THE COURT: It's okay.  5 MR. SWEETAPPLE: I didn't -- I was --  6 THE COURT: I'm not trying to create issues. I  7 just --  8 MS. GARCIA: For one thing, Your Honor, the --  9 there is an exception under party admission.  10 Because this is where the other attorneys that I was  11 negotiating with in this case, who represent the  12 parties, are informing me that Ms. Sahm wasn't under  13 guardianship and didn't need a guardian in March.  14 So that goes to my mental impression of what  15 was her status. And I'll testify to different  16 conversations and different mental impressions that  17 I had that Ms. Patwell had, based on our  18 conversations.  19 THE COURT: All right, I'll have it marked for  20 identification, subject to being authenticated. But  21 that does sound like an exception to the hearsay.  22 MR. SWEETAPPLE: And just so we -- we're clear,  23 I'm also objecting to relevance from this statement  24 in March when we're on the subject of admissions by  25 parties' representative and parties.</p>



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<p style="text-align: right;">34</p> <p>1 I am going to be correcting one of the exhibits</p> <p>2 I provided to the Court, because Ms. Garcia just</p> <p>3 provided me with the May settlement agreement she</p> <p>4 forwarded to Mr. Raymond that is signed by her</p> <p>5 clients, where there repeated representation that</p> <p>6 Mrs. Sahm is incapacitated. That's in May. All</p> <p>7 right? This is in March.</p> <p>8 THE COURT: Okay.</p> <p>9 MR. SWEETAPPLE: So just so the Court, for</p> <p>10 relevance and context -- yeah, I'll be -- I'll be</p> <p>11 moving -- we've already admitted that into evidence,</p> <p>12 but I'm going to ask the Court to note that that is</p> <p>13 an admission of Ms. Garcia as the representative and</p> <p>14 the parties.</p> <p>15 THE COURT: Okay.</p> <p>16 MS. GARCIA: Can I have just one moment, Your</p> <p>17 Honor?</p> <p>18 THE COURT: Of course.</p> <p>19 MS. GARCIA: The next one, Your Honor, is</p> <p>20 marked as -- for identification, Exhibit L.</p> <p>21 THE COURT: Thank you.</p> <p>22 MS. GARCIA: This is the affidavit of Mr.</p> <p>23 Stransbury.</p> <p>24 THE COURT: All right. What's the plaintiff's</p> <p>25 position?</p>	<p style="text-align: right;">36</p> <p>1 to the hearsay rule.</p> <p>2 THE COURT: Where is that in the hearsay</p> <p>3 exception, a statement of a deceased person? Isn't</p> <p>4 it a statement of a person upon impending knowledge</p> <p>5 of death?</p> <p>6 MR. SWEETAPPLE: Your Honor, also relevance.</p> <p>7 This is -- this -- it says a phone call, October</p> <p>8 11th, 2019.</p> <p>9 THE COURT: Isn't this prior to the file --</p> <p>10 judgment?</p> <p>11 MR. SWEETAPPLE: Well, it's prior -- it's prior</p> <p>12 to the lawsuit being filed. Around the time --</p> <p>13 MS. GARCIA: This goes to the relevance is that</p> <p>14 it goes to the long-term negotiations. Because</p> <p>15 there's allegations that basically, once we found</p> <p>16 out that there were some committee reports out there</p> <p>17 that we rushed to do a settlement. And this shows</p> <p>18 the Court by statements by both parties that this</p> <p>19 has been going on for years. And it talks about the</p> <p>20 amount of \$200,000 was a reasonable amount at that</p> <p>21 time, where they were willing to accept.</p> <p>22 THE COURT: All right. I find that this is</p> <p>23 hearsay. So -- without an exception, so I'm going</p> <p>24 to sustain the objection unless it can be</p> <p>25 authenticated some other way. I don't see</p>
<p style="text-align: right;">35</p> <p>1 MR. SWEETAPPLE: I object. It's hearsay, Your</p> <p>2 Honor.</p> <p>3 THE COURT: Ms. Garcia?</p> <p>4 MS. GARCIA: I can call the witness, Your</p> <p>5 Honor.</p> <p>6 THE COURT: Okay. I'm going to sustain the</p> <p>7 objection as to hearsay, but I'll have it marked for</p> <p>8 identification as L.</p> <p>9 MR. SWEETAPPLE: And note my objection also to</p> <p>10 relevance, that this witness doesn't have any</p> <p>11 testimony since March of 2022. It's not going to be</p> <p>12 relevant to the --</p> <p>13 THE COURT: I found that it's hearsay.</p> <p>14 MR. SWEETAPPLE: Just saying if we get -- when</p> <p>15 that witness comes in, I'm just previewing that, the</p> <p>16 date of this.</p> <p>17 MS. GARCIA: The next one, Your Honor, is N.</p> <p>18 This is the -- this is a notarized letter, signed by</p> <p>19 both parties, the deceased, Mr. Sahm, and Mrs. Sahm</p> <p>20 as the trustee.</p> <p>21 MR. SWEETAPPLE: This is undated and hearsay,</p> <p>22 Your Honor.</p> <p>23 MS. GARCIA: I'll say it's a statement of a</p> <p>24 party opponent. It's also -- Mr. Sahm is deceased,</p> <p>25 and it's a statement by him, which is an exception</p>	<p style="text-align: right;">37</p> <p>1 necessarily how it's relevant, but it is hearsay.</p> <p>2 MS. GARCIA: I could authenticate it by the</p> <p>3 receiver of the letter who's here, that can testify,</p> <p>4 Your Honor. So --</p> <p>5 This is marked as Defendant's O, Your Honor.</p> <p>6 It's a retainer by Twig, Trade, &amp; Tribunal dated</p> <p>7 April 11th, 2023.</p> <p>8 MR. SWEETAPPLE: It's hearsay, Your Honor. I</p> <p>9 would note, though, it is telling how the defendants</p> <p>10 have communications between an alleged attorney for</p> <p>11 Mrs. Sahm. This is a privileged document, and the</p> <p>12 fact they can have it is consistent with my theory</p> <p>13 of the case.</p> <p>14 THE COURT: I'm going to overrule the</p> <p>15 objection. This is -- appears to be a legal</p> <p>16 document, which -- it's words of operative legal</p> <p>17 effect. So that is an exception to hearsay.</p> <p>18 What number were we at?</p> <p>19 THE CLERK: Number 10, Your Honor.</p> <p>20 THE COURT: Number 10 will be received into</p> <p>21 evidence over objection as Exhibit number 10.</p> <p>22 (PLAINTIFF EXHIBIT 10 RECEIVED INTO</p> <p>23 EVIDENCE)</p> <p>24 MR. SWEETAPPLE: Your Honor, I just -- if the</p> <p>25 Court will officially note, I don't see Page 2. I</p> <p>don't see it signed by Mr. Weinstein.</p>



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<p style="text-align: right;">38</p> <p>1 THE COURT: It appears to be signed by the 2 plaintiff. 3 MR. SWEETAPPLE: Yeah. But we don't know if it 4 was paid or anything about it. 5 THE COURT: And you'll be free to argue that to 6 me -- 7 MR. SWEETAPPLE: Okay. 8 THE COURT: -- as to why I should or should not 9 consider it. But it appears that it's authentic and 10 it appears that it would be admissible into 11 evidence. I'm going to receive it -- 12 MR. SWEETAPPLE: Okay. 13 THE COURT: -- for whatever its evidentiary 14 value is. 15 MS. GARCIA: Do you have a pen? 16 MR. SWEETAPPLE: What? 17 MS. GARCIA: Do you have a pen? 18 Your Honor, marked as Exhibit P is an e-mail -- 19 MR. SWEETAPPLE: Is this -- was this e-mailed 20 to someone? 21 MS. GARCIA: -- from Morgan Weinstein to Mr. 22 Sweetapple, and this deals with their communications 23 in -- April 13th, 2023, when Mr. Weinstein was 24 attempting to substitute in as the attorney in this 25 case, based on his retainer with the client.</p>	<p style="text-align: right;">40</p> <p>1 MR. SWEETAPPLE: This is hearsay from me. It's 2 hearsay within hearsay. He's writing to Patricia 3 Sahm, and copying me, saying that I have asked 4 something to happen. 5 THE COURT: What -- Ms. Garcia, what's it being 6 offered -- is it being offered for the truth of 7 what's being stated? 8 MS. GARCIA: It's being offered for the fact 9 that it would -- that this communication occurred, 10 and that Mr. Sweetapple was aware of the potential 11 of substitution in this case on April 13th of 2023. 12 THE COURT: All right. The portion that 13 indicates that Mr. Sweetapple has asked that you e- 14 mail back to authorize the change, would be hearsay. 15 But the fact that the communication occurred 16 and Mr. Sweetapple's e-mail is CC'd to the e-mail is 17 not hearsay. So I'll receive that portion of it in 18 evidence as 11. 19 THE CLERK: Yes, Your Honor. 20 THE COURT: Defense Exhibit number 11, over 21 objection. 22 (DEFENSE EXHIBIT 11 RECEIVED INTO 23 EVIDENCE) 24 MR. SWEETAPPLE: Is there any follow up e-mail 25 that she's offering where -- that's something happened?</p>
<p style="text-align: right;">39</p> <p>1 THE COURT: All right. What's the plaintiff's 2 position? 3 MR. SWEETAPPLE: He's talking about this. The 4 top is from Kevin Hall. 5 MS. GARCIA: This was -- 6 MR. SWEETAPPLE: And you're referring to just 7 the Morgan Weinstein to me? 8 MS. GARCIA: This was produced during a 9 deposition pursuant to your court orders. 10 MR. SWEETAPPLE: Let me just -- you -- you're 11 talking about this section right here? "Hello. Mr. 12 Sahm has a -- this section does not have an e-mail 13 address of response to her daughter Patty's e-mail 14 account. I've copied that account here. Mr. 15 Sweetapple's asking that you e-mail back to 16 authorize the change of representation from his 17 firm." So -- 18 THE COURT: Is there an objection to that? 19 MR. SWEETAPPLE: It's just hearsay. And I 20 don't think it's complete either. I presume there's 21 a response somewhere or a follow-up on any of this. 22 It's not relevant. It doesn't tend to prove or 23 disprove anything. 24 MS. GARCIA: It is relevant. You won't let me 25 respond.</p>	<p style="text-align: right;">41</p> <p>1 THE COURT: I don't know. 2 MS. GARCIA: Okay. Here is the next e-mail. 3 It's Exhibit Q for identification. This is further 4 communications between Mr. Sweetapple and Patty 5 Sahm, Junior, who she was communicating -- Mr. 6 Sweetapple, to see the Power of Attorney, who was 7 Mr. Sweetapple, and asked for a copy of the 8 Revocation of Power of Attorney and requested that 9 he -- Mr. Weinstein substitute in as her attorney. 10 MR. SWEETAPPLE: I'm going to object to hearsay 11 because I certainly want Patty Sahm to testify. 12 THE COURT: Ms. Garcia, what's the purpose of 13 this e-mail again? 14 MS. GARCIA: The purpose of this e-mail is to 15 show the fact that there was communication and Mr. 16 Sweetapple had knowledge that he was requested to 17 substitute out and allow Mr. Weinstein to substitute 18 in. And Mr. Sweetapple had asked for a copy of the 19 Power of Attorney, and it was the Revocation of 20 Power of Attorney that was provided to him at that 21 time -- 22 MR. SWEETAPPLE: Your Honor, there's -- 23 MS. GARCIA: -- four days before the 24 Guardianship was filed. 25 MR. SWEETAPPLE: There's no attachment to this.</p>



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<p style="text-align: right;">42</p> <p>1 It says, "I have attached my mom's Revocation."  2 MS. GARCIA: Right.  3 MR. SWEETAPPLE: And it's -- there's nothing  4 attached to this e-mail.  5 MS. GARCIA: The Revocation's already in  6 evidence, Your Honor, as the Exhibit --  7 THE COURT: I'm going to --  8 MS. GARCIA: -- Composite Exhibit 1.  9 THE COURT: I'm going to receive this item of  10 evidence in the -- into -- I'm going to receive this  11 exhibit into evidence over objection for the reason  12 stated by Ms. Garcia as Defense Exhibit number 12.  13 (DEFENSE EXHIBIT 12 RECEIVED INTO  EVIDENCE)  14 MS. GARCIA: Your Honor, was that marked P? I  15 apologize. P or --  16 THE CLERK: Q.  17 MS. GARCIA: Q, okay. So 11 was that one. That  18 was Q. Okay. Q. Thank you.  19 Then this is R. Your Honor, it was marked as  20 Defense Exhibit R. It's further e-mail  21 communications in relation to the same time frame.  22 This was April 15th, 2023, two days later, where --  23 MR. SWEETAPPLE: This is all hearsay from the  24 daughter, who I believe is on house arrest, though,  25 but available by Zoom.</p>	<p style="text-align: right;">44</p> <p>1 MS. GARCIA: If I want to admit it, I will call  2 Ms. Sahn.  3 Okay. Marked as Defense Exhibit S. I mean, T.  4 I apologize. I scratched S.  5 THE COURT: Okay.  6 MS. GARCIA: T, Your Honor. This is produced  7 pursuant to the deposition.  8 MR. SWEETAPPLE: My objection, Your Honor, is  9 hearsay. These are texts with Ms. Patwell, who I've  10 also been trying to depose, who's also incarcerated.  11 MS. GARCIA: This --  12 MR. SWEETAPPLE: So obviously anything --  13 THE COURT: Hang on. I need to know what Ms.  14 Garcia's exhibit is, for the record.  15 MS. GARCIA: Right.  16 THE COURT: And then I'll ask you what your  17 objection is.  18 MR. SWEETAPPLE: Okay. I'm sorry.  19 MS. GARCIA: This is Exhibit S, Your Honor. And  20 this is the messages with Morgan Weinstein and  21 myself. Because our communications and our  22 knowledge of what was going on at this time frame,  23 when we were being accused of committing fraud and  24 taking advantage of somebody, you ordered us to  25 produce these communications. So I produced the</p>
<p style="text-align: right;">43</p> <p>1 MS. GARCIA: Well --  2 MR. SWEETAPPLE: You can call her --  3 MS. GARCIA: -- she's off in two days.  4 MR. SWEETAPPLE: Pardon?  5 MS. GARCIA: She's off in two days.  6 MR. SWEETAPPLE: You can call her by Zoom. This  7 is -- I've been trying to unsuccessfully get her  8 depo scheduled for months.  9 MS. GARCIA: Not true.  10 So Your Honor, this goes again to the fact that  11 at this time --  12 MR. SWEETAPPLE: The hearsay is objectionable,  13 Your Honor.  14 THE COURT: Hang on. I need -- I need you to  15 not all argue with each other. I need you to state  16 your position so that I can make a ruling. So your  17 objection is that it's hearsay. Ms. Garcia, how is  18 it not hearsay?  19 MS. GARCIA: Let's see.  20 THE COURT: This is a communication between  21 Mrs. Sahn and Morgan Weinstein who is not Mr.  22 Sweetapple, or anybody employed with Mr.  23 Sweetapple's firm.  24 MS. GARCIA: Well taken, Your Honor.  25 THE COURT: I'll sustain the objection.</p>	<p style="text-align: right;">45</p> <p>1 relevant communications from 4-10-2023 through 4-16-  2 23.  3 The last one is irrelevant, Your Honor. Which  4 basically is my communications with Mr. Weinstein,  5 which I'll be testifying to. The fact that he told  6 me he was being retained, he was filing his notice  7 of appearance, and he's had them sign a retainer  8 and --  9 THE COURT: Mister --  10 MR. SWEETAPPLE: It's hearsay. Anything Mr.  11 Weinstein said in these is hearsay.  12 THE COURT: And in your statements, how are  13 they not hearsay? And if you're going to testify to  14 it, it's subject to cross-examination. I don't see  15 how this is an exception of the hearsay.  16 MS. GARCIA: This again, this is a business  17 record, Your Honor. This is by communications with  18 opposing counsel that I was ordered to produce in a  19 deposition, which I produced in a deposition,  20 subject to cross-examination at the deposition.  21 THE COURT: I haven't heard that it's a  22 business record. I mean, it may be. I haven't  23 heard that.  24 MS. GARCIA: This is kept in the regular course  25 of business communications with opposing counsel,</p>



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1 communications with my clients. In this particular  
2 document, you ordered us to produce the  
3 communications, so I did. He's had the benefit of  
4 it, has cross- examined --  
5 MR. SWEETAPPLE: And --  
6 THE COURT: Just because I ordered it produced  
7 doesn't mean it's admissible into evidence. It --  
8 MS. GARCIA: Okay.  
9 THE COURT: -- means that perhaps he would like  
10 to admit it into evidence as a statement that you  
11 made -- I don't know -- which would be an exception  
12 to hearsay, but if you are asking to admit it, I  
13 need to find out how it's admissible.  
14 MR. SWEETAPPLE: And anything that --  
15 THE COURT: I would --  
16 MR. SWEETAPPLE: Anything that was her  
17 communication, I'd want her to authenticate it, but  
18 I --  
19 THE COURT: Right. And --  
20 MS. GARCIA: This is an authorized admission,  
21 Your Honor. The Federal Rule of Evidence  
22 801(d)(2)(C)(D). Supposedly there's a conspiracy.  
23 This would be an admission of a co-conspirator also,  
24 under his theory, under 801(d)(2)(E). It's also --  
25 MR. SWEETAPPLE: Who's the co-conspirator?

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1 MS. GARCIA: -- an adopted admission.  
2 MR. SWEETAPPLE: Who's the co-conspirator  
3 though?  
4 THE COURT: It -- he -- so that would be an  
5 exception that he would seek to admit it under,  
6 unless you're conceding that you're part of a  
7 conspiracy and you're saying that you wanted to  
8 introduce your co-conspirator's statement?  
9 MS. GARCIA: No --  
10 THE COURT: Is that what you're --  
11 MS. GARCIA: No --  
12 THE COURT: -- conceding?  
13 MS. GARCIA: No, I'm not saying that we are  
14 conspirators. I'm saying we've been accused of  
15 conspiracy. We've been accused of fraud.  
16 THE COURT: I will reserve on ruling on it. But  
17 as of right now, it sounds like it's hearsay without  
18 an exception.  
19 MS. GARCIA: Okay.  
20 MR. SWEETAPPLE: And then now also, Your Honor,  
21 this whole thing about Mr. Weinstein is irrelevant.  
22 There's no dispute. I was never provided with the  
23 proposed substitution. Of any form.  
24 THE COURT: It may ultimately be irrelevant,  
25 but --

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1 MR. SWEETAPPLE: Your Honor, we are wasting  
2 time --  
3 THE COURT: Well, your witnesses aren't  
4 available until 1:00, so --  
5 MR. SWEETAPPLE: I know. I understand. What  
6 I'm saying is --  
7 THE COURT: -- or 1:30, so we have to -- we  
8 have to get this for -- it would've been nice to  
9 have some agreements to some of this to streamline  
10 things, but there was an objection to even waiting  
11 until 1:30. So let's use our time wisely.  
12 MS. GARCIA: Here's U, Your Honor. Defense U.  
13 This is -- he agreed to the judicial notice.  
14 MR. SWEETAPPLE: I have no objection to this.  
15 It's Mr. Shraiberg's (phonetic) fee agreement from  
16 the Bankruptcy Court when he represented the estate  
17 and Patricia Sahm individually.  
18 THE COURT: So you have no objection to  
19 receiving --  
20 MR. SWEETAPPLE: No.  
21 THE COURT: -- defense U into evidence --  
22 MR. SWEETAPPLE: That's correct.  
23 THE COURT: -- as Defense Exhibit 13?  
24 MR. SWEETAPPLE: In Bankruptcy Court, you know,  
25 you're required to file your fee agreement, so

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1 there's really no objection at this point.  
2 THE COURT: Received into evidence without  
3 objection as 13. Defense 13.  
4 (DEFENSE EXHIBIT 13 RECEIVED INTO  
5 EVIDENCE)  
6 MS. GARCIA: Okay. Exhibit V, Your Honor.  
7 Defense Exhibit v. is the report of an examining  
8 committee member. One of the three committee  
9 members that was initially assigned to the case.  
10 MR. SWEETAPPLE: Well, this is the one who's  
11 going to be testifying second, so I have no  
12 objection.  
13 THE COURT: I'll receive it into evidence  
14 without objection as Defense 14.  
15 (DEFENSE EXHIBIT 14 RECEIVED INTO  
16 EVIDENCE)  
17 THE CLERK: Yes, Your Honor.  
18 MS. GARCIA: Okay. So that was V, allowed as  
19 14, Your Honor?  
20 THE COURT: Yes, ma'am.  
21 MS. GARCIA: Thank you.  
22 Exhibit W. Oops.  
23 MR. SWEETAPPLE: It may save some time, we're  
24 discussing -- we may waive calling this witness as  
25 she's allowing this into evidence.  
THE COURT: Okay.



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<p style="text-align: right;">50</p> <p>1 MR. SWEETAPPLE: Okay.</p> <p>2 MS. GARCIA: Your Honor. Exhibit W is a</p> <p>3 report --</p> <p>4 MR. SWEETAPPLE: This is not filed, this is --</p> <p>5 MS. GARCIA: -- by Dr. Sugar.</p> <p>6 THE COURT: Yeah. I need her to tell me what</p> <p>7 it is --</p> <p>8 MS. GARCIA: And --</p> <p>9 THE COURT: -- and then you to tell me why --</p> <p>10 MR. SWEETAPPLE: I'm sorry, Your Honor --</p> <p>11 THE COURT: -- I should or should not.</p> <p>12 MR. SWEETAPPLE: -- I thought she was finished.</p> <p>13 THE COURT: It's okay.</p> <p>14 MS. GARCIA: And this one is being moved into</p> <p>15 the fact that it was prepared, just like the other</p> <p>16 ones that you already allowed, although it's</p> <p>17 hearsay. The fact that this report exists. So I</p> <p>18 can testify to the relevance of it in my testimony.</p> <p>19 MR. SWEETAPPLE: Your Honor, this is not a</p> <p>20 appointed examiner. This is somebody they went out</p> <p>21 and hired. It's not filed in the case. It wasn't</p> <p>22 part of Judge Burton's review, and it's hearsay.</p> <p>23 THE COURT: It is hearsay. The other one was</p> <p>24 not objected to. This one is objected to. It's</p> <p>25 hearsay.</p>	<p style="text-align: right;">52</p> <p>1 MS. GARCIA: Okay.</p> <p>2 THE COURT: -- you received it. But the</p> <p>3 substance of the report is hearsay.</p> <p>4 MS. GARCIA: I see.</p> <p>5 THE COURT: Without an exception.</p> <p>6 MS. GARCIA: Right.</p> <p>7 THE COURT: So I'm sustaining the objection to</p> <p>8 the physical report.</p> <p>9 MS. GARCIA: But it's allowed for the fact that</p> <p>10 it was prepared?</p> <p>11 THE COURT: Yes. You can -- you can --</p> <p>12 MS. GARCIA: Okay, so --</p> <p>13 THE COURT: -- testify to that, yes?</p> <p>14 MS. GARCIA: Okay.</p> <p>15 THE COURT: You can -- I think you have</p> <p>16 testified.</p> <p>17 MS. GARCIA: I think we started, Your Honor.</p> <p>18 Okay.</p> <p>19 THE COURT: That's -- it's -- identification</p> <p>20 only.</p> <p>21 MS. GARCIA: Okay. The next one, Your Honor,</p> <p>22 is Composite Exhibit Y, and it entails a Promissory</p> <p>23 Note in this case.</p> <p>24 MR. SWEETAPPLE: These are -- these are</p> <p>25 attached to the Complaint and the court file. I</p>
<p style="text-align: right;">51</p> <p>1 MR. SWEETAPPLE: And they said the doctor who</p> <p>2 they testified was -- had a High Holy day and</p> <p>3 couldn't be here. We had to continue so he could be</p> <p>4 here. So obviously there's no prejudice. They know</p> <p>5 that if they want to call Dr. Sugar, he has to be</p> <p>6 here.</p> <p>7 THE COURT: His -- Dr. Sugar's report is</p> <p>8 hearsay, so I'm sustaining the objection.</p> <p>9 MS. GARCIA: Your Honor, I'm moving it not for</p> <p>10 the -- not for the content, but the fact that it was</p> <p>11 prepared and the date it was prepared.</p> <p>12 MR. SWEETAPPLE: Well --</p> <p>13 MS. GARCIA: You had allowed the other reports</p> <p>14 for the same purpose, saying it was hearsay, so I'm</p> <p>15 not moving in for the contents of the report. I'm</p> <p>16 moving it for the fact that it was prepared, when it</p> <p>17 was prepared, and the relevance in my mind of this</p> <p>18 report --</p> <p>19 MR. SWEETAPPLE: It's all hearsay.</p> <p>20 MS. GARCIA: -- without -- no, it's not</p> <p>21 hearsay, because I'm not going to discuss the</p> <p>22 relevance of the report.</p> <p>23 THE COURT: I will -- I will allow you to</p> <p>24 testify to the fact that a report was prepared, when</p> <p>25 it was prepared, and that --</p>	<p style="text-align: right;">53</p> <p>1 have no objection --</p> <p>2 MS. GARCIA: Okay.</p> <p>3 MR. SWEETAPPLE: -- they're not relevant, but I</p> <p>4 have no objection.</p> <p>5 THE COURT: I'll receive them into evidence</p> <p>6 without objection as Composite Exhibit 15.</p> <p>7 How many composites are there? 15A and B?</p> <p>8 THE CLERK: It's Composite --</p> <p>9 MR. SWEETAPPLE: Note and Mortgages. Amended</p> <p>10 Mortgage.</p> <p>11 THE COURT: So A and B? Amended Mortgage?</p> <p>12 MS. GARCIA: I'm going to approach, Your Honor.</p> <p>13 So Composite Exhibit Y.</p> <p>14 THE COURT: Okay. So I'm going to make the</p> <p>15 Promissory Note is 15A, and the Mortgage is 15B,</p> <p>16 will be received into evidence without objection.</p> <p>17 (DEFENSE EXHIBIT 15A RECEIVED INTO</p> <p>18 EVIDENCE)</p> <p>19 (DEFENSE EXHIBIT 15B RECEIVED INTO</p> <p>20 EVIDENCE)</p> <p>21 MS. GARCIA: I'm sorry, was the v. -- which was</p> <p>22 the Cheshire Report was that was admitted as Exhibit</p> <p>23 14, correct?</p> <p>24 MR. SWEETAPPLE: I stipulated to that.</p> <p>25 MS. GARCIA: Right.</p> <p>THE COURT: Correct.</p>



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<p style="text-align: right;">54</p> <p>1 THE COURT: Yes, ma'am.</p> <p>2 MS. GARCIA: Okay.</p> <p>3 MR. SWEETAPPLE: Trying to save us time.</p> <p>4 MS. GARCIA: Okay. So this one was Exhibit 15.</p> <p>5 Defense -- for ID Exhibit Z, Your Honor. I</p> <p>6 believe that he agreed to the judicial notice --</p> <p>7 MR. SWEETAPPLE: No objection to judicial</p> <p>8 notice of this. It's in the Court file in this</p> <p>9 case.</p> <p>10 THE COURT: It'll be received into evidence</p> <p>11 without objection as Defense Exhibit 16.</p> <p>12 (DEFENSE EXHIBIT 16 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>13 MS. GARCIA: So was Defense Z is Defendant's</p> <p>14 16?</p> <p>15 THE COURT: Yes, ma'am.</p> <p>16 MS. GARCIA: Thank you, Your Honor.</p> <p>17 This is Defendant's AA. Not AAA. And this is</p> <p>18 a state record showing that the Bernstein Family</p> <p>19 Realty, LLC, was active as a reinstatement on the</p> <p>20 relevant time frame, March 16th, 2023.</p> <p>21 MR. SWEETAPPLE: And Your Honor, it was then</p> <p>22 dissolved administratively not long after that. And</p> <p>23 as long as I can put in that to show that it's not</p> <p>24 currently even in good standing, I have no</p> <p>25 objection, as long as I can put in the current</p>	<p style="text-align: right;">56</p> <p>1 Plaintiff's Exhibit --</p> <p>2 MS. GARCIA: Okay.</p> <p>3 THE COURT: -- whatever.</p> <p>4 MS. GARCIA: This stipulates -- this judicial</p> <p>5 notice, this is Defendant's BB. This is a</p> <p>6 Suggestion of Bankruptcy filed in this case on 4-3-</p> <p>7 23.</p> <p>8 THE COURT: Position of the defense, or the</p> <p>9 defendant?</p> <p>10 MR. SWEETAPPLE: No, I have no objection to the</p> <p>11 Court taking judicial notice. It's on the Court</p> <p>12 file.</p> <p>13 THE COURT: It'll be received into evidence</p> <p>14 without objection as Defense Exhibit 19?</p> <p>15 THE CLERK: 18.</p> <p>16 THE COURT: 18.</p> <p>17 (DEFENSE EXHIBIT 18 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>18 THE COURT: I'm a lawyer, I can only count so</p> <p>19 well.</p> <p>20 MS. GARCIA: Okay. From -- counsel, here.</p> <p>21 Defense -- for identification, CC, again, it's a</p> <p>22 judicial notice, Your Honor, this is a filing in</p> <p>23 this case -- no, a filing of the Guardianship in the</p> <p>24 mental health case. My appearance for Patricia Anne</p> <p>25 Sahm, Junior dated 8-14-23.</p>
<p style="text-align: right;">55</p> <p>1 document that shows the actual date of dissolution.</p> <p>2 THE COURT: Any issues with that, Ms. Garcia?</p> <p>3 MS. GARCIA: I'm sorry?</p> <p>4 THE COURT: Any issues with what Mr. Sweetapple</p> <p>5 proposes?</p> <p>6 MS. GARCIA: I have not seen what he's talking</p> <p>7 about. So that's what the public record shows. I</p> <p>8 don't have a problem that one also coming in.</p> <p>9 THE COURT: Is that what the public record</p> <p>10 shows?</p> <p>11 MS. GARCIA: Maybe a composite --</p> <p>12 MR. SWEETAPPLE: Yes, Your Honor. It's the</p> <p>13 same printout from Sunbiz.</p> <p>14 THE COURT: All right. So then --</p> <p>15 MS. GARCIA: But --</p> <p>16 THE COURT: -- I'll allow his in if I'll allow</p> <p>17 Ms. Garcia's. So it'll be received by stipulation</p> <p>18 as Defense Exhibit 17.</p> <p>19 (DEFENSE EXHIBIT 17 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>20 MS. GARCIA: Yes. Composite --</p> <p>21 MR. SWEETAPPLE: I'll provide that to the</p> <p>22 Court. We'll print it during lunch.</p> <p>23 MS. GARCIA: So I guess I would call it</p> <p>24 Composite 17 since he's going to add the second --</p> <p>25 THE COURT: And he's going to add it as</p>	<p style="text-align: right;">57</p> <p>1 THE COURT: Position of the plaintiff?</p> <p>2 MR. SWEETAPPLE: No objection.</p> <p>3 THE COURT: It'll be received the evidence</p> <p>4 without objection as Defense 19.</p> <p>5 (DEFENSE EXHIBIT 19 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>6 THE CLERK: Yes.</p> <p>7 THE COURT: Yes --</p> <p>8 MS. GARCIA: 19.</p> <p>9 THE COURT: -- I'm back. 19.</p> <p>10 MS. GARCIA: We're getting near the end here.</p> <p>11 Okay. Then we have Defense DD, which is a 5-22-23,</p> <p>12 again, judicial notice. It's the -- Ms. Patwell's</p> <p>13 notice of appearance in this case, filed May 22nd,</p> <p>14 2023.</p> <p>15 THE COURT: Position?</p> <p>16 MR. SWEETAPPLE: No objection.</p> <p>17 THE COURT: It'll be received into evidence</p> <p>18 without objection as Defense Exhibit number 20.</p> <p>19 (DEFENSE EXHIBIT 20 RECEIVED INTO</p> <p>EVIDENCE)</p> <p>20 MS. GARCIA: Defendant's EE for identification,</p> <p>21 Your Honor. It's a Stipulation for Substitution of</p> <p>22 Counsel signed by Patricia Sahm.</p> <p>23 MR. SWEETAPPLE: This is hearsay. It wasn't --</p> <p>24 it doesn't show it was filed.</p>



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<p style="text-align: right;">58</p> <p>1 -- in our August hearing and received into evidence, 2 wasn't it? 3 MS. GARCIA: I believe when we see Stipulation 4 for Substitution, yeah, it's Defendant's -- 5 MR. SWEETAPPLE: That was -- that was me, and 6 have -- that wasn't -- that wasn't signed. 7 MS. GARCIA: The original -- 8 MR. SWEETAPPLE: This is -- this is Laura 9 Burkhalter. 10 MS. GARCIA: Let me see, Plaintiff -- it was 11 Defendant's D, and it was admitted as Exhibit 3 12 already, Your Honor. Evidence 3. 13 MR. SWEETAPPLE: This is already in? 14 MS. GARCIA: Yeah. 15 THE CLERK: Let me look -- 16 MS. GARCIA: I believe. I have to compare 17 it -- 18 THE CLERK: So the original exhibit that was 19 put in as her D -- as Defendant's D, was an unfiled 20 stipulation for substitution that was signed by 21 Patty Sahn, Senior, but was unsigned by the attorney 22 in this case. 23 THE COURT: That's what this is? 24 THE CLERK: That's for Laura Burkhalter. This 25 was -- that was for --</p>	<p style="text-align: right;">60</p> <p>1 MR. SWEETAPPLE: It says Probate Division on 2 top -- the one that we're not -- 3 THE COURT: I think -- I think you have a 4 different paper than I do, of -- what I'm saying. 5 MS. GARCIA: Let me see. 6 THE COURT: I have this one. It's this -- 7 MS. GARCIA: I handed you the wrong one, Your 8 Honor. 9 THE COURT: Okay. 10 MS. GARCIA: Sorry. 11 MR. SWEETAPPLE: Oh, yeah. That's already in 12 evidence. 13 MS. GARCIA: Yeah, that's the one that's 14 already in, Your Honor. I apologize. 15 MR. SWEETAPPLE: This is what she's handing you 16 now -- 17 MS. GARCIA: This is just -- 18 MR. SWEETAPPLE: -- that I'm objecting to. 19 THE COURT: Okay. Hang on. Wait. Hold on. 20 MS. GARCIA: Now I've got to put a -- I'm going 21 to have to mark it correctly, Your Honor. 22 THE COURT: No problem, no problem. 23 MS. GARCIA: If you give me a second. I 24 apologize. 25 MR. SWEETAPPLE: If she has -- this one's filed</p>
<p style="text-align: right;">59</p> <p>1 MR. SWEETAPPLE: This is the Probate Court, 2 Judge. 3 THE CLERK: That's the Probate Court in front 4 of you. 5 MR. SWEETAPPLE: This is not -- 6 THE COURT: No -- 7 MR. SWEETAPPLE: -- in our exhibits. 8 THE COURT: -- this is -- 9 MS. GARCIA: The MH? 10 THE COURT: This is 20 -- 11 MS. GARCIA: No, I'm sorry. You're right, Your 12 Honor -- 13 THE COURT: This is 2018 -- 14 MS. GARCIA: -- I apologize. 15 THE COURT: -- CF, that's this case. 16 MS. GARCIA: No, Your Honor. I apologize, it's 17 the wrong -- I -- let me take that back, let me 18 refresh. No, this is the stipulation for 19 substitution of counsel in the mental health case, 20 where Patwell -- 21 THE COURT: This is -- it's 2018-CA-2317. 22 That's this case number. What you've handed me -- 23 maybe perhaps you handed me the wrong document? 24 MS. GARCIA: I handed you the wrong one. What 25 is yours? The MH case and then pending damages?</p>	<p style="text-align: right;">61</p> <p>1 in a case, I have no problem with the judicial 2 notice. But this is -- she's handed me a Stipulation 3 to a Substitution of Counsel in a probate case, 4 allegedly signed by Patricia Sahn and nobody else 5 and no date. 6 MS. GARCIA: So this was -- this was EE. 7 THE COURT: So this is the Stipulation -- 8 MS. GARCIA: Yes. 9 THE COURT: -- 2023MH1072? 10 MS. GARCIA: Yeah. This is the one in the 11 mental health case to show that Ms. Patwell 12 substituted in for Laura Burkhalter. And this is 13 the -- this is the place it's signed by the client. 14 And I think we've already moved into evidence the 15 notice of appearance. So I guess it could have 16 really been attached to that, but I can separate -- 17 THE COURT: Noting your objection, I'm going to 18 receive it into evidence as Defense Exhibit number 19 21. 20 (DEFENSE EXHIBIT 21 RECEIVED INTO EVIDENCE) 21 MS. GARCIA: Your Honor, I'm just correcting 22 the other one. 23 THE COURT: No problem. 24 MS. GARCIA: It will go into this pile. 25 It's marked as Defense FF. This is in the</p>



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1 public records. He stipulated -- this is the second  
2 mortgage on the property in this case that was  
3 recorded --

4 MR. SWEETAPPLE: No objection. Except to  
5 relevance.

6 THE COURT: You'll tell me why it's relevant or  
7 not. I'll receive it into evidence without  
8 objection as 22 -- Defense 22.

9 (DEFENSE EXHIBIT 22 RECEIVED INTO  
EVIDENCE)

10 MS. GARCIA: And we have Defense Exhibit GG,  
11 which is a letter from the Kipperson (phonetic) law  
12 firm --

13 MR. SWEETAPPLE: Hearsay.

14 MS. GARCIA: -- to Ms. Patwell and Mr. Bennett  
15 terminating Mrs. Sahn. I'm sorry, terminating -- or  
16 attempting, I should say, to terminate Amber  
17 Patwell, August 1st, 2023. And the attorney is  
18 present here for the --

19 MS. LEWIS: I didn't write that letter.

20 MS. GARCIA: Is Mr. Revard present?

21 MR. SWEETAPPLE: Pardon?

22 MS. GARCIA: Is Mr. Revard present?

23 MR. SWEETAPPLE: He's not present here, no.

24 MS. GARCIA: Is he on Zoom?

25 MR. SWEETAPPLE: I haven't looked. Is Mr.

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1 Revard on Zoom? Just give me one second.

2 THE COURT: Sure.

3 MR. SWEETAPPLE: We're going to object to  
4 hearsay, Your Honor.

5 THE COURT: Ms. Garcia?

6 MS. GARCIA: I would move it in Your Honor, not  
7 for the truth of the matter asserted, for the fact  
8 that this letter was sent.

9 THE COURT: It does appear to be words of  
10 operative legal effect, seeking to terminate an  
11 attorney-client relationship. So I'm going to  
12 receive it over objection as Defense Exhibit 24 or  
13 3?

14 THE CLERK: 23.

15 THE COURT: 23.

16 THE CLERK: 23.

17 (DEFENSE EXHIBIT 23 RECEIVED INTO  
EVIDENCE)

18 MS. GARCIA: The next one is Defense Exhibit  
19 HH, which is a filing, which they stipulated to, as  
20 far as a record in the estate case of Walter Sahn.  
21 This is the statement regarding creditors.

22 THE COURT: What about all this handwritten --

23 MS. GARCIA: And the handwriting is my notes,  
24 which I will testify to those notes as far as that  
25 was from my conversations with Mr. Raymond when we

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1 were settling the case. We were going over the  
2 estate's rights, and I -- I'll testify to the  
3 relevance of it during my testimony.

4 MR. SWEETAPPLE: First of all, number 3 says  
5 there's something attached, a list of creditors.  
6 And I don't see anything attached to this. Second  
7 of all, I don't see how this is relevant. The  
8 estate has no claim in this case. The estate has  
9 never had a claim in this case.

10 THE COURT: In an abundance of caution over  
11 your objection, I'm going to receive it into  
12 evidence as Defense Exhibit number 24.

13 (DEFENSE EXHIBIT 24 RECEIVED INTO  
EVIDENCE)

14 MS. GARCIA: II, Your Honor. It's a -- Ms.  
15 Patwell's response to the Guardian's Request for  
16 Production that was delivered to us in the  
17 guardianship case.

18 MR. SWEETAPPLE: Your Honor, this wasn't filed  
19 with the Court and it's hearsay.

20 MS. GARCIA: This is all the documents that  
21 they requested to be produced by Ms. Patwell, and  
22 this goes to the mental impressions of her and I's  
23 negotiations and what she produced to the Court.  
24 It's very relevant to the issues of fact, as far as  
25 communications by Ms. Patwell. It's got the mental

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1 impressions that Judge Burton had read to the Court.

2 MR. SWEETAPPLE: Well, I have the right to  
3 cross-examine Ms. Patwell about her findings and  
4 mental impressions, and everything else. That's why  
5 we have a hearsay rule.

6 THE COURT: All right. This does appear to be  
7 classical hearsay. So at this time I'm going to  
8 sustain the objection on a hearsay basis, subject to  
9 you seeking to admit it some other way, but it's  
10 hearsay right now.

11 For identification only.

12 MS. GARCIA: This is JJ, Your Honor. This is  
13 the --

14 MR. SWEETAPPLE: No objection.

15 MS. GARCIA: This actually would probably  
16 really tie in --

17 THE COURT: It doesn't sound like there's an  
18 objection, so what is it?

19 MS. GARCIA: Okay. This is the actual executed  
20 Stipulation of Substitution of Counsel where I had  
21 already moved into evidence the one signed by  
22 Patricia Sahn. This is a fully executed and filed  
23 Stipulation. And it also has the proof of the  
24 delivery --

25 THE COURT: And the order?



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<p style="text-align: right;">66</p> <p>1 MS. GARCIA: Yeah. And then the Order 2 substituting, Ms. Patwell in as the attorney for Ms. 3 Sahm. 4 THE COURT: It will be received into evidence 5 as Defense Exhibit 24. 6 THE CLERK: 25. 7 THE COURT: 25. 8 (DEFENSE EXHIBIT 25 RECEIVED INTO EVIDENCE) 9 MS. GARCIA: Defendant's Exhibit KK, which is 10 Mrs. Patwell's agreement. It's a hearsay exception 11 under the legal rule, and this is executed by Mrs. 12 Patwell, Ms. Sahm, dated May 1st, 2023. It's been 13 provided to the Court in the mental health case in 14 your discovery. And it is an exception to the 15 hearsay rule. 16 MR. SWEETAPPLE: You've already determined that 17 the retainer agreements are exception. 18 THE COURT: I'm going to receive it into 19 evidence. Is there an objection? 20 MR. SWEETAPPLE: Pardon? 21 THE COURT: Is there an objection? 22 MR. SWEETAPPLE: Object to hearsay. 23 THE COURT: I'll receive it into evidence over 24 objection as -- 25 MR. SWEETAPPLE: I think correctly made a --</p>	<p style="text-align: right;">68</p> <p>1 this? May or -- 2 MS. GARCIA: The May 22nd agreement. 3 MR. SWEETAPPLE: Okay. 4 MS. GARCIA: So it's already in evidence. 5 MR. SWEETAPPLE: And then you had a copy of the 6 prior agreement signed by your clients? 7 MS. GARCIA: Yeah, I'm not using it. 8 MR. SWEETAPPLE: Okay. Well, I want -- Your 9 Honor, she has -- she produced at deposition a 10 document that I put into evidence that she 11 stipulated to. She did not give me the copy that 12 was signed by her clients. Her client signed a 13 settlement agreement referencing that Mrs. Sahm was 14 incapacitated repeatedly. 15 So I do ask that she produce here the complete 16 document, not the one she gave me at the deposition. 17 THE COURT: Do you have that document? 18 MR. SWEETAPPLE: Ms. Garcia? 19 THE COURT: Ms. Garcia? 20 MS. GARCIA: Excuse me? 21 THE COURT: Do you have that document, Ms. 22 Garcia? 23 MS. GARCIA: I do, Your Honor, but I don't 24 intend on using it. 25 THE COURT: Right. But wasn't it ordered to be</p>
<p style="text-align: right;">67</p> <p>1 THE COURT: Defense 26. 2 (DEFENSE EXHIBIT 26 RECEIVED INTO EVIDENCE) 3 MR. SWEETAPPLE: -- so I'll make a record, 4 but -- 5 THE COURT: Just asking. 6 MR. SWEETAPPLE: I don't think I'd go any 7 further than that. 8 THE COURT: Just asking. 9 MS. GARCIA: I think we've already moved the 10 settlement agreement -- the fully executed 11 settlement agreement in. And let me see something. 12 MR. SWEETAPPLE: And did you put X in the -- 13 MS. GARCIA: B. No, this is a -- 14 THE COURT: I have it as -- 15 MS. GARCIA: I think it's Exhibit 6. 16 THE COURT: 6? 17 MS. GARCIA: Defense Exhibit 6. 18 MR. SWEETAPPLE: Is this the settlement 19 agreement from March? 20 THE COURT: Yes, I have it as 6 -- Exhibit 6 21 entered in on August 12th. 22 MS. GARCIA: Okay. I didn't know if you need a 23 copy. Do you have a copy from last time? 24 THE COURT: The -- I'm not sure. 25 MR. SWEETAPPLE: Which date? Which one is</p>	<p style="text-align: right;">69</p> <p>1 turned over and it wasn't turned over? So shouldn't 2 it have been turned over? 3 MS. GARCIA: Well, it was turned over -- 4 MR. SWEETAPPLE: Not with the signatures. 5 MS. GARCIA: -- at the depositions. 6 MR. SWEETAPPLE: Not with the signatures. I 7 put in evidence what I was given by her, and I don't 8 have one with the signatures. 9 THE COURT: Do you have one with the 10 signatures? 11 MS. GARCIA: Yes. He said it was hearsay when 12 I showed it to him earlier. 13 MR. SWEETAPPLE: No, I said I want -- 14 MS. GARCIA: This is -- 15 MR. SWEETAPPLE: -- I -- 16 MS. GARCIA: -- it's marked as Exhibit X. 17 THE COURT: You don't have to enter it as 18 evidence, but it -- but -- 19 MR. SWEETAPPLE: I -- 20 THE COURT: -- he's entitled to it, and he may 21 want me to receive it in as evidence -- 22 MS. GARCIA: Okay. 23 THE COURT: It sounds like it does, so -- 24 MR. SWEETAPPLE: I'm going to substitute this 25 and when I was presented with this, I said, I want</p>



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<p style="text-align: right;">70</p> <p>1 to substitute this for what's in evidence. I did 2 not object to hearsay. 3 So this is a settlement agreement signed by the 4 Bernstein side on March 11th, and it is being 5 substituted for which -- 6 THE CLERK: Plaintiff's 5. 7 MR. SWEETAPPLE: Plaintiff's 5, Judge. Or it 8 can be in addition, but this is the executed copy. 9 THE COURT: Ms. Garcia, what's your position 10 with respect to -- I guess, do you have the same 11 position that you did when they moved Plaintiff's 5? 12 MS. GARCIA: I'm sorry, Your Honor? 13 THE COURT: Do you have the same position that 14 you did when they moved Plaintiff's Exhibit number 5 15 into evidence, or any additional -- 16 MS. GARCIA: Let me see. Plaintiff's 5 was not 17 accepted, and I don't see it anywhere. 18 THE CLERK: It was not objected to. 19 MS. GARCIA: There is no Plaintiff's 5. So -- 20 THE COURT: Madam Clerk's indicating it was 21 received without objection. Do you have the date, 22 Madam Clerk? 23 THE CLERK: At 11:09, it was -- 24 THE COURT: At 11:09 today? 25 THE CLERK: Oh --</p>	<p style="text-align: right;">72</p> <p>1 (PLAINTIFF EXHIBIT 12 RECEIVED INTO 2 EVIDENCE) 3 MS. GARCIA: Is there an ID number or just 4 Exhibit 12? 5 THE COURT: Exhibit number 12. ID 12, Exhibit 6 12. 7 MS. GARCIA: And just before we do that, Your 8 Honor -- 9 What'd I do with this file? Of there it is. 10 It's that one. Okay. What was Plaintiff's 11? I 11 don't see an 11 in the order. 12 THE CLERK: 9-22-23, the order. 13 MS. GARCIA: I have that as 10. 5, 6, 7, 8, 9, 14 10. 15 THE CLERK: That was another order. 16 THE COURT: 10 was another order. 17 MS. GARCIA: An Order Appointing a Limited 18 Guardian is 9, and an Order Granting -- number 9 was 19 a Notice of Appearance and a Joinder. One second. 20 Number 9, Plaintiff, Notice of Appearance and 21 Joinder and Objection filed by the Alleged 22 Incapacitated Person. Plaintiff 9. It was the 23 objection, right -- 24 MR. SWEETAPPLE: Yes. 25 MS. GARCIA: -- to the examination committee. THE CLERK: That's 8.</p>
<p style="text-align: right;">71</p> <p>1 THE COURT: I know it'd be -- we -- 2 THE CLERK: At 11 -- 3 THE COURT: We -- 4 THE CLERK: I'm sorry. 11:10 it was admitted. 5 THE COURT: I know we've been working hard, but 6 apparently it was admitted at 11:10. 7 MS. GARCIA: I'm sorry? 8 THE COURT: I have -- this is -- yes. Sorry. 9 Right here. 10 THE CLERK: Yes. Do you want to -- do you 11 want -- 12 THE COURT: Yeah. It's this one. This is how 13 it starts. 14 MR. SWEETAPPLE: Yes. That was a 15 transmission -- 16 THE COURT: So do you have any additional 17 objections to this signed? 18 MS. GARCIA: No, Your Honor. So what numbers? 19 And I apologize for -- 20 THE COURT: I -- I'm going to receive -- I'm 21 not going to substitute it. I'm going to receive it 22 in evidence as -- what's Plaintiff up to? 23 THE CLERK: I believe the next one would be 12. 24 THE COURT: 12. I'm going to receive this one, 25 the signed one, as Plaintiff's Exhibit number 12.</p>	<p style="text-align: right;">73</p> <p>1 MS. GARCIA: 8. 9 is a Notice of Appearance and 2 Tenancy Order, 11 and 12. Okay. 3 THE COURT: Madam Clerk, you don't have to 4 apologize. You're fine. 5 THE CLERK: Okay. Thank you. 6 MS. GARCIA: Thank you, Your Honor. 7 THE COURT: Yes, ma'am. 8 MR. SWEETAPPLE: Your Honor, I do have the 9 Sunbiz report moved in as 13 -- 10 THE COURT: All right. 11 MR. SWEETAPPLE: -- if Counsel wants to take a 12 look at it. Are you finished? I'm sorry. 13 MS. GARCIA: No. 14 MR. SWEETAPPLE: Oh, I thought you were 15 finished. 16 MS. GARCIA: No. Two more. Okay. We'll read 17 that as one. And then -- wait, I'm sorry. 18 Okay. That's a -- that's in reverse order. I 19 could put it in the right order for you. The pages 20 weren't in the right order. 21 MR. SWEETAPPLE: Thank you. 22 MS. GARCIA: Okay. This is Defense MM for 23 identification. These are the text messages between 24 me and Mrs. Patwell that were produced for the 25 relevant time frame of May 1st, 2023 and May 22nd,</p>



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1 2023.  
 2 MR. SWEETAPPLE: Object to hearsay on anything  
 3 that Ms. Garcia wrote. She can certainly  
 4 authenticate and testify to it in court.  
 5 THE COURT: All right. Ms. Garcia?  
 6 MS. GARCIA: I guess the same objection as last  
 7 time. This is a business record. This is my  
 8 statements. It's also a business record and it's a  
 9 statement of previously existing state of mind.  
 10 THE COURT: I'm going to sustain the objection  
 11 as to hearsay. So those will be marked for  
 12 identification purposes as MM.  
 13 MS. GARCIA: That's it for now, Your Honor.  
 14 MR. SWEETAPPLE: And Your Honor, Ms. Garcia --  
 15 MS. GARCIA: Yes.  
 16 MR. SWEETAPPLE: -- if you want to take a look  
 17 at this, I do have the current Sunbiz filing showing  
 18 dissolution as of September 27th, 2024.  
 19 MS. GARCIA: Do you have a copy for me and a  
 20 copy for the Court?  
 21 MR. SWEETAPPLE: I can print it out.  
 22 MS. GARCIA: Yeah, print it. Uh-huh. Okay, so  
 23 this is --  
 24 MR. SWEETAPPLE: I think this is --  
 25 THE COURT: Plaintiff's 13 --

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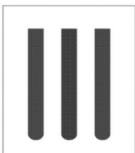
1 MR. SWEETAPPLE: -- Plaintiff's 13, Your Honor.  
 2 THE COURT: Any issues with the -- Plaintiff's  
 3 13?  
 4 MS. GARCIA: No, Your Honor.  
 5 THE COURT: Received by stipulation of the  
 6 parties as Plaintiff's Exhibit number 13.  
 7 (PLAINTIFF EXHIBIT 13 RECEIVED INTO  
 8 EVIDENCE)  
 9 MS. GARCIA: Can I --  
 10 Thank you for your patience, Your Honor.  
 11 THE COURT: No problem. Do you have additional  
 12 documents that you need to admit?  
 13 MS. GARCIA: I'm sorry?  
 14 THE COURT: Do you have any additional  
 15 documents that you need to admit?  
 16 MS. GARCIA: Not at the moment, no, Your Honor.  
 17 THE COURT: All right. So we have your witness  
 18 that's set to go?  
 19 MR. SWEETAPPLE: Yeah, we're discussing whether  
 20 or not we can save time by just calling Dr. Bloom  
 21 since she stipulated, Dr. Cheshire. I don't know if  
 22 she'd stipulate to Dr. Bloom or not. We put it in  
 23 just for judicial notice at the prior hearing.  
 24 THE COURT: I don't --  
 25 MR. SWEETAPPLE: Do you have any objection to  
 Dr. Bloom's report coming in?

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1 MS. GARCIA: Yes, I definitely would like to  
 2 cross-examine Dr. Bloom.  
 3 THE COURT: Okay. Is -- can -- is Dr. Bloom  
 4 available at 1:30?  
 5 MR. SWEETAPPLE: 1:30.  
 6 THE COURT: All right. So do you want to take  
 7 a 15-minute break and then we'll get back together  
 8 at 1:30 and we'll pick up with your defense witness?  
 9 MR. SWEETAPPLE: What I'd like to do is have an  
 10 hour-long lunch during 15 minutes and that isn't  
 11 going to happen.  
 12 THE COURT: Well, what I'd like to do is after  
 13 that witness, do you have any other witnesses or  
 14 evidence that --  
 15 MR. SWEETAPPLE: I'm discussing with Ms. Lewis,  
 16 just trying to save time, because --  
 17 THE COURT: Sure.  
 18 MR. SWEETAPPLE: -- I want to get through this  
 19 today. So I may not call Dr. Cheshire. She has  
 20 a --  
 21 THE COURT: Okay.  
 22 MR. SWEETAPPLE: -- court reporter --  
 23 THE COURT: That's fine. So you have one,  
 24 possibly two, other witnesses. Anything other than  
 25 the two doctors?

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1 MR. SWEETAPPLE: I -- if Mr. Bernstein does not  
 2 show up, I'm going to read three snippets from his  
 3 party deposition.  
 4 THE COURT: Okay. And then Ms. Garcia, how  
 5 many witnesses?  
 6 MS. GARCIA: That would, of course, would be  
 7 improper without proper presentation.  
 8 THE COURT: I'm -- how many witnesses do you  
 9 intend to call?  
 10 MS. GARCIA: Depending what happens with Dr.  
 11 Bloom, one or two.  
 12 THE COURT: Okay.  
 13 So what I'll do is -- we'll take 15. We'll get  
 14 your one witness on. If you decide whether or not  
 15 you're going to call Dr. Cheshire, then maybe we'll  
 16 do both of them and then we'll break. I'll give you  
 17 guys an hour for lunch. And then I'll let Ms.  
 18 Garcia make her motion and call her witnesses,  
 19 depending on my ruling on her motion. And then we  
 20 should have all of the evidence in so that this  
 21 portion is -- can be submitted to the Court. Sound  
 22 good?  
 23 MR. SWEETAPPLE: Yeah. Except I will read the  
 24 party deposition for less than 60 seconds.  
 25 THE COURT: We will -- we'll take that -- we'll



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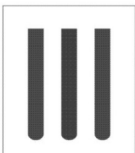
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<p style="text-align: right;">78</p> <p>1 take that up at the appropriate time.</p> <p>2 MR. SWEETAPPLE: Okay.</p> <p>3 THE COURT: All right. I'll be back in -- I</p> <p>4 guess now it's ten minutes.</p> <p>5 MR. SWEETAPPLE: Thank you.</p> <p>6 MS. GARCIA: Thank you, Your Honor.</p> <p>7 THE COURT: Thank you.</p> <p>8 (OFF THE RECORD)</p> <p>9 THE BAILIFF: Come to order, Court's back in</p> <p>10 session.</p> <p>11 THE COURT: Everybody can be seated.</p> <p>12 Well, it looks like everybody's back. Mr.</p> <p>13 Sweetapple, let me turn it over to you to call your</p> <p>14 next witness.</p> <p>15 MR. SWEETAPPLE: Thank you, Your Honor. May it</p> <p>16 please the Court, before I do, I ask if Ms. Lewis</p> <p>17 can assist us here. I am led to believe that this</p> <p>18 mental health report --</p> <p>19 UNIDENTIFIED SPEAKER: I'll call you back. I</p> <p>20 just got a call from a court. I'll call you back.</p> <p>21 Bye.</p> <p>22 MR. SWEETAPPLE: This report would need to be</p> <p>23 under seal and also that no one other than the</p> <p>24 doctor can be observing this presentation. So I'll</p> <p>25 let Ms. Lewis address that. I'm not an expert in</p>	<p style="text-align: right;">80</p> <p>1 MR. SWEETAPPLE: That is correct. I am making</p> <p>2 that request based on --</p> <p>3 THE COURT: Ms. Garcia?</p> <p>4 MS. GARCIA: I'm going to object to that. This</p> <p>5 is an open and public courtroom. They're the ones</p> <p>6 that are bringing this issue up. They want you to</p> <p>7 make a determination of someone's capacity at a</p> <p>8 certain date and time based on the testimony of a</p> <p>9 committee member. So I firmly believe this is open.</p> <p>10 They're the ones that brought it out into the open.</p> <p>11 They're the ones that have moved this into evidence.</p> <p>12 THE COURT: I guess my -- while the</p> <p>13 guardianship proceedings are -- certainly have a</p> <p>14 different level of privacy, this is a foreclosure</p> <p>15 action. So I guess what authority do I have to</p> <p>16 prohibit the public from having access to the Court?</p> <p>17 Is there a statute or anything that says that --</p> <p>18 because let's say, for example, this was a car crash</p> <p>19 and it was a loss of consortium claim, or there was</p> <p>20 testimony about a traumatic brain injury or</p> <p>21 something like that, where -- it would be the same</p> <p>22 issues. It would still be a public Courtroom. I</p> <p>23 wouldn't be able to deny the public access.</p> <p>24 MS. GARCIA: So candidly, Your Honor, the only</p> <p>25 statute that I'm aware of is --</p>
<p style="text-align: right;">79</p> <p>1 guardianship or mental health.</p> <p>2 MS. LEWIS: Your Honor, there -- generally</p> <p>3 mental health reports, any reports that are offered</p> <p>4 by the committee members are filed under seal.</p> <p>5 They're not publicly accessible.</p> <p>6 There was an incident in the guardianship and</p> <p>7 mental health matter where somebody, we still don't</p> <p>8 know who, obtained copies of the original committee</p> <p>9 reports and gave them to a member of the press,</p> <p>10 which did a story about Mrs. Sahm and showed copies</p> <p>11 of her confidential medical committee reports on --</p> <p>12 I think it was CBS12.</p> <p>13 So we have a concern that if there are public</p> <p>14 observers on the Zoom, because we have no idea who</p> <p>15 leaked those reports, although some of the people</p> <p>16 that are on the Zoom today are people who have</p> <p>17 attempted to intervene in the guardianship and</p> <p>18 mental health, that they would take that testimony</p> <p>19 and go back to the press. Because this is</p> <p>20 information that would be confidential in a</p> <p>21 guardianship and involve very sensitive information,</p> <p>22 I believe that Mr. Sweetapple's going to ask the</p> <p>23 Court to dismiss the observers from the Zoom during</p> <p>24 Dr. Bloom's testimony.</p> <p>25 THE COURT: All right.</p>	<p style="text-align: right;">81</p> <p>1 MS. HOGUE: Your Honor, may I speak?</p> <p>2 THE COURT: Are you a counsel of record?</p> <p>3 MS. GARCIA: She's not, Your Honor.</p> <p>4 MS. HOGUE: No, I'm not --</p> <p>5 MS. GARCIA: She's a --</p> <p>6 MS. HOGUE: I -- my name is Ms. Hogue. I'm a</p> <p>7 member of the Guardianship Improvement Task Force.</p> <p>8 And if I could just say, nothing about any of the --</p> <p>9 MR. SWEETAPPLE: I object. I object, Your</p> <p>10 Honor, I object --</p> <p>11 MS. HOGUE: Well --</p> <p>12 MR. SWEETAPPLE: -- to someone who's not</p> <p>13 counsel.</p> <p>14 THE COURT: Hang on.</p> <p>15 MS. HOGUE: -- even in --</p> <p>16 THE COURT: Hang on.</p> <p>17 MS. HOGUE: -- even in probate hearings,</p> <p>18 there's a statute and it says a closed probate</p> <p>19 hearing is forbidden. The only person -- it's Rule</p> <p>20 5.540, Hearings. And it specifically says, "An</p> <p>21 election to close the hearing may be made before the</p> <p>22 hearing by filing a written notice." And the only</p> <p>23 person that can close it is that person who's been</p> <p>24 adjudicated incapacitated.</p> <p>25 So even if this was a probate --</p>



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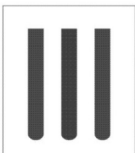
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<p style="text-align: right;">82</p> <p>1 THE COURT: Okay.</p> <p>2 MS. HOGUE: -- proceeding, hearings are open.</p> <p>3 THE COURT: Okay.</p> <p>4 MS. HOGUE: So I'll put myself on mute, and</p> <p>5 thank you, Your Honor.</p> <p>6 THE COURT: Thank you, ma'am. I just -- I</p> <p>7 don't see -- I don't see any legal basis for -- to</p> <p>8 close a circuit civil proceeding that is not a</p> <p>9 probate action. It's not a guardianship action.</p> <p>10 MR. SWEETAPPLE: And what about sealing the</p> <p>11 reports that are in evidence?</p> <p>12 THE COURT: If the reports that are in evidence</p> <p>13 are reports from the proceedings, then I think there</p> <p>14 is a basis to seal that evidence because it's</p> <p>15 evidence that is -- that comes from a closed</p> <p>16 proceeding. So I would -- I would order that those</p> <p>17 be sealed pending further order of the Court. But</p> <p>18 as far as the testimony, I'm not going to -- I'm not</p> <p>19 going to dismiss the observers.</p> <p>20 MR. SWEETAPPLE: Understood.</p> <p>21 MS. LEWIS: And that -- so that would just</p> <p>22 apply to the Dr. Brennan Cheshire report that's in</p> <p>23 evidence. Okay?</p> <p>24 THE COURT: Got you. You --</p> <p>25 MR. SWEETAPPLE: May I proceed?</p>	<p style="text-align: right;">84</p> <p>1 MR. SWEETAPPLE: Does it?</p> <p>2 THE COURT: Learned that the hard way.</p> <p>3 MR. SWEETAPPLE: You've done -- we've done that</p> <p>4 before.</p> <p>5 THE COURT: I can try to send him in a chat.</p> <p>6 Dr. Bloom, can you please try to reconnect?</p> <p>7 You may need to turn up the speakers on his</p> <p>8 computer.</p> <p>9 Does anybody have Dr. Bloom's phone number to</p> <p>10 call him?</p> <p>11 MR. SWEETAPPLE: Ms. Lewis, are you trying to</p> <p>12 call him?</p> <p>13 MS. LEWIS: Yeah, he -- I'm assuming he's not</p> <p>14 answering because he's on his Zoom. Let me see if I</p> <p>15 can --</p> <p>16 MR. SWEETAPPLE: I see the screen coming on.</p> <p>17 THE COURT: That's why I think perhaps his</p> <p>18 speakers are just --</p> <p>19 MR. SWEETAPPLE: All right.</p> <p>20 THE COURT: -- not --</p> <p>21 MR. SWEETAPPLE: Can we chat to him and turn up</p> <p>22 the speakers?</p> <p>23 THE COURT: I have asked him to reconnect.</p> <p>24 MR. SWEETAPPLE: Okay.</p> <p>25 THE COURT: He's not responding. He's not</p>
<p style="text-align: right;">83</p> <p>1 THE COURT: Sure.</p> <p>2 MR. SWEETAPPLE: Thank you, Your Honor.</p> <p>3 THE COURT: Who are you calling?</p> <p>4 MR. SWEETAPPLE: I'm calling Dr. Bloom.</p> <p>5 THE COURT: Dr. Bloom? Dr. Bloom, would you</p> <p>6 raise your right hand for me?</p> <p>7 Dr. Bloom, can you hear me?</p> <p>8 Dr. Bloom, can you hear me?</p> <p>9 MR. SWEETAPPLE: Is he on mute?</p> <p>10 THE COURT: He's not on mute. He's not</p> <p>11 responding. Dr. Bloom?</p> <p>12 He can't hear. Is he connected to audio? It</p> <p>13 looks like he's connected to audio. Let's see if I</p> <p>14 mute him and ask him to unmute himself. Let's see</p> <p>15 if that works.</p> <p>16 Dr. Bloom, can you hear us?</p> <p>17 Perhaps if he disconnects and reconnects, and</p> <p>18 then -- can someone communicate with him to ask him</p> <p>19 to disconnect and reconnect?</p> <p>20 MS. GARCIA: Uh-huh.</p> <p>21 THE COURT: Mr. Bloom, can you hear us -- or</p> <p>22 Dr. Bloom, can you hear us?</p> <p>23 MR. SWEETAPPLE: I can write a note and put it</p> <p>24 on the screen.</p> <p>25 THE COURT: It comes up reversed.</p>	<p style="text-align: right;">85</p> <p>1 doing anything.</p> <p>2 MR. SWEETAPPLE: I hope he's not getting into</p> <p>3 trouble. Cynthia, why don't you stand in front of</p> <p>4 the camera and show him that you're calling him?</p> <p>5 MS. MILLER: Let me --</p> <p>6 THE WITNESS: Can you hear me?</p> <p>7 THE COURT: Yes.</p> <p>8 THE WITNESS: I can't hear you.</p> <p>9 THE COURT: Oh.</p> <p>10 MS. MILLER: I'm going to write a note --</p> <p>11 MR. SWEETAPPLE: Can you hear me from here?</p> <p>12 THE WITNESS: Am I -- unmute is -- I'm unmuted.</p> <p>13 THE COURT: Right. We can hear you.</p> <p>14 MR. SWEETAPPLE: Can you hear us now?</p> <p>15 THE COURT: I think it's his computer speakers.</p> <p>16 MR. SWEETAPPLE: Pardon?</p> <p>17 THE COURT: I think it's his computer speakers.</p> <p>18 He either needs to reconnect, or --</p> <p>19 MR. SWEETAPPLE: Okay. Let's not use --</p> <p>20 MS. LEWIS: That's very creative, Your Honor.</p> <p>21 THE COURT: It wasn't me.</p> <p>22 MS. MILLER: I -- by any means necessary.</p> <p>23 THE COURT: I like it, but it wasn't me.</p> <p>24 MS. LEWIS: Oh, okay.</p> <p>25 MS. MILLER: If she gave me credit, I would've</p>



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<p style="text-align: right;">86</p> <p>1 taken it.</p> <p>2 THE COURT: Honesty's the best policy. I'm</p> <p>3 going to use it.</p> <p>4 MS. MILLER: I would've, yes.</p> <p>5 THE COURT: So he's just turned his video off,</p> <p>6 though. He -- maybe -- can you tell him to give you</p> <p>7 a phone call?</p> <p>8 MS. MILLER: Yes.</p> <p>9 MR. SWEETAPPLE: Are you calling your office</p> <p>10 line?</p> <p>11 MS. MILLER: I can answer it from here.</p> <p>12 MR. SWEETAPPLE: You can? Okay.</p> <p>13 THE COURT: I think he's reconnecting. Paging</p> <p>14 Dr. Bloom, can you hear us?</p> <p>15 Are you able to hear us, sir?</p> <p>16 MS. MILLER: Dr. Bloom? Hello?</p> <p>17 THE WITNESS: Hello?</p> <p>18 MS. MILLER: Hi, Dr. Bloom.</p> <p>19 THE WITNESS: Hi. I'm -- I'm not hearing you.</p> <p>20 That's what I --</p> <p>21 MS. MILLER: I don't think --</p> <p>22 THE COURT: Yeah, that's not on mute.</p> <p>23 THE WITNESS: I didn't see that, but I'll try</p> <p>24 it again. Okay.</p> <p>25 THE COURT: He indicated that he would try</p>	<p style="text-align: right;">88</p> <p>1 MS. MILLER: He can't. Let me see if I can do</p> <p>2 it.</p> <p>3 (OFF THE RECORD)</p> <p>4 THE COURT: Dr. Bloom, can you raise your right</p> <p>5 hand for me?</p> <p>6 MS. MILLER: He can't hear you. He has --</p> <p>7 THE COURT: He can't hear me? I think it's</p> <p>8 because you're talking on the phone.</p> <p>9 MS. MILLER: I can hear --</p> <p>10 THE COURT: So what --</p> <p>11 MS. MILLER: So you have a --</p> <p>12 THE COURT: -- what Dr. Bloom's going to need</p> <p>13 to do is he's going to need to put his video on</p> <p>14 mute, or I can mute him. He's going to --</p> <p>15 MR. BLOOM: I hear him now.</p> <p>16 THE COURT: Can you hear me now?</p> <p>17 MR. BLOOM: Yeah.</p> <p>18 THE COURT: Okay.</p> <p>19 Can you raise your right hand for me?</p> <p>20 MR. BLOOM: Yes.</p> <p>21 THE COURT: Do you swear or affirm the</p> <p>22 testimony you're about to give is the truth, the</p> <p>23 whole truth, and nothing but the truth?</p> <p>24 THE WITNESS: I do.</p> <p>25 THE COURT: All right. You can put your hand</p>
<p style="text-align: right;">87</p> <p>1 again?</p> <p>2 MR. SWEETAPPLE: What'd you have him do?</p> <p>3 MS. MILLER: He's going to log off and then log</p> <p>4 back on.</p> <p>5 THE COURT: Okay.</p> <p>6 MS. MILLER: And then worst case, we should be</p> <p>7 able to actually give him a number he can call in to</p> <p>8 speak through.</p> <p>9 THE COURT: Right.</p> <p>10 Do you want me to step off the bench so that we</p> <p>11 can work out the AV kinks and then I'll come back</p> <p>12 once it's working? Do you want me to stare at you</p> <p>13 all while we're working our way through this?</p> <p>14 MR. SWEETAPPLE: How about if we just see if</p> <p>15 this miraculously works before we do that?</p> <p>16 THE COURT: Sure.</p> <p>17 MR. SWEETAPPLE: Dr. Bloom, can you hear me?</p> <p>18 THE COURT: It does not appear that he can hear</p> <p>19 you.</p> <p>20 MR. SWEETAPPLE: No, it does not. So how about</p> <p>21 if we just ask the Bailiff to summon you when</p> <p>22 we're --</p> <p>23 THE COURT: All right.</p> <p>24 MR. SWEETAPPLE: -- working? Thank you.</p> <p>25 Dr. Bloom. Can you hear us?</p>	<p style="text-align: right;">89</p> <p>1 down now. And Mr. Sweetapple, you may inquire.</p> <p>2 MR. SWEETAPPLE: Thank you, Your Honor, may it</p> <p>3 please the Court.</p> <p>4 TESTIMONY OF DR. STANLEY BLOOM</p> <p>5 DIRECT EXAMINATION</p> <p>6 BY MR. SWEETAPPLE:</p> <p>7 Q. Dr. Bloom, would you please state your full</p> <p>8 name for the record?</p> <p>9 A. Stanley Bloom.</p> <p>10 Q. And are you a licensed medical doctor?</p> <p>11 A. Say again, please?</p> <p>12 Q. Are you a licensed medical doctor?</p> <p>13 A. Yes, I am.</p> <p>14 Q. And how long have you been licensed?</p> <p>15 A. About 50 years.</p> <p>16 Q. And where are you licensed?</p> <p>17 A. In New York and New Jersey.</p> <p>18 Q. And have you ever been appointed by a Florida</p> <p>19 Court to conduct a -- an examination of an alleged</p> <p>20 incompetent or incapacitated person?</p> <p>21 A. Yes, I have.</p> <p>22 Q. On how many occasions have you been so</p> <p>23 appointed?</p> <p>24 A. Say again, please?</p> <p>25 Q. And how many -- for how many years have you</p>



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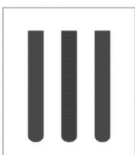
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<p style="text-align: right;">90</p> <p>1 been appointed by Florida courts to --</p> <p>2 A. Since -- since 2013.</p> <p>3 Q. All right. So a dozen years?</p> <p>4 A. Yeah.</p> <p>5 Q. And how many examinations of alleged</p> <p>6 incapacitated persons have you conducted for the Florida</p> <p>7 courts?</p> <p>8 A. I average about 150 to 200 a year. About a</p> <p>9 thousand.</p> <p>10 Q. All right. And do you have your records in</p> <p>11 front of you regarding an examination you conducted on</p> <p>12 May 5th --</p> <p>13 A. Yes, I do.</p> <p>14 Q. -- '23 of Patricia Sahm. You have that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. All right. And can you tell the Court what</p> <p>17 you did on that date?</p> <p>18 A. Say again, please?</p> <p>19 Q. Can you tell the Court what you did on that</p> <p>20 date?</p> <p>21 A. I did -- I interviewed the alleged</p> <p>22 incapacitated person.</p> <p>23 Q. All right. And how long did you spend --</p> <p>24 A. It was a year ago, I couldn't tell you.</p> <p>25 Q. All right. And that -- I -- that was on Zoom,</p>	<p style="text-align: right;">92</p> <p>1 A. I did. Are you talking to me?</p> <p>2 Q. Yes, sir. Were you appointed by Judge Burton</p> <p>3 to conduct this examination of Mrs. Sahm?</p> <p>4 A. Yes, I was.</p> <p>5 Q. All right. And under mental diagnosis, what</p> <p>6 did you conclude?</p> <p>7 A. I concluded that she had dementia. She had a</p> <p>8 loss of long and short term memory. She was cognitively</p> <p>9 impaired, and she was not oriented to time, place, or</p> <p>10 person.</p> <p>11 Q. Was she clear regarding her finances?</p> <p>12 A. No.</p> <p>13 Q. Did she know specifics regarding her assets?</p> <p>14 A. No.</p> <p>15 Q. Did she know how much money she had?</p> <p>16 A. No.</p> <p>17 Q. Was she aware of the guardianship?</p> <p>18 A. She didn't understand the concept.</p> <p>19 Q. Did she remember receiving copies of the</p> <p>20 Petition?</p> <p>21 A. I didn't ask her that specifically.</p> <p>22 Q. Okay. And did she -- did she remember seeing</p> <p>23 her attorney?</p> <p>24 A. I didn't -- she did not.</p> <p>25 Q. All right. Did she know what medication she</p>
<p style="text-align: right;">91</p> <p>1 was it not?</p> <p>2 A. Uh-huh.</p> <p>3 Q. All right. And do you -- do you remember your</p> <p>4 mental diagnosis of her, or would you need to review</p> <p>5 your records?</p> <p>6 MS. GARCIA: Objection to foundation.</p> <p>7 THE WITNESS: No, I remember. I thought she</p> <p>8 had dementia. Probably Alzheimer's type.</p> <p>9 MR. SWEETAPPLE: All right.</p> <p>10 MS. GARCIA: Objection to foundation.</p> <p>11 THE COURT: What part of the foundation is</p> <p>12 lacking?</p> <p>13 THE WITNESS: Pardon?</p> <p>14 THE COURT: There was an objection, and I</p> <p>15 asked --</p> <p>16 MS. GARCIA: Well --</p> <p>17 THE COURT: -- for clarification on the</p> <p>18 objection.</p> <p>19 MS. GARCIA: Qualifications specifically in</p> <p>20 this case. As far as appointment, was he even</p> <p>21 appointed?</p> <p>22 THE COURT: Overruled.</p> <p>23 BY MR. SWEETAPPLE:</p> <p>24 Q. Were you appointed by Judge Burton to conduct</p> <p>25 an examination of Patricia Sahm?</p>	<p style="text-align: right;">93</p> <p>1 was taking?</p> <p>2 A. No, she did not.</p> <p>3 Q. Did she know who the governor or vice</p> <p>4 president is?</p> <p>5 A. No.</p> <p>6 Q. Could she multiply nine times seven?</p> <p>7 A. Could she what?</p> <p>8 Q. Multiply nine times seven.</p> <p>9 A. No.</p> <p>10 Q. Did she know how many quarters are in \$6?</p> <p>11 A. No.</p> <p>12 Q. Could she subtract seven from 100 serially?</p> <p>13 A. No.</p> <p>14 Q. Was she aware of the pending litigation</p> <p>15 regarding this property?</p> <p>16 A. No.</p> <p>17 Q. And what is a M-O-C-A score?</p> <p>18 A. Say again, please?</p> <p>19 Q. What is an M-O-C-A score?</p> <p>20 A. I -- I -- I'm having trouble hearing --</p> <p>21 hearing you.</p> <p>22 Q. I see in your report that her M-O -- MoCA</p> <p>23 score is 18 out of 30. What is that?</p> <p>24 A. Yeah. She -- she had a MoCA score of 18.</p> <p>25 Q. Can you explain to the Court what that is?</p>



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<p style="text-align: right;">94</p> <p>1 What is a MoCA score?</p> <p>2 A. That's a -- a screening test for Alzheimer's</p> <p>3 disease. I did not perform the test, but I saw the</p> <p>4 report from another examining member --</p> <p>5 Q. Right. And --</p> <p>6 A. -- member who had performed it.</p> <p>7 Q. I see in your report that Stephanie Cheshire</p> <p>8 and Brennan Cheshire were present when they --</p> <p>9 A. Yeah. She did the -- she did the examination.</p> <p>10 Q. So you did review a MoCA score regarding her</p> <p>11 Alzheimer's?</p> <p>12 A. Yeah, with Stephanie.</p> <p>13 Q. Right. And what does a score of 18 out of 30</p> <p>14 indicate?</p> <p>15 A. It indicates there's --</p> <p>16 MS. GARCIA: Objection. Foundation.</p> <p>17 THE WITNESS: -- cognitive impairment. It's a</p> <p>18 screening test, but it indicates -- above -- above</p> <p>19 eight -- above 17 indicates moderately severe</p> <p>20 cognitive employment -- disability.</p> <p>21 BY MR. SWEETAPPLE:</p> <p>22 Q. And she had these conditions on May 5?</p> <p>23 THE COURT: Hang on. There's an object -- hang</p> <p>24 on. There's an objection to foundation.</p> <p>25 THE WITNESS: Did she what?</p>	<p style="text-align: right;">96</p> <p>1 A. No.</p> <p>2 Q. What did you find with regard to her ability</p> <p>3 to take her own medication?</p> <p>4 A. I thought she did not have the ability to</p> <p>5 manage her medication.</p> <p>6 Q. What did you find with regard to her ability</p> <p>7 to manage her own or handle her own money?</p> <p>8 A. I thought she did not have that ability as</p> <p>9 well.</p> <p>10 Q. All right. So you were asked in Section 6 to</p> <p>11 indicate if you thought Ms. Sahm lacked the ability to</p> <p>12 exercise the following rights:</p> <p>13 Did you in fact find that she lacked the</p> <p>14 ability to knowingly marry?</p> <p>15 MS. GARCIA: Objection. Leading.</p> <p>16 THE WITNESS: Yes.</p> <p>17 THE COURT: Overruled.</p> <p>18 BY MR. SWEETAPPLE:</p> <p>19 Q. And what about the contract? Did she lack the</p> <p>20 ability to contract?</p> <p>21 A. Yes.</p> <p>22 Q. Did she lack the ability to -- or to exercise</p> <p>23 the right to have a driver's license?</p> <p>24 A. Yes.</p> <p>25 Q. And to travel?</p>
<p style="text-align: right;">95</p> <p>1 THE COURT: There's an objection to foundation.</p> <p>2 The objection is overruled. Next question.</p> <p>3 MR. SWEETAPPLE: Thank you.</p> <p>4 BY MR. SWEETAPPLE:</p> <p>5 Q. Did she have these conditions when you saw her</p> <p>6 on May 5, 2023?</p> <p>7 A. Yes.</p> <p>8 Q. And did you consult with Dr. Cheshire or Mrs.</p> <p>9 Cheshire regarding --</p> <p>10 A. Yes, I did.</p> <p>11 Q. All right. And I see that you did a</p> <p>12 functional assessment. And did you find that Ms. Sahm</p> <p>13 is able to travel alone on public transportation?</p> <p>14 MS. GARCIA: Objection. Leading.</p> <p>15 THE WITNESS: I did not think so.</p> <p>16 THE COURT: Overruled.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. SWEETAPPLE:</p> <p>19 Q. Did you find that she was able to drive her</p> <p>20 own car?</p> <p>21 A. No.</p> <p>22 Q. Did you find she was able to shop alone for</p> <p>23 food and clothing?</p> <p>24 A. No.</p> <p>25 Q. Okay. Those were your findings, no?</p>	<p style="text-align: right;">97</p> <p>1 A. Yes.</p> <p>2 Q. Did she lack the right to seek employment?</p> <p>3 A. Yes.</p> <p>4 Q. And to determine her own residence?</p> <p>5 A. Yes.</p> <p>6 Q. Did she lack the ability to consent to medical</p> <p>7 treatment?</p> <p>8 A. Yes.</p> <p>9 Q. Did she lack the ability to apply for</p> <p>10 government benefits?</p> <p>11 A. Yes.</p> <p>12 Q. Did she lack the ability to sue or be sued?</p> <p>13 A. Yes.</p> <p>14 Q. And what about manage or dispose of her</p> <p>15 property?</p> <p>16 A. Yes, lacked the ability.</p> <p>17 Q. All right. And did you sign a report for the</p> <p>18 Court on May 5th, 2023?</p> <p>19 A. Yes.</p> <p>20 Q. All right.</p> <p>21 MR. SWEETAPPLE: And I can show him a copy on</p> <p>22 the screen if needed, Judge, to see -- have him</p> <p>23 authenticate it. Is that necessary?</p> <p>24 THE COURT: Are you seeking to enter it into</p> <p>25 evidence?</p>



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<p style="text-align: right;">98</p> <p>1 MR. SWEETAPPLE: Yes.</p> <p>2 THE COURT: How would it not be hearsay?</p> <p>3 MR. SWEETAPPLE: Pardon?</p> <p>4 THE COURT: How would it not be hearsay?</p> <p>5 MR. SWEETAPPLE: All right, so I'm not -- I</p> <p>6 won't move it in.</p> <p>7 BY MR. SWEETAPPLE:</p> <p>8 Q. So you did issue a report, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And provided it to Judge Burton?</p> <p>11 MS. GARCIA: Objection. Leading.</p> <p>12 THE COURT: Overruled.</p> <p>13 THE WITNESS: Say again?</p> <p>14 BY MR. SWEETAPPLE:</p> <p>15 Q. You did issue a report and provide it to Judge</p> <p>16 Burton?</p> <p>17 A. Yes.</p> <p>18 Q. Were you asked to testify in any proceeding?</p> <p>19 A. Yes.</p> <p>20 Q. All right. And did you give testimony</p> <p>21 consistent with that testimony you've given today?</p> <p>22 A. I did what?</p> <p>23 Q. Did you give testimony in the proceeding</p> <p>24 before Judge Burton consistent with the proceeding --</p> <p>25 with the testimony you gave today?</p>	<p style="text-align: right;">100</p> <p>1 THE COURT: With respect to the speculation</p> <p>2 objections, the doctor has testified -- he's a</p> <p>3 licensed doctor for approximately 50 years in two</p> <p>4 states. He's testified that he has, for the past 12</p> <p>5 years, been appointed to inspect incapacitated</p> <p>6 persons. He's inspected approximately 1,000</p> <p>7 individuals in total. I find that he has</p> <p>8 established that he's qualified to render an</p> <p>9 opinion, so I'm overruling the speculation</p> <p>10 objection.</p> <p>11 BY MR. SWEETAPPLE:</p> <p>12 Q. Based on a MoCA score of 18 out of 30, is --</p> <p>13 has this been an acute case of Alzheimer and dementia?</p> <p>14 A. That test is -- does not distinguish acute --</p> <p>15 acute versus anything. It's just a screening test for</p> <p>16 cognitive ability.</p> <p>17 Q. All right. And you don't rely on that</p> <p>18 exclusively, do you?</p> <p>19 A. Huh?</p> <p>20 Q. You do not rely on the MoCA test exclusively.</p> <p>21 You interview the patient, correct?</p> <p>22 A. I'm sorry, you're breaking up again. I'm</p> <p>23 sorry.</p> <p>24 Q. I take it you do not rely on the MoCA</p> <p>25 screening test alone. You do a detailed interview of</p>
<p style="text-align: right;">99</p> <p>1 A. You -- you're breaking up. I'm sorry.</p> <p>2 Q. My -- I apologize. Did you give testimony in</p> <p>3 the proceeding before Judge Burton that is consistent --</p> <p>4 was consistent with that testimony you gave here today?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And these conditions that you have</p> <p>7 described here, could they have just occurred the day</p> <p>8 before the meeting or the week before your examination?</p> <p>9 MS. GARCIA: Objection. Calls for speculation</p> <p>10 and foundation.</p> <p>11 THE WITNESS: No.</p> <p>12 THE COURT: Overruled.</p> <p>13 THE WITNESS: Unlikely.</p> <p>14 BY MR. SWEETAPPLE:</p> <p>15 Q. All right. How long do you believe these</p> <p>16 conditions were present?</p> <p>17 A. Well, Alzheimer's disease is a slowly</p> <p>18 progressive irreversible disease that occurs over time,</p> <p>19 and it's not an acute disease.</p> <p>20 Q. And so over how long of a period do you</p> <p>21 believe she's progressed to this stage?</p> <p>22 MS. GARCIA: Objection. Calls for speculation.</p> <p>23 THE WITNESS: It's hard to say. It could --</p> <p>24 it's been presumably some time, but I can't say when</p> <p>25 it began.</p>	<p style="text-align: right;">101</p> <p>1 the patient, correct?</p> <p>2 A. I don't rely exclusively on this free test to</p> <p>3 render my opinion.</p> <p>4 MR. SWEETAPPLE: If I could have one moment,</p> <p>5 Your Honor?</p> <p>6 THE COURT: You may.</p> <p>7 MR. SWEETAPPLE: Thank you, Doctor. I have no</p> <p>8 further questions at this time.</p> <p>9 THE COURT: All right. Cross-examination.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 THE COURT: Ms. Garcia, it might help if you --</p> <p>12 if you're by that microphone. I think his audio is</p> <p>13 coming from that phone.</p> <p>14 MS. GARCIA: By the phone?</p> <p>15 THE COURT: Yeah.</p> <p>16 CROSS-EXAMINATION</p> <p>17 BY MS. GARCIA:</p> <p>18 Q. Good afternoon, Dr. Bloom.</p> <p>19 A. Good afternoon.</p> <p>20 Q. Nice to meet you, sir. When asked a question</p> <p>21 on direct about your report and your findings, you</p> <p>22 testified that you found that Ms. Sahm had dementia,</p> <p>23 correct?</p> <p>24 A. Can you lower the microphone? Maybe I can</p> <p>25 hear you better. Not that low.</p>



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<p style="text-align: right;">102</p> <p>1 Q. I'm short.</p> <p>2 A. Ah. Okay.</p> <p>3 Q. On direct, you testified that your report made</p> <p>4 a finding that Ms. Sahm had dementia, correct?</p> <p>5 A. I'm really sorry. You're breaking up. On the</p> <p>6 report what?</p> <p>7 THE COURT: You testified that Ms. Sahm had</p> <p>8 dementia.</p> <p>9 MS. MILLER: Maybe try speaking into the phone.</p> <p>10 BY MS. GARCIA:</p> <p>11 Q. In -- when you were asked a question about</p> <p>12 your findings, isn't it true that you testified that</p> <p>13 your report stated that Ms. Sahm had dementia?</p> <p>14 MR. SWEETAPPLE: Objection.</p> <p>15 THE WITNESS: Did my report state it in the</p> <p>16 report? I'd have to read the report to see if it</p> <p>17 was stated there.</p> <p>18 BY MS. GARCIA:</p> <p>19 Q. Do you have the --</p> <p>20 A. I can't tell you off -- off the top of my</p> <p>21 head.</p> <p>22 Q. Do you have the report in front of you, sir?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Could you please refer to your report, Page 1?</p> <p>25 A. Which report do you want? The 23rd? The year</p>	<p style="text-align: right;">104</p> <p>1 Q. -- evaluation? Were you there in person or on</p> <p>2 Zoom?</p> <p>3 A. How do I -- I'm sorry?</p> <p>4 Q. How were you there to analyze or to evaluate</p> <p>5 Ms. Sahm?</p> <p>6 A. I interviewed her.</p> <p>7 Q. Did you do it in person or on Zoom?</p> <p>8 A. I believe I did it on Zoom. My memory is a</p> <p>9 little vague on it. It's a long time ago, but I believe</p> <p>10 I did it on Zoom.</p> <p>11 Q. And when you did this review of Ms. Sahm, was</p> <p>12 Stephanie Cheshire and Brennan Cheshire present at</p> <p>13 that --</p> <p>14 A. You know, I -- I did two exams on her and</p> <p>15 they're over a year ago. And I know I did one remotely.</p> <p>16 And I know I recall, at least in one of them, that</p> <p>17 Stephanie Cheshire was there. But I can't tell you</p> <p>18 which one or, you know, when -- when they were there.</p> <p>19 It's too long ago.</p> <p>20 Q. Isn't it true that these reports and these</p> <p>21 evaluations are supposed to be done independently of the</p> <p>22 other committee members by law?</p> <p>23 A. When we were trained -- when we were trained,</p> <p>24 we were encouraged to review our reports with other</p> <p>25 members of the examining committee.</p>
<p style="text-align: right;">103</p> <p>1 -- the first one or the second one?</p> <p>2 Q. The first one, Your Honor. I'm sorry. The</p> <p>3 first one, Dr. Bloom.</p> <p>4 A. I don't have the third one. I have a first</p> <p>5 and second one.</p> <p>6 THE COURT: She said the first one.</p> <p>7 BY MS. GARCIA:</p> <p>8 Q. The report dated that you are -- that the</p> <p>9 attorney had read the statements off the report to you,</p> <p>10 and you were confirming what he was saying. Your report</p> <p>11 dated May 5th, 2023.</p> <p>12 A. Yeah, that's good. I can hear you now.</p> <p>13 Q. Okay.</p> <p>14 A. Yeah. What about it?</p> <p>15 Q. Isn't it true that on direct you testified</p> <p>16 that your report stated that Ms. Sahm had dementia?</p> <p>17 A. No. Here I -- I testified that I believe she</p> <p>18 had dementia. I didn't testify the report had dementia.</p> <p>19 Q. Isn't it true that in your report, you only</p> <p>20 stated she had long-term or short-term memory?</p> <p>21 A. She has a loss of long- and short-term memory,</p> <p>22 correct.</p> <p>23 Q. How long -- first of all, how did you appear</p> <p>24 at this --</p> <p>25 A. How do I --</p>	<p style="text-align: right;">105</p> <p>1 Q. But you can't rely on their findings?</p> <p>2 A. I -- I do not rely on their findings.</p> <p>3 Q. But you relied on the MoCA test score of 18</p> <p>4 out of 30, correct?</p> <p>5 A. I rely on my interview, any medical</p> <p>6 information that I receive, any discussions I have with</p> <p>7 members of the examining committee, the medical, past</p> <p>8 history, the psychiatric report, which I have access to,</p> <p>9 and any other information that is made available to me.</p> <p>10 I do not rely on any one specific thing.</p> <p>11 Q. Didn't you testify on your direct examination</p> <p>12 that a MoCA score of 18 was --</p> <p>13 A. Can you talk directly into the microphone?</p> <p>14 Can you get real close? I can't hear you.</p> <p>15 Q. On -- in your direct testimony, am I correct</p> <p>16 when I --</p> <p>17 A. Say again?</p> <p>18 Q. -- in your direct testimony, you testified</p> <p>19 that a MoCA score of 18 is an acute cognitive</p> <p>20 deficiency, correct?</p> <p>21 A. Incorrect. I did not say acute.</p> <p>22 Q. So when the attorney told you it was acute and</p> <p>23 you said, yes, that's not true, that an 18 is actually a</p> <p>24 mild cognitive impairment function?</p> <p>25 A. She had -- it indicates that there is</p>



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<p style="text-align: right;">106</p> <p>1 significant cognitive impairment. That's what I stated.  2 And that's what I mean.  3 Q. So who conducted the MoCA test in this -- out  4 of the three of you?  5 A. Stephanie Cheshire. Stephanie Cheshire.  6 Q. And you were aware that she doesn't have the  7 ability to conduct MoCA tests legally, she doesn't have  8 the training or certificate?  9 MR. SWEETAPPLE: Objection. Predicate.  10 THE WITNESS: That's not true because I've done  11 other cases with her and in fact she is trained to  12 do it.  13 THE COURT: Overruled.  14 BY MS. GARCIA:  15 Q. You said Stephanie is the one that conducted  16 it. Mrs. Stephanie Cheshire, correct?  17 A. You have to get close to the microphone again,  18 please.  19 Q. Did you -- did you state that Stephanie  20 Cheshire is the person that conducted the MoCA test?  21 A. Stephanie Cheshire is the person that  22 performed the test, correct.  23 Q. And is Stephanie Cheshire the social worker?  24 A. I believe she is, but I -- I'm not intimately  25 familiar with her credentials. I'm sure they -- they're</p>	<p style="text-align: right;">108</p> <p>1 Ms. Sahm if she remembered receiving copies of the  2 petition, but your --  3 A. I didn't ask who?  4 Q. Mrs. Sahm. The --  5 A. Oh. Oh, I hear what you're saying. Yeah, she  6 -- she apparently did not remember. Right.  7 Q. Why is your testimony inconsistent with your  8 report?  9 A. I don't think it's inconsistent. If you point  10 out the inconsistency to me, I'll try to clarify it for  11 you.  12 Q. On direct you testified that you did not ask  13 her about receiving a petition. However, in your  14 report, you state that she doesn't remember receiving  15 the petition. Which statement is true?  16 A. I stated what?  17 Q. Let's go -- I'm going to move on. Let's go to  18 Page 2 of your report, sir.  19 A. Which report are we looking at, '23 or '24?  20 Q. '23.  21 A. May? The May report?  22 Q. Yes.  23 A. Okay. And what do you want to know?  24 Q. Page -- can you please look at Page 2? Look  25 at</p>
<p style="text-align: right;">107</p> <p>1 available to you if you wish to see them.  2 Q. Are you aware that Stephanie Cheshire allowed  3 her social worker status to expire and she's still  4 conducting MoCA tests illegally?  5 MR. SWEETAPPLE: Objection. Predicate.  6 THE COURT: Sustained.  7 THE WITNESS: I don't know if that's factual or  8 not. I can't tell you.  9 THE COURT: Speculation. And he doesn't know.  10 Next question.  11 BY MS. GARCIA:  12 Q. How long were you on the Zoom when you  13 conducted this evaluation?  14 A. How long was I? Say it again.  15 Q. How long were you on Zoom when you conducted  16 this evaluation of Ms. Sahm?  17 A. How long did it -- the time I conducted the  18 evaluation? I can't tell you. It's over a year ago.  19 Q. When you testified on direct that you didn't  20 ask Ms. Sahm if she remembered receiving copies of the  21 petition, is that true or is your report true?  22 A. I have a -- I didn't hear the question  23 completely, but I have a copy of the petition if that's  24 what you're asking.  25 Q. On direct you testified that you did not ask</p>	<p style="text-align: right;">109</p> <p>1 4.0.  2 A. Page 2, 4.0?  3 Q. Yes.  4 A. Right.  5 Q. Isn't it true that your recommended course of  6 treatment was that the AIP is in good physical health,  7 and she can continue to live independently?  8 A. Right. That's what I wrote.  9 Q. Where in this report does it say she has  10 Alzheimer's or severe mental cognitive issues?  11 A. I'd have to look at the report whether it says  12 it or not, but that's indeed what she has.  13 Q. Is that based on your May or on your second  14 report that wasn't used in court?  15 A. Say again, please?  16 Q. I'll move on. Can you please look at point --  17 5.0, functional assessment, on your report. It's on  18 Page 2.  19 A. You're saying -- you -- item 3? Is that what  20 you're asking me about?  21 Q. Item 5.0, functional --  22 A. Yeah.  23 Q. -- assessment.  24 A. Yeah. Yeah, okay. Go ahead.  25 Q. Are you aware of Florida Statute 744.102 that</p>



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<p style="text-align: right;">110</p> <p>1 discusses what determines whether an AIP is 2 incapacitated or not? 3 MR. SWEETAPPLE: Form. Calls for a legal 4 conclusion -- 5 THE WITNESS: I couldn't cite it. 6 MR. SWEETAPPLE: -- he's not here as a legal 7 expert. 8 THE WITNESS: I couldn't review or state what 9 that says specifically. If you want to read it to 10 me, I will tell you whether of I'm aware of it or 11 not. 12 BY MS. GARCIA: 13 Q. Okay. Are you aware -- 14 THE COURT: Hang on. There's an objection. 15 Overruled based on the question and answer. 16 BY MS. GARCIA: 17 Q. Are you aware that to find someone 18 incapacitated, you need to consider their healthcare of 19 themselves, their ability to feed themselves, their 20 appearance, and their ability to clothe themselves? 21 A. I've done over 1,000 evaluations. I'm quite 22 aware of the requirements that -- that you need to 23 determine whether a person is incapacitated. And based 24 on the evaluation I did, I rendered an opinion that 25 indeed she is incapacitated.</p>	<p style="text-align: right;">112</p> <p>1 Q. And isn't it true you found Ms. Sahm could 2 socialize with her friends? 3 A. Yes. 4 Q. Isn't it also true that Florida has denied you 5 receiving your license to be a doctor here since 1984? 6 A. The Court has denied me what? 7 Q. The Florida Department of Health, where 8 doctors are licensed in the state, you have been 9 rejected to be a doctor in the state since 1984; isn't 10 that true? 11 A. No. 12 Q. You've applied to be a doctor in Florida and 13 were denied, correct? 14 A. Did I what? 15 Q. You applied to be a licensed physician or a 16 gynecologist, I think, in Florida? 17 A. I'm not a gynecologist. I'm not a 18 gynecologist. I'm a urologist. 19 Q. Urologist. Okay. 20 A. And I did not apply for a license in the state 21 of Florida. 22 Q. Ever? 23 A. Ever. 24 Q. Are you aware that I did a 119 request for 25 your application here and with the Department of Florida</p>
<p style="text-align: right;">111</p> <p>1 Q. Okay. So let's look at Section 5.0. Isn't it 2 true that you found that she can shop alone for clothing 3 and food? You have a Y next to it. 4 MR. SWEETAPPLE: Your Honor, this calls for a 5 legal conclusion. Judge Burton made a legal 6 conclusion based on the statute -- 7 THE WITNESS: That's a typo. It's no. It's Y, 8 no. 9 THE COURT: Overruled. 10 THE WITNESS: The Y is a typo. 11 BY MS. GARCIA: 12 Q. Isn't it true on the next line you said that 13 she, Mrs. Sahm, can prepare her own meals, correct? 14 A. I have to look at the report because I 15 certainly don't remember. 16 Q. Look at Page 2, 5.0, functional assessment. 17 A. Yes. Yeah. 18 Q. She -- 19 A. Yes, she can prepare her own meals. 20 Q. And if you go to the next page. 21 A. Yes. 22 Q. It's the fifth one down. Isn't it true you 23 found that Ms. Sahm could take care of her own personal 24 appearance? 25 A. Yes.</p>	<p style="text-align: right;">113</p> <p>1 and there's proof -- 2 A. Am I aware -- 3 Q. -- that you were denied being a doctor in the 4 state? 5 A. Am I aware of the allegation? No, I'm not 6 aware of the allegation. 7 Q. Are you aware that when -- 8 MR. SWEETAPPLE: Your Honor, I move to strike 9 the question and answer. There's no predicate for 10 any of this. 11 THE COURT: Overruled. 12 BY MS. GARCIA: 13 Q. Are you aware that there was -- there's a 14 relationship, a legal relationship, between the other 15 two committee members, Dr. Stephanie Cheshire and 16 Brennan Cheshire, and that's against the laws -- 17 MR. SWEETAPPLE: Objection. 18 BY MS. GARCIA: 19 Q. -- for committee members? 20 THE COURT: I'm going to sustain the objection. 21 It calls for -- 22 THE WITNESS: I have no knowledge of what 23 the rules are, nor is it relevant to what I do. 24 THE COURT: But I'll allow his answer to stand. 25 BY MS. GARCIA:</p>



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<p style="text-align: right;">114</p> <p>1 Q. You testified on direct that you gave 2 testimony in front of Judge Burton in relation to this 3 finding, correct? 4 A. Yeah, I believe I did. I believe I did, yeah, 5 but my memory is vague on it. 6 Q. Isn't it true that you actually did not 7 testify in Judge Burton because the parties -- 8 A. It's quite possible. It's quite possible. 9 All of this happened over a year ago and I'm not sure of 10 times and dates, and who I testified in front of and who 11 I didn't testify in front of. So it's possible I'm 12 incorrect. I don't know. 13 Q. So your last statement wasn't true, then? 14 MR. SWEETAPPLE: Objection. Argumentative. 15 THE WITNESS: Same answer. 16 THE COURT: Overruled. 17 BY MS. GARCIA: 18 Q. Isn't it true that a MoCA score of 18 out of 19 30 only signifies a mild cognitive impairment? 20 A. Mild to moderate. And it's only one part of 21 the diagnosis. There are multiple factors that you 22 consider when making the diagnosis, one of which is the 23 MoCA test. 24 Q. Isn't it true that to have a moderate 25 cognitive impairment, the score must be between 10 and</p>	<p style="text-align: right;">116</p> <p>1 Q. -- today now that you reviewed medical records 2 to make your decision hearsay outside medical records? 3 A. When medical records are available, I review 4 them. The medical records that I have is the record 5 from the Neurological Disorders Clinic by a neurologist 6 who found that, "Patricia Sahm has Alzheimer's disease, 7 is unable to make any decisions about where she will 8 reside, lacks proper character judgment, cannot decipher 9 general -- genuine relationships from scams or tricks. 10 She is not able to determine who is safe to socialize 11 with. As a result, she is unable to handle her own 12 financial affairs or any legal contracting. If you have 13 any questions, you can call the office." That is the 14 report from Fernando Norono, neurologist. 15 Q. Date -- date, please? 16 A. June 26th, 2024. 17 Q. Okay. June 26th, 2024. You're relying on a 18 report that's a year and two months after this to make 19 your findings, sir? 20 A. As I said before, I don't rely on any one 21 thing. I rely on all the information available to me 22 plus my own evaluation. 23 Q. Which was on Zoom for a time you don't 24 remember, a length of time you don't even remember? 25 A. Say again?</p>
<p style="text-align: right;">115</p> <p>1 17, not 18 or above? 2 A. I beg your pardon? 3 Q. Isn't it true that according to the MoCA test, 4 that to have a -- to have a moderate cognitive 5 impairment, the score must be between 10 and 17? 6 A. There's a cutoff point. At 17 and 18 it's -- 7 it's moot. 8 Q. Where is that in the MoCA testing protocols? 9 A. I'm giving you my opinion. My report is based 10 on my opinion. 11 Q. And your opinion was based partially on this 12 MoCA test, correct? 13 A. My opinion is based on my evaluation, the 14 report of the neurologist, my conference with my other 15 members of the examining committee, the medical 16 information that's available to me, the interviews that 17 I carry out, if I carry out any with a family member. It 18 is not based on a MoCA test. 19 Q. There's nothing in your report that refers to 20 you reviewing any medical records, sir. So did you -- 21 A. There's nothing in my report what? 22 Q. There's nothing in your report that refers to 23 you reviewing medical records. Is your testimony 24 here -- 25 A. Uh-huh.</p>	<p style="text-align: right;">117</p> <p>1 MS. GARCIA: I'll withdraw that question, Your 2 Honor. 3 BY MS. GARCIA: 4 Q. Did you read Dr. Sugar's report? 5 A. Did I read whose report? 6 Q. Dr. Sugar, who gave an opinion for the AIP's 7 attorney. Did you read his report? 8 A. I don't have that. I don't have that in front 9 of me right now. 10 Q. But have you read it? 11 A. I don't recall reading it. 12 Q. Are you sure? 13 A. I don't recall reading it. 14 Q. Now you talk -- you keep talking about a 15 second report you did. Isn't it true that you -- the 16 three committee members were removed in 2024? 17 A. Isn't it -- isn't it -- 18 MR. SWEETAPPLE: Your Honor, I'm going to 19 object. 20 THE WITNESS: -- isn't it true what? 21 MR. SWEETAPPLE: Your Honor, I'm going to 22 object going into the next year's report and 23 activities. Although it would be helpful in my case, 24 it's just not relevant. 25 THE COURT: Overruled.</p>



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<p style="text-align: right;">118</p> <p>1 BY MS. GARCIA:</p> <p>2 Q. You referred to the fact that you did a second</p> <p>3 report in 2024, correct?</p> <p>4 A. There was -- I'm sorry, I didn't hear you.</p> <p>5 Q. You referred to the fact that you did a second</p> <p>6 report in 2024, correct?</p> <p>7 MR. SWEETAPPLE: Your Honor, outside the scope</p> <p>8 of --</p> <p>9 THE WITNESS: I evaluated her twice, correct.</p> <p>10 MR. SWEETAPPLE: Outside the scope of direct.</p> <p>11 THE COURT: Overruled.</p> <p>12 BY MS. GARCIA:</p> <p>13 Q. And isn't it true that that was not used by</p> <p>14 the Court, and the Court appointed three new committee</p> <p>15 members?</p> <p>16 A. Isn't it true what?</p> <p>17 Q. That those reports were not used in 2024 and</p> <p>18 the Court appointed three new committee members.</p> <p>19 A. You're breaking up. Something about 2024 and</p> <p>20 2023.</p> <p>21 Q. Isn't it true that after you wrote the report</p> <p>22 in 2024, that they were not used because the Court</p> <p>23 appointed three new independent committee members?</p> <p>24 A. I -- I'm not aware of that. That's -- it's</p> <p>25 possible.</p>	<p style="text-align: right;">120</p> <p>1 since there's been an attempt to create some</p> <p>2 impression that he was disqualified somehow.</p> <p>3 THE COURT: All right. Is she on the witness</p> <p>4 list?</p> <p>5 MS. GARCIA: No.</p> <p>6 MR. SWEETAPPLE: No, but this is by way of</p> <p>7 rebuttal.</p> <p>8 THE COURT: All right. Why don't we --</p> <p>9 MS. GARCIA: I object, Your Honor. It's</p> <p>10 prejudice. He could have reasonably understood that</p> <p>11 when he was calling this witness, that there would</p> <p>12 be issues as to the admissibility or lack of</p> <p>13 admissibility testimony or use of these reports.</p> <p>14 THE COURT: But his reports are not in</p> <p>15 evidence.</p> <p>16 MR. SWEETAPPLE: And 2024 was not a relevant</p> <p>17 time period.</p> <p>18 THE COURT: And my -- the decision that I have</p> <p>19 to make is not whether or not she qualifies as an</p> <p>20 incapacitated person. I have to -- I -- we're</p> <p>21 getting way far-field. But you know what? I'll let</p> <p>22 you call Ms. Lewis. I'll let you cross-examine her.</p> <p>23 And I'll take the evidence for what it's worth,</p> <p>24 which may not be germane to the Court's conclusion,</p> <p>25 but --</p>
<p style="text-align: right;">119</p> <p>1 MS. GARCIA: Can I have a moment, Your Honor?</p> <p>2 THE COURT: Sure.</p> <p>3 MS. GARCIA: One second, Your Honor.</p> <p>4 THE COURT: Okay.</p> <p>5 MS. GARCIA: I have no other -- I have no other</p> <p>6 questions of this witness, Your Honor.</p> <p>7 THE COURT: Okay. Any redirect examination,</p> <p>8 Mr. Sweetapple?</p> <p>9 MR. SWEETAPPLE: I don't have any further</p> <p>10 questions of this witness. However, I am going to</p> <p>11 ask for leave to call Ms. Lewis for two minutes as</p> <p>12 to why the parties stipulated to --</p> <p>13 THE COURT: May I dismiss -- Dr. Bloom?</p> <p>14 MR. SWEETAPPLE: Yes, I'm finished with Dr.</p> <p>15 Bloom.</p> <p>16 THE COURT: All right. Thank you very much,</p> <p>17 Dr. Bloom. You can log off the Zoom.</p> <p>18 MR. SWEETAPPLE: Thank you, Dr. Bloom.</p> <p>19 THE WITNESS: Thank you. Am I dismissed?</p> <p>20 THE COURT: Yes.</p> <p>21 THE WITNESS: Thank you very much.</p> <p>22 THE COURT: Thank you.</p> <p>23 MR. SWEETAPPLE: I'd like to, if I could, Your</p> <p>24 Honor, briefly call Attorney Lewis just with regard</p> <p>25 to what happened with regard to the 2024 panel,</p>	<p style="text-align: right;">121</p> <p>1 Come on up, Ms. Lewis.</p> <p>2 MR. SWEETAPPLE: I don't think it is relevant</p> <p>3 to the Court's conclusion. However, I think there's</p> <p>4 been a misimpression created.</p> <p>5 THE COURT: Would you raise your right hand?</p> <p>6 THE CLERK: Do you solemnly swear or affirm</p> <p>7 that the evidence you're about to give will be the</p> <p>8 truth, the whole truth, and nothing but the truth?</p> <p>9 THE WITNESS: I do.</p> <p>10 THE COURT: All right. Watch your step on your</p> <p>11 way up.</p> <p>12 Mr. Sweetapple, whenever you and Ms. Lewis are</p> <p>13 ready, you may inquire.</p> <p>14 MR. SWEETAPPLE: Thank you, Your Honor.</p> <p>15 TESTIMONY OF KATHRYN LEWIS</p> <p>16 DIRECT EXAMINATION</p> <p>17 BY MR. SWEETAPPLE:</p> <p>18 Q. Would you please state your name?</p> <p>19 A. Yes. My name is Kathryn Lewis.</p> <p>20 Q. And how are you employed?</p> <p>21 A. I am a partner at Kitroser Lewis &amp; Mighdoll.</p> <p>22 Q. And are you a licensed Florida attorney?</p> <p>23 A. Yes, I am.</p> <p>24 Q. How long have you been so licensed?</p> <p>25 A. Since 2008.</p>



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<p style="text-align: right;">122</p> <p>1 Q. And are you counsel for Charles Revard, the 2 guardian of Ms. Sahm? 3 A. I am. 4 Q. And were you involved with regard to 5 evaluations of Ms. Sahm again in 2024 after the 2023 6 that is the subject of this controversy? 7 A. In 2024, myself and Mr. Kitroser were 8 representing Mr. Revard at the time that those 9 evaluations were performed. We did not personally have 10 any involvement in the actual evaluations themselves. 11 Q. And did counsel for anyone request that there 12 be a reevaluation in 2024? 13 A. Yes. We filed a petition to determine 14 incapacity and a petition to expand the guardian's 15 powers in order to give the guardian control or ability 16 to make decisions regarding Mrs. Sahm's residence and 17 social environment, which were two rights that were not 18 removed in 2023. 19 Q. And did the Court grant that expansion? 20 A. Yes. 21 Q. All right. And did -- was there a new 22 examination committee appointed? 23 A. Originally, after we filed a petition to 24 determine incapacity in 2024, the Court reappointed the 25 committee from 2023 to evaluate Mrs. Sahm again.</p>	<p style="text-align: right;">124</p> <p>1 to -- 2 MS. GARCIA: Just brief on that. 3 CROSS-EXAMINATION 4 BY MS. GARCIA: 5 Q. Were you the attorney in May of 2023 in the 6 guardianship and mental health case? 7 A. I don't -- I -- I personally was not involved 8 in the case in May of 2023. I'm not sure whether or not 9 Mr. Kitroser had been retained by Mr. Revard at that 10 point in time. Personally, I'm not sure. 11 Q. Isn't it true that your law firm and Mr. 12 Revard weren't even brought into this case until June of 13 2023 by agreement? 14 A. I don't know -- 15 Q. -- of Ms. Amber -- Ms. Patwell? 16 A. I don't know why -- what standing Ms. Patwell 17 would have to agree as to whether or not Mr. Revard 18 retained my law firm. 19 Q. So you don't know if it was actually testimony 20 given to Judge Burton, do you, in May of 2023 or June of 21 2023? 22 A. Personally, I don't know. I believe there was 23 an agreement among the parties. Ms. Patwell withdrew 24 her objections to the committee reports. You, on behalf 25 of the Bernsteins, did not pursue an objection from what</p>
<p style="text-align: right;">123</p> <p>1 Q. And what happened? 2 A. They did their evaluations. They filed their 3 reports. Thereafter, Attorney Laura Burkhalter, who had 4 been court appointed to represent Mrs. Sahm in the 2024 5 incapacity proceedings, filed a written objection to 6 those committee reports. And as part of the grounds for 7 her objections, she stated that because this was the 8 original committee from 2023 that had previously found 9 Mrs. Sahm incapacitated, that it was an infringement on 10 Mrs. Sahm's presumption of capacity. 11 Q. And was a new committee appointed? 12 A. Yes. We actually agreed, Mr. Kitroser and I, 13 on behalf of Mr. Revard. We agreed to the appointment 14 of a new committee to remove that from being an issue. 15 Q. And that committee, did it also determine that 16 she was incapacitated? 17 MS. GARCIA: Object to relevance. 18 THE WITNESS: It did. 19 BY MR. SWEETAPPLE: 20 Q. And did they recommend an expansion of -- 21 THE COURT: Sustained. 22 MR. SWEETAPPLE: No further questions, Your 23 Honor. 24 THE WITNESS: Okay. 25 THE COURT: Any cross-examination with respect</p>	<p style="text-align: right;">125</p> <p>1 I understand. And because there was an agreement, the 2 Court entered an order adjudicating Ms. Sahm 3 incapacitated. 4 Q. Isn't it true that the order doesn't actually 5 have a date of adjudication and determination of the 6 incapacity? It's blank? 7 MR. SWEETAPPLE: Object to best evidence. Best 8 evidence. 9 THE COURT: How is it -- wouldn't the order be 10 the best evidence? 11 MS. GARCIA: I'm sorry? 12 THE COURT: Wouldn't the order be the best 13 evidence? 14 MS. GARCIA: Well, since there's a lot of 15 issues here going to the mental impressions of the 16 capacity, non-capacity, and the ability to enter 17 into contracts at that time, I think it's very 18 relevant that there was no due process finding of 19 incapacity by the Court -- 20 THE COURT: I -- 21 MS. GARCIA: I could ask that question. 22 THE COURT: I guess I don't see how, with all 23 due respect to Ms. Lewis' knowledge of the date, 24 whether or not the order contained the date, is 25 relevant to the issues that we're here to decide so</p>



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<p style="text-align: right;">126</p> <p>1 I'll sustain the objection as to best evidence. If  2 you want to provide the order, show me whether or  3 not it has a date, I can read it.  4 MS. GARCIA: I'll do that because it's in  5 evidence.  6 Okay. Thank you.  7 THE WITNESS: Thank you.  8 THE COURT: All right.  9 THE WITNESS: May I step down, Your Honor?  10 THE COURT: Any redirect examination?  11 MR. SWEETAPPLE: No, Your Honor.  12 THE COURT: All right. Yes, ma'am. You may  13 step down.  14 Any additional witnesses or evidence on behalf  15 of the plaintiff?  16 MR. SWEETAPPLE: I just want to read from the  17 party deposition if I could.  18 THE COURT: Okay.  19 MR. SWEETAPPLE: Briefly, and I don't think we  20 have copies of the transcript. I --  21 MS. GARCIA: No. Hold on, Your Honor. I  22 object fully. He cannot just use the depo. This is  23 improper impeachment. You want to use a deposition  24 for a witness, you can use it if you find that the  25 witness is dead, which he's not. He's greater than</p>	<p style="text-align: right;">128</p> <p>1 the citation?  2 MS. GARCIA: I'll get it. Give me one second.  3 First of all, there's a hearsay burden to overcome  4 under Rule 1.330, and basically they said that under  5 Dinter v. Brewer, 420 So.2d 932, Florida Third DCA,  6 1982, the Court found the hearsay was inadmissible  7 because it didn't satisfy the provisions of the  8 former testimony rule. In other words, the rule  9 itself is only exception to the hearsay rule --  10 THE COURT: Isn't prior sworn testimony of a  11 party opponent taken at a deposition subject to  12 cross-examination specifically an exception of the  13 hearsay rule?  14 MS. GARCIA: Cross -- cross-examination, Your  15 Honor, but --  16 THE COURT: Subject to cross-examination. Not  17 cross-examination.  18 MR. SWEETAPPLE: I believe -- I believe the  19 rules, Your Honor, allow the party -- opposing  20 party's deposition to be used at any time for any  21 purpose. That's been my use of them for over 40  22 years, and I've never had anybody say I couldn't do  23 that so I -- I'm ready to be corrected if I'm wrong.  24 MS. GARCIA: I believe it's a due process  25 violation to allow him to use a rule against a party</p>
<p style="text-align: right;">127</p> <p>1 a hundred miles, which he's not. He's out of state,  2 which he's not. And it doesn't appear that he's  3 absent. He never gave proper notice prior to the --  4 to the -- to the trial. Of using a deposition, you  5 can't use a deposition to impeach a witness when  6 he's not here and he's available. He could have  7 been subpoenaed. So I believe it violates your  8 1.330, and basically he cannot use the deposition  9 under 1.330(a). And he hasn't given a proper  10 notice. It's a due process hurdle he has to  11 overcome, and I can cite all the case law if you'd  12 like, Judge.  13 THE COURT: Sure. Cite me a case that says he  14 can't use the deposition of a party upon it.  15 MS. GARCIA: As the way he wants to use it,  16 when the party's available and he didn't subpoena  17 him. He can't come in here now and just read the  18 deposition without proper notice.  19 THE COURT: Okay. Cite --  20 MS. GARCIA: Proper --  21 THE COURT: -- cite me a case that says that.  22 MS. GARCIA: They said that basically -- let me  23 see. Okay, the Fourth District has a case that says  24 that the rule --  25 THE COURT: What's the name of the case? What's</p>	<p style="text-align: right;">129</p> <p>1 who has not testified, who he's not subpoenaed, he's  2 not called as a witness, and he's coming in here  3 using the deposition without proper notice. The  4 rule does say you have to give me notice and a copy  5 of the deposition. My client never -- and it's also  6 he has to be unavailable if he wants to use the  7 deposition, or he would use it on proper cross-  8 examination. You can't use a deposition as direct  9 testimony, not the way he wants to use it. It's not  10 following the proper rules.  11 MR. SWEETAPPLE: Mr. Bernstein was here at our  12 last sitting and I have deposed him, and intended to  13 cross-examine him. He's not here today and I  14 believe I'm entitled to use his testimony from the  15 deposition as a party opponent for any purpose at  16 any time. She can call him if she chooses to. He's  17 a party.  18 THE COURT: Rule 1.330(a), Use of Depositions.  19 "Upon any hearing of a motion, any part or all of a  20 deposition may be used against any party who was  21 present or represented at the taking of the  22 deposition or who had reasonable notice of it so far  23 as admissible under the rules of evidence applied as  24 though the witness were then present and testifying  25 in accordance with any of the following provisions."</p>



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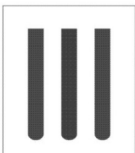
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<p style="text-align: right;">130</p> <p>1 Subsection (2), "The deposition of a party or of 2 anyone who is a person or agent designated may be 3 used by an adverse party for any purpose." So I am 4 overruling your objection. 5 MS. GARCIA: And also, Your Honor, (a)(1) does 6 discuss the fact that if you want to use it for the 7 purpose of contradicting or impeaching any testimony 8 of the deponent as a witness, you do have to follow 9 the evidence code. You do have to give proper 10 notice. You can't just come into the Court with a 11 deposition that hasn't even been read. 12 THE COURT: When was this deposition taken? 13 MR. SWEETAPPLE: This deposition was taken 14 October 2, 2024. 15 THE COURT: All right. And was it listed as a 16 potential exhibit or item of evidence? 17 MS. GARCIA: No, Your Honor. 18 MR. SWEETAPPLE: We took this -- we took this 19 after all that occurred. It -- we had -- it took us 20 forever to get Mr. Bernstein in for the deposition, 21 if you recall. 22 THE COURT: All right, when did you determine 23 that you were going to use your deposition? 24 MR. SWEETAPPLE: I was going to use it for 25 cross-examination today. However, I noted that for</p>	<p style="text-align: right;">132</p> <p>1 agreement to meet with her?" 2 Answer: "I did." 3 Question: "Okay. You had the settlement 4 agreement in your hand when you met with her, right?" 5 Answer: "I did." 6 Question -- this is at Page 77, Line 3. 7 "Didn't you -- so you met with Mrs. Sahm after she had 8 been -- after the guardianship had been filed, right, at 9 her house?" 10 Answer: "Yes." 11 Question: "On more than one occasion, 12 correct?" 13 Answer: "Yeah, most likely." 14 Then on Page 88 at Line 2, "Okay. So we're 15 -- so you were helping -- you were helping Patricia 16 Sahm, Senior, find an attorney?" 17 Answer: "Yeah." 18 Question: "Okay. And you asked everybody in 19 the guardianship abuse group who you could get to 20 represent Patricia Sahm, Senior?" 21 Answer: "Correct." 22 Question: "And so how did you learn that Ms. 23 Patwell had been hired after you recommended that 24 someone go find an attorney for Mrs. Sahm?" 25 Answer: "How did I learn? I think through</p>
<p style="text-align: right;">131</p> <p>1 some reason, Mr. Bernstein, who sat next to her the 2 entire proceeding in August, is not here so I -- 3 THE COURT: Is Mr. Bernstein present on Zoom? 4 If so, can you unmute yourself? Deputy, could you 5 sound the hall for Mr. Bernstein? 6 THE BAILIFF: Mr. Bernstein. 7 THE COURT: All right. Deputy has indicated 8 that Mr. Bernstein is not present, so I find that 9 he's not availed himself to be cross-examined here 10 in Court. So it would not be fair to the other party 11 to not allow that portion of his testimony to not be 12 provided to the Court, so I'm overruling your 13 objection. 14 MR. SWEETAPPLE: Your Honor. If I may, I'm 15 reading from Page 76, starting at Line 4. 16 Question: "And how many times did you meet 17 with her before the guardianship was filed?" 18 Answer: "Probably most of the times." 19 Question: "Well, after the guardianship was 20 filed, did you still meet with her and try to get her to 21 sign a settlement?" 22 Answer: "I have to look at my notes and figure 23 that out, but -- " 24 Question: "Didn't you appear at her house on 25 more than one occasion before she signed the settlement</p>	<p style="text-align: right;">133</p> <p>1 Patty, Junior, or something." 2 That's all I'm reading, Your Honor. 3 THE COURT: All right. Is there any portion of 4 the deposition that you would like for me to 5 consider according to the rule of completeness, Ms. 6 Garcia? 7 MS. GARCIA: Your Honor, I would need time. I 8 will do that before the close of my case. 9 THE COURT: Okay. All right. Is there any 10 additional witnesses or evidence? 11 MR. SWEETAPPLE: Your Honor, I have no further 12 evidence with regard to our motion. 13 THE COURT: All right and then motion on behalf 14 of -- let me turn to Ms. Garcia first for your 15 motion, understanding that you had entered evidence, 16 but we just did that for expediency sake. This is 17 now the close of the plaintiff's presentation. 18 MS. GARCIA: Has -- I'm sorry. The plaintiff 19 has rested? 20 THE COURT: Yes, ma'am. 21 MS. GARCIA: Okay. Your Honor, I move -- I'm 22 moving for a directed verdict pursuant to Rule 23 1.480. The plaintiff has closed his case, and the 24 plaintiff has not proved the necessary elements of 25 the case. Firstly -- (coughs) excuse me, Your</p>



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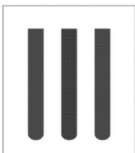
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<p style="text-align: right;">134</p> <p>1 Honor. The plaintiff has not proved by clear and 2 convincing evidence that Ms. Sahm was incapacitated 3 in May of 2023. The witness that testified was not 4 forthcoming as far as remembering what happened, 5 misrepresenting to the Court the cognitive based on 6 the MoCA test, misrepresented that he testified in 7 front of Judge Burton, which didn't happen. There's 8 testimony by missus -- I'm sorry, Ms. Lewis. She 9 wasn't involved in the case at the time so nobody 10 could confirm that there was any ever actually 11 hearing or determination by Judge Burton that the 12 client was incompetent.</p> <p>13 Also, Ms. Sahm did not have her due process or 14 her right, the contract taken away by the Court at 15 the time of settlement was entered into. The 16 evidence that is in evidence is evidence is that the 17 settlement was entered into on May 22nd, and there 18 was no finding of incompetency by the Court, by any 19 Court order or by any due process hearing, until 20 June by agreement of the parties for a limited 21 guardianship for Charlie Revard, who's her cousin. 22 At the time -- there's no proof that at the time 23 that the settlement was issued, that there was any 24 nefarious conduct by either myself or Ms. Patwell or 25 the other attorneys, Morgan Weinstein.</p>	<p style="text-align: right;">136</p> <p>1 have to get to the next level of the argument which 2 would be that there had to be some undue influence 3 or some fraud. None of that has been proven as far 4 as this settlement that was entered into that's -- 5 that was validly entered into with her having an 6 attorney present, and the evidence that is in the 7 other committee report that is in evidence, Your 8 Honor, does say that she can contact -- she can 9 contract with the help of an attorney, which she 10 did.</p> <p>11 So there's nothing that has been proven here in 12 his case in chief that would give Your Honor the 13 ability to take away her presumed competency to 14 contract. And there's nothing in the evidence so 15 far that proves any fraudulent activities or undue 16 influence related to the execution and timing of the 17 contract. In fact, the evidence that was presented 18 through the court orders in the dates and times show 19 that as soon as Weinstein was hired April 12th, and 20 then there was no stipulation done and no 21 settlements were negotiated. Mr. Weinstein had 22 nothing to do with it at that point. The evidence 23 shows that in May, there was a hearing in the 24 bankruptcy court wherein -- and the attorney the 25 retainers in evidence represented the estate that</p>
<p style="text-align: right;">135</p> <p>1 There -- the -- simply put that the plaintiff 2 has not carried their burden for this Court to 3 determine, first of all, if there was any competency 4 or not at the time. Further, they haven't proved 5 pursuant to the law that -- or rebutted by clear 6 convincing evidence, like Harmon v. Williams, 596 7 So.2d 1139, a Florida Second DCA case. It says, 8 "The Court holds that a person is presumed competent 9 to contract unless incompetency is established by 10 due process of the law." So this Court basically 11 would have to make a proactive finding that prior to 12 any adjudication that you're going to take away, 13 retrospectively, a client's right to contract with a 14 lawyer. It's clear that she had a lawyer, Amber 15 Patwell, who was assigned and accepted by the Court, 16 and then there was a settlement that was entered 17 into. They waited 14 months to try to set it aside. 18 Then they tried to come in with allegations of the 19 exception to the rules.</p> <p>20 So the Court determines by clear and convincing 21 evidence, he believes that the client, they did not 22 prove incompetency sufficient for you to 23 prospectively negate a legitimate contract, that the 24 -- that the guardianship court didn't negate, and 25 nobody had even thought for the year, then you'd</p>	<p style="text-align: right;">137</p> <p>1 they admit has no rights.</p> <p>2 At one point -- a dead man who they never told 3 the Court was dead. And then Ms. Sahm that, 4 according to Mr. Sweetapple's testimony at the last 5 hearing, or his proffers, were that she was 6 incompetent. He was traveling with her under Power 7 of Attorney, but in the meanwhile, they're still 8 moving forward hiring lawyers and filing defenses 9 that are not legally proper. Filing a -- filing a 10 claim in a federal bankruptcy court for an estate 11 that you've admitted has no rights is an affront of 12 the Court. Filing claims for dead people for years, 13 including the affidavits or evidence for dead 14 people, is improper. So I don't believe that he's 15 met his burden according to the law for either the 16 declaration of an incompetency and/or fraud or undue 17 influence to set aside the agreement.</p> <p>18 So those are some of the specific reasons, Your 19 Honor. You have in evidence basically that we would 20 ask the settlement to stand as is because the 21 plaintiff has clearly not proven his case.</p> <p>22 THE COURT: Okay. Ms. Garcia. Sorry. Mister 23 Apple -- Mr. Sweetapple?</p> <p>24 MR. SWEETAPPLE: May it please the Court, the 25 evidence in this case is clear that the Bernsteins</p>



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<p style="text-align: right;">138</p> <p>1 knew at all times that Ms. Sahm had declined into 2 incapacity, and of that there could be no doubt. 3 Ms. Garcia knew the same thing, because, as you 4 noted, she tried not to put in a signed settlement 5 agreement that she forwarded to Mr. Raymond and -- 6 in March of 2024, and that agreement signed -- 7 prepared by her and signed by all of her clients 8 repeatedly recites that Mrs. Sahm, Senior, is 9 incapacitated. And I'll read to you some of those 10 quotes. I had my -- I had my highlighted copy, and 11 the unhighlighted copy, but -- 12 THE COURT: Page 2 of Plaintiffs 12, "Whereas 13 Walter Sahm, Junior, is now deceased and his estate 14 is pending in Marion County, and his now 15 incapacitated wife, Patricia Sahm, as a Power of 16 Attorney, trust bringing guardian with her daughter, 17 Joanna Sahm, whereas the estate, the trust, and the 18 incapacitated surviving spouse -- 19 MR. SWEETAPPLE: Exactly. 20 THE COURT: -- on Page 3. 21 MR. SWEETAPPLE: This is -- this is -- this is 22 an admission of their knowledge of her incapacity. 23 They signed this in March. It's an admission of Ms. 24 Garcia's knowledge of her incapacity, and yet what 25 do we see? We see Patty Sahm, Junior, the same</p>	<p style="text-align: right;">140</p> <p>1 attorney in this case, and all of this is occurring 2 without any attempt to have me join in on either of 3 these settlements. And you're going to see if -- 4 and this is not appropriate at this time, but you're 5 going to see I was not copied at my e-mail address 6 with communications that had been represented that I 7 didn't respond to. 8 So what happens? Well, this fraud that's 9 occurring involving Patty, Inger Garcia, and the 10 Bernsteins and Ms. Patwell, who was brought in by 11 the Bernsteins, is just -- 12 MS. GARCIA: Objection. Facts not in evidence. 13 MR. SWEETAPPLE: -- a continuation of a fraud 14 that the bankruptcy court already occurred by Ms. 15 Garcia, and the State court and three days before 16 the guardianship is filed, the Federal court grants 17 interim relief from an automatic stay that Ms. 18 Garcia obtained. And if you look at Paragraph D -- 19 attached to the motion as Exhibit D is a copy of the 20 suggestion of bankruptcy for defendant and notice to 21 cancel sale set for April 4th, 2023, 22 parenthetically, the suggestion of bankruptcy, filed 23 on April 3 by attorney Inger Garcia on behalf of 24 certain defendants, including debtor, Elliot Ivan 25 Bernstein of the State court case.</p>
<p style="text-align: right;">139</p> <p>1 person Judge Burton found was taking advantage of 2 her mother, and allowing a signature or a 3 notarization of a revocation for Power of Attorney 4 to occur using the Bernstein's agent that Mr. 5 Bernstein admits he's helping, through Patty, 6 Junior, to get an attorney for his opponent, Mrs. 7 Sahm. There's always the suggestion throughout this 8 case, including cross examination, Ms. Inger, that 9 somehow I was substituted in this case, but Patty 10 worked with Mr. Weinstein. You can see through the 11 communications, had Mr. Weinstein come in, a friend 12 of Mr. Hall's, to try to take over so they can 13 backdoor a settlement taking advantage of Mrs. Sahm, 14 Senior. 15 MS. GARCIA: Objection. Facts not in evidence. 16 THE COURT: Overruled. 17 MR. SWEETAPPLE: So Mr. Weinstein lasts a few 18 days. He never -- he never sends me a stipulation 19 for substitution of counsel. I've represented Mr. 20 and Mrs. Sahm since the beginning in this case. I 21 represented Mrs. Sahm individually, and then when 22 her daughter told me she had a Power of Attorney and 23 Mrs. Sahm told me she had a Power of Attorney, I 24 initially was authorized to deal with Joanna Sahm. 25 But the bottom line is they knew that I was the</p>	<p style="text-align: right;">141</p> <p>1 The suggestion of bankruptcy is factually false 2 and legally incorrect, and was designed to mislead 3 the State court and/or the clerk of the State court 4 that the canceling -- the April 4th, 2023, 5 foreclosure sale of the real property scheduled in 6 the State court because the suggestion of bankruptcy 7 stated that, "This action is founded on the claim 8 from which a discharge would be a release and that 9 seeks to impose a charge on the property of" -- this 10 is the second fraudulent bankruptcy. The first one, 11 the boys are -- the sons are all assessed \$43,000. 12 This is the second fraudulent bankruptcy, but Ms. 13 Garcia is representing the Bernsteins. They're 14 fully aware of the guardianship, as is she, because 15 watching all of this occurring, the first thing I do 16 when I hear for the first time that there's been 17 some alleged revocation of a Power of Attorney, 18 which would not have in any way affected my direct 19 representation of Mrs. Sahm, who was my client and 20 always competent, the entire time I knew her, but 21 I'm dealing now with Joanna for the last couple of 22 years at Mrs. Sahm's direction. 23 So when I call Mrs. Sahm, and I put this in a 24 notice so that all counsel would be alerted that we 25 are watching you, don't continue with your</p>



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<p style="text-align: right;">142</p> <p>1 fraudulent conduct. What do I do in my request for 2 judicial notice? "One, Plaintiff is the surviving 3 spouse and owner of the note, which was the subject 4 of the incident matter. Two, undersigned counsel 5 has been advised that a revocation of the current 6 Power of Attorney held by Mrs. Sahn's daughter, 7 Joanna Sahn, has recently been executed. Three, 8 undersigned counsel spoke directly with plaintiff, 9 Patricia Sahn, yesterday. Mrs. Sahn indicated she 10 was unaware of any such revocation and still wanted 11 undersigned counsel to represent her in this matter. 12 Four, the Court is further advised and requested to 13 take judicial notice of the pending guardianship 14 matter," and I cite them. So while on May 5th, all 15 three committee members find that she's unable to 16 manage her litigation, and miss -- and Ms. Patwell 17 is not counsel of record. There are attempts by -- 18 documents prepared by Mrs. Garcia, Mr. Bernstein is 19 going to the alleged incapacitated person's house, 20 and on the 22nd of May obtains her signature when no 21 one else is there. 22 MS. GARCIA: Objection. Facts not in evidence. 23 THE COURT: So I don't mean to cut you off, but 24 this is a motion for directed verdict. 25 MR. SWEETAPPLE: And so what I -- what I'm</p>	<p style="text-align: right;">144</p> <p>1 verdict, so let me turn now to Ms. Garcia to call 2 any witnesses or evidence that she would like to 3 produce. 4 MS. GARCIA: Your Honor. I'm sorry, Your 5 Honor. I thought you said after this witness that 6 you were calling a lunch break. 7 THE COURT: I would like to get this case 8 concluded today. We've really spent a lot of time, 9 so -- you have a witness, I think, that's on Zoom. 10 I'll give you -- I can give you a short break, but 11 we're going to conclude today. So how -- you have 12 Mr. Stransbury, I think you said you were going to 13 call, and who else? 14 MS. GARCIA: And myself. 15 THE COURT: And yourself? 16 MS. GARCIA: And potentially Ms. Bernstein. 17 THE COURT: Okay. So -- 18 MS. GARCIA: And now that he's done that to Mr. 19 Bernstein, I have to see if I can find him. 20 THE COURT: He's done what to Mr. Bernstein? 21 Since -- 22 MS. GARCIA: Now that he read his deposition 23 testimony with no proper notice, and -- 24 THE COURT: Okay. When we took a ten minute 25 break, you said you had perhaps one witness, Mr.</p>
<p style="text-align: right;">143</p> <p>1 going to show is the evidence -- 2 THE COURT: Which means -- 3 MR. SWEETAPPLE: -- in this case -- 4 THE COURT: -- I draw -- I draw all inferences 5 and conclusions in the light most favorable to the 6 non-moving party. 7 MR. SWEETAPPLE: Exactly. And this is not a 8 motion. This isn't a properly directed verdict 9 application anyway. It's not a trial. 10 THE COURT: I -- 11 MR. SWEETAPPLE: This -- and I -- you need to 12 hear the entire case, but when I got to the end of 13 the case, what I'm going to show you -- 14 THE COURT: I thought you've rested your case. 15 MR. SWEETAPPLE: Yeah. But I'm saying when you 16 hear her case, there's going to be more coming out 17 that's going to -- 18 THE COURT: So -- 19 MR. SWEETAPPLE: -- implicate them in the fraud 20 on the sanctions. 21 THE COURT: -- so I find, based on what I've 22 heard so far, in the light most favorable to the 23 non-moving party, a reasonable fact finder could 24 find that you've established your claim. And I'm 25 going to respectfully deny the motion for directed</p>	<p style="text-align: right;">145</p> <p>1 Stransbury, who's on Zoom. Now you're telling me 2 you have four witnesses. 3 MS. GARCIA: Well, I -- I'm testifying, 4 definitely. 5 THE COURT: Okay. All right, what we'll do is 6 -- Madam Court Reporter and Madam Clerk, how long do 7 you all need for a break? You're in charge. 30 8 minutes? 9 THE CLERK: No, I just need ten, Your Honor. 10 THE COURT: Ten? Madam Court Reporter? 11 THE REPORTER: I just need a restroom break. 12 THE COURT: All right. Why don't we take -- 13 we'll take 20 minutes. There's snacks downstairs, I 14 think. There's restrooms. We'll pick back up. 15 (OFF THE RECORD) 16 THE COURT: All right. Looks like everybody's 17 present. So let me turn to Ms. Garcia. 18 Who's your first witness? 19 MS. GARCIA: Your Honor, what I'd like to do 20 under the rule of completeness, I'd like to move in 21 the entire deposition of Mr. Bernstein. I have a 22 copy provided to counsel, but they need to make a 23 copy because I don't have an extra one. 24 THE COURT: Okay. Do you have any legal 25 objection?</p>



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<p style="text-align: right;">146</p> <p>1 MR. SWEETAPPLE: Your Honor, I showed her my 2 copy of the transcript. The -- you -- the rule of 3 completeness allows you to read portions that relate 4 to the testimony. I object to her putting in her 5 client's testimony. It's an opposing party that has 6 the right to use the transcript, not the party. She 7 needs to call in what she wants -- 8 THE COURT: The rule of completeness allows if 9 you publish a portion for them if they wish to 10 publish portions that provide context, so what 11 additional portions that provide context are you 12 seeking to admit? 13 MS. GARCIA: The entire deposition goes into 14 the whole theory of him supposedly manipulating and 15 being involved to an excess of undue burden. And if 16 you read the deposition in and of itself in its 17 completeness, you'll see that that's not true. 18 You'll see what his actual testimony is, not just 19 portions. And the document of the doctrine of 20 completeness allows if one party introduces in 21 trial, the adverse party may require the 22 introduction of the other parts of any other writing 23 or recorded statements which ought in fairness be 24 considered. And it ensures that the judge and the 25 jury, the fact -- finder of fact is to view the</p>	<p style="text-align: right;">148</p> <p>1 read it. I think she's going to submit it to the 2 Court to allow -- 3 MR. SWEETAPPLE: Yeah. But I don't think 4 that's permissible either. 5 MS. GARCIA: It is the one -- third, Rule 6 109 -- 7 MR. SWEETAPPLE: She hasn't shown he's 8 unavailable. He's not dead. He's not outside the 9 jurisdiction -- 10 THE COURT: That's not the rule of 11 completeness. The rule of -- 12 MR. SWEETAPPLE: The rule of completeness deals 13 with what I just said, the topic. 14 THE COURT: It would deal with an otherwise 15 inadmissible hearsay statement such as her offering 16 her own client's statement, if it needs to be 17 provided to give context. 18 MR. SWEETAPPLE: Right. 19 MS. GARCIA: And it promotes the transparency 20 since only one part of the statement was shown. It 21 prevents you from having a biased view of the entire 22 situation. It allows a level playing field. It 23 ensures both sides have an equal opportunity to 24 present her case. 25 THE COURT: Over the plaintiff's objection, I</p>
<p style="text-align: right;">147</p> <p>1 incomplete statement in its full context. So you'd 2 have to hear his deposition to have the proper full 3 context of his testimony. 4 It's also an explanatory evidence rule, and it 5 allows otherwise inadmissible hearsay to be 6 admissible under the rule to correct any confusion 7 or wrong impression created by the admission of the 8 original evidence. 9 MR. SWEETAPPLE: Your Honor, I don't dispute 10 that's the law. I read brief portions showing that 11 Mr. Bernstein was involved with the alleged 12 incapacitated person repeatedly at her house 13 bringing a settlement agreement, and that he was 14 involved in obtaining her counsel, Ms. Patwell. 15 Anything that she wants to read or introduce that in 16 any way deals with those topics, I have no objection 17 to. 18 MS. GARCIA: That's true. 19 MR. SWEETAPPLE: She clearly has a right. She 20 has somewhere where this -- someone can show that 21 that didn't happen the way he described it, or I 22 didn't read everything that was relevant, by all 23 means, but the idea she's going to read 80 pages of 24 testimony -- 25 THE COURT: Well, I don't think she's going to</p>	<p style="text-align: right;">149</p> <p>1 will receive it as -- what -- we have -- 2 THE CLERK: 27. 3 MR. SWEETAPPLE: -- Defense Exhibit number 27. 4 The entire transcript? 5 MS. GARCIA: Yes. 6 THE COURT: The entire transcript as -- 7 according to the rule of completeness. 90.108. 8 (DEFENSE EXHIBIT 27 RECEIVED INTO 9 EVIDENCE) 10 MS. GARCIA: So we'll send you a copy? 11 MR. SWEETAPPLE: Do you have -- 12 MS. GARCIA: I have one copy so -- 13 MR. SWEETAPPLE: That's my copy that's 14 highlighted. 15 MS. GARCIA: -- so I can provide one to the 16 Court -- 17 THE COURT: Can -- 18 MS. GARCIA: I don't have a certified copy. 19 MR. SWEETAPPLE: We can print out a copy and 20 give it to you. 21 MS. GARCIA: Okay. 22 UNIDENTIFIED SPEAKER: I can try to do that. I 23 could e-mail it to the Court and -- 24 THE COURT: If you e-mail it -- if you e-mail 25 it to me, I can get it printed out. If you e-mail it to the county.</p>



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<p style="text-align: right;">150</p> <p>1 MS. GARCIA: So I have a procedural question, 2 Your Honor. Since I plan on testifying and I need 3 to refer to the different exhibits while I'm 4 testifying to either refresh my recollection or to 5 talk about my mental process, do I sit in the 6 witness stand with my exhibits, or -- I'm not sure, 7 Your Honor. Do I sit at the table -- 8 THE COURT: It may -- it may be easiest for you 9 to sit at the table as long as you're by a 10 microphone so that we can pick you up because I'm 11 not going to be able to -- I'll probably be able to 12 see you at the table better than I can see you up in 13 the witness stand. 14 MS. GARCIA: Right. I could stand here too, if 15 you'd like, Your Honor. It's up to you. 16 THE COURT: You could be seated so you can go 17 through your exhibits. 18 MS. GARCIA: Okay. So I call my first witness, 19 myself, Your Honor. 20 THE COURT: All right. Would you raise your 21 right hand? Do you swear or affirm the testimony 22 you're about to give is the truth, the whole truth, 23 and nothing but the truth? 24 THE WITNESS: I do. 25 THE COURT: All right. You can put your hand</p>	<p style="text-align: right;">152</p> <p>1 code. 2 MR. SWEETAPPLE: Okay. Thank you. 3 MS. GARCIA: Okay. Your Honor, this is a case 4 of a fairly long term foreclosure between the Sahms 5 and the Bernsteins, and BFR, the company. I came 6 into this case in January of 2023 to file a motion, 7 a 1.5 for a motion and a motion to continue a sale. 8 When I was -- prior to that, there had been a 9 bankruptcy filed by BFR -- involuntary bankruptcy 10 filed in Palm Beach County. You have the retainer 11 agreement from Mr. Shraiberg in evidence, Your 12 Honor, as Defense Exhibit 13. I attended those 13 Court hearings. First of all, I analyzed this case 14 and determined very quickly during many, many 15 foreclosure cases because I've done a lot of 16 foreclosure litigation over the years in real 17 estate. I've been involved in real estate since I'm 18 18 years old, worked for John Ritter as a -- who was 19 a real estate attorney back in the late '80s. I'm 20 very familiar with foreclosures and the requirements 21 and a proper protocol for a plaintiff to get a final 22 judgment. I'm also fully aware of when someone 23 dies, you have -- 24 MR. SWEETAPPLE: Your Honor, I'm going to 25 object to any legal conclusions, legal opinions</p>
<p style="text-align: right;">151</p> <p>1 down now. 2 Go ahead, Ms. Garcia. 3 MS. GARCIA: Good afternoon. 4 THE COURT: Good afternoon. 5 MS. GARCIA: My name is Inger Garcia. I've 6 been an attorney since 1991 in Georgia. In Florida 7 I was licensed in '97. However, in 1989 I worked 8 under Judge Kastrenakes' prosecutor's office for 9 Janet Reno in an internship and for chief judges. 10 I've been litigating since the late '80s. I'm aware 11 of the rules and the procedures in Court as well as 12 testimony, impeachment, and honesty and integrity to 13 the Court. 14 MR. SWEETAPPLE: So Your Honor, at some point 15 after we complete the background, I'm going to 16 request that she ask her question about herself and 17 then answer it so I can make objections when we get 18 into the relevant evidence. 19 THE COURT: All right. 20 MR. SWEETAPPLE: Or do you want me just to 21 interrupt and object if it's irrelevant or improper? 22 THE COURT: I think asking her to ask herself 23 questions is -- it's not going to work. So yes, 24 just interrupt if you believe that she's providing 25 testimony that is not permissible under the evidence</p>	<p style="text-align: right;">153</p> <p>1 here. She's here as a fact witness. 2 THE COURT: So a witness, no matter how 3 qualified or skilled, is not able to testify as to 4 legal conclusions. That's for me to decide, so -- 5 MS. GARCIA: Okay. So I'm here to testify to 6 my mental impressions that I've gained as a 7 litigator in this case by observing the bankruptcy 8 in the initial involuntary bankruptcy over the 9 summer of 2022 and over the course of representing 10 the Bernstein's in the foreclosure case. And then 11 subsequently as of August 2023, representing Patty 12 Sahm, Junior based on an injunction that was filed 13 against her in the mental health and the 14 guardianship cases. So I've been able to have -- 15 and then I also was at the hearing in April or May 16 -- no, April of 2023, where Mr. Bernstein had filed 17 individual bankruptcy. And I was at that hearing. 18 So I've been able to observe by analyzing all the 19 cases as a united. There's a trust case, Your 20 Honor, also where the funds are being held -- 21 \$277,000 has been held to pay this settlement, to 22 pay for this foreclosure. There's a court order that 23 money's been available? 24 MR. SWEETAPPLE: Objection. It's not -- that's 25 -- it's outside of the evidence.</p>



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<p style="text-align: right;">154</p> <p>1 THE COURT: She's testifying. She's providing 2 evidence, right? 3 MS. GARCIA: Yes. 4 MR. SWEETAPPLE: Have you given that court 5 order to the judge? 6 MS. GARCIA: I'm testifying from my knowledge 7 as an opinion attorney. 8 MR. SWEETAPPLE: You said there's a court 9 order. That's evidence, Your Honor. 10 MS. GARCIA: I can move the Court order in, 11 Your Honor, from that case. We can do judicial 12 notice. The Shirley Bernstein Trust case. I can get 13 the citations. We can -- I'd be happy -- 14 MR. SWEETAPPLE: You said that -- 15 MS. GARCIA: -- to do -- 16 MR. SWEETAPPLE: Your Honor, she said there's a 17 court order reserving \$277,000 to pay this 18 settlement. 19 THE COURT: Right. 20 MS. GARCIA: This -- the Court order reserving 21 funds. The Court order specifically states that the 22 funds that are in the trust -- that -- the Court 23 registry, to be used to satisfy the mortgage. 24 THE COURT: Okay. And do you have a copy of 25 that order?</p>	<p style="text-align: right;">156</p> <p>1 resigned, I believe, like the day before the 2 hearing. So Judge Bell came in for a short time 3 frame, continued the hearing -- continued the sale 4 from January, 2023 to April of 2023. 5 And then at that point, then BFR filed. It was 6 -- it was an involuntary bankruptcy filed. When it 7 got converted to Chapter 7, the clients couldn't 8 afford an attorney, so they just let it get 9 dismissed and then sanctions were moved forward. 10 But in that court, again, I determined by looking at 11 the retainer that's in evidence and looking at the 12 notice of appearance that was filed with Mr. 13 Shraiberg for a dead man, and I brought it up to 14 federal court. I said Judge, they're filing still 15 for Walter Sahn, who's dead. And you have his birth 16 certificate and his death certificate in the record 17 stipulated to as Exhibit -- 18 MR. SWEETAPPLE: I'll stipulate it. It's in 19 the record. 20 THE COURT: I think it was seven or eight. 21 MS. GARCIA: He died in -- he died in 2021, I 22 think, I believe January 2021. And after Mr. Sahn 23 passed away, there was no substitution of counsel of 24 the estate. And also in evidence is proof that the 25 estate, when they did their notice of inventory,</p>
<p style="text-align: right;">155</p> <p>1 MS. GARCIA: I don't, but I can pull it off the 2 docket, Your Honor, and do judicial notice. 3 THE COURT: Are you objecting to the judicial 4 notice of the Court? 5 MR. SWEETAPPLE: I -- I'd like to see it. I'm 6 not involved in that case. That involves other 7 family members and -- 8 THE COURT: Okay. I'm overruling the 9 objection. 10 MS. GARCIA: Actually, Mr. Sweetapple is 11 involved in that case because he filed a motion 12 recently to release those funds for other purposes. 13 MR. SWEETAPPLE: Okay. I garnished -- 14 MS. GARCIA: For the purposes -- 15 MR. SWEETAPPLE: I garnished monies. I went to 16 the jeweler based on a federal judgment that's 17 pending. 18 MS. GARCIA: So he is aware of the case, and he 19 is aware of the Court order and there have been e- 20 mails back and forth. But by looking at the overall 21 picture, Your Honor, what I gleaned, my knowledge, 22 is that when I came into this foreclosure case in 23 January of 2023, I saw massive, massive legal 24 technical and fraud issues on the Court. I had 25 brought it up to Judge Bell who came in, Kastrenakes</p>	<p style="text-align: right;">157</p> <p>1 they did not list this -- 2 MR. SWEETAPPLE: I'm going to object to the 3 predicate. On what basis should there have been a 4 substitution of the estate in a joint note? 5 THE COURT: I guess the problem that I'm having 6 is, I don't understand why if we keep wanting to 7 talk about the 1.540 motion, we haven't done both of 8 them at the same time. 9 MR. SWEETAPPLE: Well, Your Honor, I think when 10 you look at the Court file, with all due respect, 11 you're going to notice that Ms. Garcia has never 12 noticed one motion for hearing ever. She never 13 moved to set the 1.54. She never moved to enforce 14 the settlement. She's never set anything because 15 her whole conduct is dilatory. 16 THE COURT: Okay. But that's not a legal 17 objection to her testimony right now. 18 MR. SWEETAPPLE: I know. But -- 19 THE COURT: My question is -- 20 MS. GARCIA: It goes -- 21 THE COURT: -- how is the 1.540 -- 22 MR. SWEETAPPLE: I'm happy to hear that now. 23 THE COURT: -- issues relevant. 24 MR. SWEETAPPLE: I'm not. 25 THE COURT: No, but how is it relevant to what</p>



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<p style="text-align: right;">158</p> <p>1 we're here for?</p> <p>2 MS. GARCIA: It is it's relevant here because I</p> <p>3 believe that when they're accusing me and Mrs.</p> <p>4 Patwell, my client, of fraud on the court, there's a</p> <p>5 reason this case was settled. And I'm trying to</p> <p>6 explain the mental process and the reason, legally,</p> <p>7 of why observing the different inconsistent</p> <p>8 behaviors and inconsistent filings in court orders</p> <p>9 that are not accurate that are inconsistent with</p> <p>10 transcripts. And --</p> <p>11 MR. SWEETAPPLE: Your Honor, she asked to</p> <p>12 bifurcate --</p> <p>13 THE COURT: I asked -- I asked the -- I asked</p> <p>14 the question. So I'd like -- so she's answering my</p> <p>15 question.</p> <p>16 MS. GARCIA: It's relevant to the issue of</p> <p>17 this, what is the fairness to put to Patricia Sahm</p> <p>18 for settling a case for an amount less than a final</p> <p>19 judgment and to make a decision in the settlement.</p> <p>20 What you do is you look at the facts of the case and</p> <p>21 you look at the potential defenses and the cost and</p> <p>22 the expenses, and you look at what is pending and</p> <p>23 what has happened where so you know. So I'm trying</p> <p>24 to explain to the Court my mental process and what I</p> <p>25 see is the reason this case was settled. So the</p>	<p style="text-align: right;">160</p> <p>1 Ms. Patwell decided to settle the case?</p> <p>2 MS. GARCIA: I can tell you based on my</p> <p>3 conversations with her of why we both agreed that</p> <p>4 this was a fair and reasonable settlement, and it</p> <p>5 was proper.</p> <p>6 THE COURT: So how is that not hearsay, I</p> <p>7 guess?</p> <p>8 MS. GARCIA: Because I'm testifying in my</p> <p>9 mental impressions of -- based on conversations --</p> <p>10 THE COURT: We're in a loop. I understand that</p> <p>11 the defendants want to settle the case. Obviously,</p> <p>12 the defendants want to settle the case, but I -- the</p> <p>13 issue really for the Court is whether or not the</p> <p>14 settlement agreement that the plaintiff, Ms. Sahm,</p> <p>15 ended up signing, with Ms. Patwell's assistance,</p> <p>16 with the defendant's assistance, whoever. Whether</p> <p>17 or not there was undue influence, fraud, coercion,</p> <p>18 anything like that, how is your intent relevant to</p> <p>19 that?</p> <p>20 MS. GARCIA: I believe that the actions of Mrs.</p> <p>21 Patwell and I, and prior to her, Mr. Morganstein</p> <p>22 [sic], who was retained specifically to settle the</p> <p>23 case independent of me and independent of anyone</p> <p>24 else prior to any thought process of a guardianship</p> <p>25 appearing in April 13th. He was retained by Mrs.</p>
<p style="text-align: right;">159</p> <p>1 Court understands, this wasn't a rush to go settle a</p> <p>2 case for an amount that wasn't fair and reasonable</p> <p>3 and understandable based on the affidavits of</p> <p>4 summary judgment, based on the final judgment, based</p> <p>5 on the pending pleadings, based on the different</p> <p>6 frauds that I can explain to the Court.</p> <p>7 THE COURT: But how is your -- the -- how is</p> <p>8 the -- your intent as to why you wanted to settle</p> <p>9 the case relevant to the issue of whether or not the</p> <p>10 settlement agreement should stand?</p> <p>11 MS. GARCIA: One of the factors to determine if</p> <p>12 you're going to set aside a settlement, you have to</p> <p>13 find by clear and convincing evidence it was undue</p> <p>14 influence or fraud. So I'm explaining to the Court</p> <p>15 why there was no undue influence or fraud by the</p> <p>16 facts of the case and explaining to the Court that</p> <p>17 the actual behavior of Ms. Sahm's attorneys, the</p> <p>18 different attorneys in the different courts with the</p> <p>19 inconsistent misrepresentations, is one of the</p> <p>20 reasons why this case was settled by Ms. Patwell and</p> <p>21 I, is that we saw the risk as far as the damage and</p> <p>22 the costs and expenses, and it wasn't worth it to</p> <p>23 either client to not resolve it how they resolved</p> <p>24 it.</p> <p>25 THE COURT: Are you trying to testify as to why</p>	<p style="text-align: right;">161</p> <p>1 Sahm independent. I've never met Mr. Weinstein.</p> <p>2 He's not a friend of Kevin's. The representations</p> <p>3 are that we somehow or another brought in this</p> <p>4 attorney to nefariously settle a case. She</p> <p>5 independently found --</p> <p>6 MR. SWEETAPPLE: I'm going to object. I --</p> <p>7 MS. GARCIA: -- Mr. Weinstein, entered to an</p> <p>8 agreement with him on April 12th and my testimony</p> <p>9 from personal knowledge, and from reviewing the</p> <p>10 different documents and speaking to my clients is</p> <p>11 that he left quickly after Mr. Sweetapple would not</p> <p>12 cooperate with the substitution and because a phone</p> <p>13 call was made to him claiming to be --</p> <p>14 MR. SWEETAPPLE: I'm going to object to</p> <p>15 hearsay.</p> <p>16 MS. GARCIA: -- Ms. Sahm to terminate him when</p> <p>17 that's not who made the phone call. So he was run</p> <p>18 off just like Ms. Patwell was run off.</p> <p>19 THE COURT: And what is your basis for that</p> <p>20 knowledge? Is it not hearsay? Were you there for</p> <p>21 the phone call? Did you hear the phone call?</p> <p>22 MS. GARCIA: I did not hear the phone call, but</p> <p>23 from speaking to Mr. Weinstein and speaking to --</p> <p>24 THE COURT: Somebody told you something out of</p> <p>25 Court and you want me to consider it for the truth</p>



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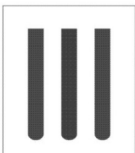
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<p style="text-align: right;">162</p> <p>1 of the matter asserted. That is hearsay.</p> <p>2 MS. GARCIA: Not necessarily, Your Honor. I</p> <p>3 want you to consider it to understand our frame of</p> <p>4 mind that we were attempting to do this in good</p> <p>5 faith. We weren't nefariously running to settle a</p> <p>6 case after guardianship was filed. We -- there was</p> <p>7 prior settlement negotiations, which does go to the</p> <p>8 elements and the facts of the case. Is --</p> <p>9 THE COURT: So then why don't you focus on what</p> <p>10 role you have taken as opposed to what you've heard</p> <p>11 other people do or what you believe Ms. Patwell</p> <p>12 wanted to do or what the conversations Ms. Patwell</p> <p>13 had with you as opposed to things that are clearly</p> <p>14 hearsay.</p> <p>15 MS. GARCIA: Okay. The role I took was when I</p> <p>16 was informed that there was -- Mr. Weinstein was</p> <p>17 going to be the attorney, I contacted him and asked</p> <p>18 him if he was going to be jumping in as her</p> <p>19 attorney. And he said, yes. And the day before the</p> <p>20 bankruptcy hearing, he couldn't come to the</p> <p>21 bankruptcy hearing to tell the bankruptcy court that</p> <p>22 Ms. Sahm had hired him to settle. So I told the</p> <p>23 bankruptcy court as an officer of the Court that day</p> <p>24 in April of 2023, that Mr. Weinstein had been</p> <p>25 hired and that the Power of Attorney of which the</p>	<p style="text-align: right;">164</p> <p>1 Shraiberg represented Mrs. Sahm individually as well</p> <p>2 as the husband's estate. There has never been a</p> <p>3 claim in this case that the estate has any rights.</p> <p>4 The only ones that have been adjudicated to have</p> <p>5 committed fraud in the bankruptcy court are in the</p> <p>6 first instance, the Bernstein's children, and in the</p> <p>7 second instance, Ms. Garcia. So to sit here and</p> <p>8 delusionally respond to -- with her view of what's</p> <p>9 happening, whether -- what she did, in fact, she's</p> <p>10 involved in -- like when did she learn that the</p> <p>11 committee had found universally that Mr. Sahm was</p> <p>12 incompetent? And what did you do after that? And</p> <p>13 why didn't you contact me when I was counsel of the</p> <p>14 record? Why didn't Ms. Patwell substitute --</p> <p>15 THE COURT: Okay. We -- we've gone beyond --</p> <p>16 we've gone beyond legal objection. I'm sustaining</p> <p>17 the objection. If you want to argue the case, you</p> <p>18 could argue the case. If you want to testify to</p> <p>19 facts that you want me to consider subject to cross-</p> <p>20 examination, stick to the facts --</p> <p>21 MS. GARCIA: Okay.</p> <p>22 THE COURT: -- that you want me to consider.</p> <p>23 MS. GARCIA: So I will testify that, Your</p> <p>24 Honor, that in the month of March, 2023, I was</p> <p>25 negotiating a settlement of this matter with John</p>
<p style="text-align: right;">163</p> <p>1 claim in his case was made was revoked. And I told</p> <p>2 the Court, I said -- and I had the transcript, and I</p> <p>3 told the Court, I said, Judge, I don't believe that</p> <p>4 they know -- Mr. Shraiberg knows that the Power of</p> <p>5 Attorney was revoked, but he's traveling.</p> <p>6 If you look at his first retainer that's in</p> <p>7 evidence, that was in 2022, what he said, he</p> <p>8 represented the estate, which now we know has no</p> <p>9 rights, which I was misled the entire time about the</p> <p>10 state having rights. That's why I negotiated with</p> <p>11 Mr. John Raymond for months, for the whole month of</p> <p>12 March. So they filed claims in the -- in the</p> <p>13 bankruptcy court based on a Power of Attorney that</p> <p>14 didn't exist and based on a claim for a party that</p> <p>15 doesn't have any rights, which he'd admitted over</p> <p>16 and over again in this case and in e-mails, that the</p> <p>17 estate of Walter Sahm never substituted in. The</p> <p>18 estate did not -- Walter Sahm was never a creditor,</p> <p>19 but they're going into federal court and</p> <p>20 representing that the estate has rights and secure</p> <p>21 judgements against my clients and securing orders</p> <p>22 that are simply not based on truth.</p> <p>23 MR. SWEETAPPLE: Your Honor, I'm going to</p> <p>24 object to this. The best evidence is the bankruptcy</p> <p>25 court, a file, and the retainer shows that Mr.</p>	<p style="text-align: right;">165</p> <p>1 Raymond who represents the estate and represents</p> <p>2 Joanna Sahm as the trustee. The trustee is the one</p> <p>3 that owns most of the assets and controls the</p> <p>4 assets.</p> <p>5 During that time frame when we were</p> <p>6 negotiating, I was led to believe that the estate</p> <p>7 had rights, and that Ms. Sahm was incapacitated</p> <p>8 because Joanna Sahm had testified in bankruptcy</p> <p>9 court in 2022 that she was representing her mom</p> <p>10 under Power of Attorney under pre-guardian. Her</p> <p>11 mother had mild cognitive issues that she had been</p> <p>12 asked by her dad to handle the financial affairs.</p> <p>13 So under the belief of filings in federal court by</p> <p>14 an estate that really had no rights and by Patricia</p> <p>15 Sahm, Senior, who had no idea that her daughter was</p> <p>16 signing her name on retainers and hiring lawyers in</p> <p>17 court. I began negotiating with the parties that</p> <p>18 appeared to be the correct parties, which was the</p> <p>19 estate and Patricia Sahm under the Power of</p> <p>20 Attorney. So at the time I asked numerous questions</p> <p>21 -- and it's in my e-mail that's in evidence --</p> <p>22 THE COURT: Can I ask a question?</p> <p>23 MS. GARCIA: Uh-huh.</p> <p>24 THE COURT: Wasn't Patricia Sahm represented by</p> <p>25 counsel? Why were you negotiating with her</p>



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<p style="text-align: right;">166</p> <p>1 directly?</p> <p>2 MS. GARCIA: I wasn't. I was negotiating with</p> <p>3 John Raymond directly, but he represents -- his law</p> <p>4 firm, Nelson Mullins, represents Joanna Sahm and</p> <p>5 Joanna Sahm is the only person who really has been</p> <p>6 participating in this. Patricia Sahm has had</p> <p>7 nothing to do with the case.</p> <p>8 THE COURT: But didn't Mr. Sweetapple represent</p> <p>9 Patricia Sahm throughout the -- this proceeding?</p> <p>10 Not the -- I'm not talking about the bankruptcy</p> <p>11 proceeding. Wasn't she representing Patricia Sahm,</p> <p>12 and then wasn't Joanna Sahm in agreement with that</p> <p>13 representation?</p> <p>14 MS. GARCIA: Joanna -- he was representing</p> <p>15 Patricia Sahm through supposedly Power of Attorney</p> <p>16 for Joanna Sahm.</p> <p>17 MR. SWEETAPPLE: I'm going to object, Your</p> <p>18 Honor, to her concluding that I represented Mrs.</p> <p>19 Sahm individually and her husband from the beginning</p> <p>20 of this case.</p> <p>21 THE COURT: So that's kind of my question is</p> <p>22 why is it that you are -- why are you having</p> <p>23 communications with someone that is represented by</p> <p>24 counsel without communicating through counsel?</p> <p>25 MS. GARCIA: He was in -- Mr. Sweetapple was</p>	<p style="text-align: right;">168</p> <p>1 told me to resolve it with them. All these</p> <p>2 attorneys were working together in different courts.</p> <p>3 So at that point we started drafting the language</p> <p>4 based on the representations that were made to them.</p> <p>5 But as I found out after 20 days and 20, 30 hours of</p> <p>6 drafting this, then I was told and I was informed</p> <p>7 that Ms. Sahm didn't need a guardian and she wasn't</p> <p>8 in a guardianship, therefore she is capacitated. So</p> <p>9 therefore, then I could settle it with her through</p> <p>10 her lawyer.</p> <p>11 THE COURT: Mr. Sweetapple, right? Because</p> <p>12 then she would be represented directly by Mr.</p> <p>13 Sweetapple?</p> <p>14 MS. GARCIA: Through her lawyer. So what</p> <p>15 happened is, there was a bankruptcy pending. So the</p> <p>16 case stopped, Mr. Sweetapple filed his notice in --</p> <p>17 on April 17th, right? Because between the time</p> <p>18 frame that I was told, March 31st, that we're not</p> <p>19 the right party, the state has no rights, and</p> <p>20 Patricia Sahm doesn't need a guardian, and Joanna</p> <p>21 has a private attorney. Okay. So I'm told this by</p> <p>22 one attorney.</p> <p>23 THE COURT: Who?</p> <p>24 MS. GARCIA: I'm told different things by</p> <p>25 different attorneys.</p>
<p style="text-align: right;">167</p> <p>1 included in some of the communications. And Mr.</p> <p>2 Raymond told me to send him the settlements and to</p> <p>3 negotiate there. And then he told me -- he was</p> <p>4 answering my questions about who was the actual</p> <p>5 parties of interest. There was a confusion as to who</p> <p>6 the party of interest was because they're telling</p> <p>7 the bankruptcy court the estate is a party of</p> <p>8 interest. Raymond -- Mr. Raymond is the estate</p> <p>9 attorney in the probate case.</p> <p>10 THE COURT: Okay.</p> <p>11 MS. GARCIA: And in his law firm, Eileen</p> <p>12 O'Malley, also was Joanna's attorney who filed the</p> <p>13 guardianship petition three days after they found</p> <p>14 out that the mom had hired Mr. Twig -- I mean, Mr.</p> <p>15 Morganstein [sic]. So I went to Mr. Raymond, and</p> <p>16 they asked me to send them purported -- proposed</p> <p>17 settlements. So we were going back and forth with</p> <p>18 the settlement and the language, and then as we were</p> <p>19 going through it and there -- I was led to believe</p> <p>20 that Patricia Sahm was in incapacitated. So Joanna</p> <p>21 Sahm was the decision maker under the Power of</p> <p>22 Attorney and the estate had rights because they</p> <p>23 filed a creditor's claim in bankruptcy court, which</p> <p>24 was at the time, I believe pending, we were -- we</p> <p>25 were trying to resolve it with the attorneys who</p>	<p style="text-align: right;">169</p> <p>1 THE COURT: Who?</p> <p>2 MS. GARCIA: Mr. Raymond, who is the estate</p> <p>3 attorney with the most knowledge of the estate's</p> <p>4 rights.</p> <p>5 MR. SWEETAPPLE: If I can just say something.</p> <p>6 First of all, I really think that Ms. Garcia should</p> <p>7 get an attorney based on the things she's saying.</p> <p>8 I'm looking at the e-mail from Mr. Raymond to her</p> <p>9 that says, my -- this is Mark. My reading of the</p> <p>10 note makes it clear to me what the note and mortgage</p> <p>11 -- that the note and mortgage passed the Wi-Fi by</p> <p>12 operation of the law. Again, Mr. Sweetapple speaks</p> <p>13 for her, the estate has no say in the matter. And</p> <p>14 these series of e-mails are sent to me at R.</p> <p>15 Sweetapple at sweetapple.com, which is an e-mail</p> <p>16 that doesn't exist. So she's told repeatedly by Mr.</p> <p>17 Raymond, contact Mr. Sweetapple. He's the one who's</p> <p>18 handling this. And yet there's no communication</p> <p>19 with me from Ms. Garcia or Ms. Patwell and all of</p> <p>20 these things she's talking about are orchestrated by</p> <p>21 Patty Junior. So I -- as an officer of the court, I</p> <p>22 have to caution her that this dialogue she's</p> <p>23 engaging in may not be helpful to her.</p> <p>24 MS. GARCIA: So what happened, Your Honor is</p> <p>25 from March 13th to March 30th, I was led to believe</p>



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<p style="text-align: right;">170</p> <p>1 I was negotiating with the right parties. I was 2 then told the state has no rights. 3 THE COURT: Based on what? What led you to 4 believe that? You introduced that e-mail, that Mr. 5 Sweetapple is directing me to, into evidence. 6 MR. SWEETAPPLE: I'm -- 7 THE COURT: That was the first -- the first e- 8 mail that we talked about where I had the 9 highlighted copy of it. What about that leads you 10 to believe that you shouldn't have talked to Mr. 11 Sweetapple? 12 MS. GARCIA: At this point in time from March 13 13th to March 30th, I was led to believe and asked 14 to negotiate with Mr. Raymond. 15 THE COURT: I hear you saying that. 16 MS. GARCIA: Then what happened -- 17 THE COURT: I'm asking you what led you to 18 believe that? 19 MS. GARCIA: The fact that they -- that Walter 20 Sahm had passed, and that Mr. Shraiberg and Joanna 21 testified in the federal court, not once but twice, 22 that the estate was the creditor, and the estate 23 owned this judgment. So therefore there's a 24 bankruptcy and there's an estate involved. I'm 25 allowed to negotiate with the bankruptcy attorney in</p>	<p style="text-align: right;">172</p> <p>1 hire mister -- sorry, you were saying -- 2 MR. SWEETAPPLE: Your Honor. 3 MS. GARCIA: Morgan Weinstein. Okay. 4 MR. SWEETAPPLE: Your Honor. 5 MS. GARCIA: Nothing came of that. 6 MR. SWEETAPPLE: Your Honor. Ms. Garcia has 7 testified under oath that she has tremendous 8 experience and foreclosed with her notes, and it was 9 obvious to her that this note passed by operation of 10 law and was not an estate asset. And she's sitting 11 here telling you that she had to deal with an estate 12 lawyer. Here's March 27th. Again, that's sent to 13 the wrong e-mail address to me. That -- to her from 14 Mr. Raymond, as I informed you before, this is just 15 Sweetapple that's representing the party -- 16 plaintiffs in this matter, and all responses should 17 come from his office. 18 THE COURT: Right. 19 MR. SWEETAPPLE: This idea that -- this idea 20 that because there's a state claim that's mentioned 21 in a bankruptcy, that somehow now she can go deal -- 22 that she can go behind my back, go to the bankruptcy 23 court, get miss -- get Mrs. Patty to find another 24 lawyer, Mr. Weinstein. She -- she's very familiar 25 with all these other lawyers that they're trying to</p>
<p style="text-align: right;">171</p> <p>1 the estate versus filing an adversary to see if we 2 can get to some agreement at some point, which I 3 understand at that point had the bankruptcy step 4 pending at that point, then if it was done in March 5 and we settled it in March, there was -- there were 6 signature -- the -- that particular agreement, there 7 were signature lines for all the different parties 8 and cooperation language that if the estate has 9 rights, we'll do it here. If we need the 10 foreclosure rights. We'll do it here. So everybody 11 was included. It was supposed to be a global 12 settlement, Your Honor. It wasn't like we were 13 going around the judgment. 14 THE COURT: But not the person that represented 15 her in the case that you were trying to settle? 16 MS. GARCIA: They were -- they were going to be 17 part of the settlement, Your Honor. And he was 18 copied on some of these e-mails, and he was included 19 in some of these conversations, and he knew this was 20 ongoing. 21 THE COURT: Okay. 22 MS. GARCIA: So what happened in -- at the end 23 of March while you know this step, the bankruptcy 24 pending, I believe, then come April 11th, Ms. Sahm 25 decided she wanted to terminate Mr. Sweetapple and</p>	<p style="text-align: right;">173</p> <p>1 bring in and no communication with me by anybody. 2 This is all being done to subvert a judgment that's 3 worth three times what they're settling for, and her 4 settlement, which she told you in court under oath, 5 they're identical. The March settlement is 6 \$375,000. When they go see Mr. Sahm, it's now 225. 7 THE COURT: Okay. 8 MS. GARCIA: Okay. 9 THE COURT: I don't understand what the legal 10 objection is. I hear -- 11 MR. SWEETAPPLE: Well, it's hard in this 12 context. 13 THE COURT: I know it's hard in this context 14 for -- Ms. Garcia has already testified. For 15 whatever reason, she's decided that she'd like to 16 testify again. She's a member of the bar. She's got 17 plenty of experience. This is how she chooses to 18 proceed. This is how she chooses to proceed, and 19 we'll take it as it comes. But I can't have you 20 interrupting her testimony with your argument why 21 her testimony is wrong. You'll get a chance to 22 cross examine her when she's done testifying. 23 MR. SWEETAPPLE: Well, it's -- when she tells 24 the story and it's always got hearsay that Mr. 25 Raymond did this, then instead of me saying, it's</p>



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<p style="text-align: right;">174</p> <p>1 hearsay, please stop, I'm now showing you the 2 hearsay she's telling you -- what she's just telling 3 you, is not true. Okay. It is not -- it's -- and so 4 I'll reframe myself. 5 THE COURT: It not being true is not a legal 6 objection. 7 MR. SWEETAPPLE: True. And I'm trying -- I'll 8 just interrupt her in the middle of her story when 9 she starts saying, this was my mental impression, 10 based on what A, B, and C told me. 11 THE COURT: Or you could just wait until your 12 cross examination. 13 MR. SWEETAPPLE: I can do that. 14 THE COURT: And let her testify in the form of 15 narrative. 16 MR. SWEETAPPLE: Let all the hearsay come in 17 and do it later. 18 THE COURT: I don't -- whatever you want to do, 19 but what you can't do is interrupt her and argue 20 your side of the story while she's testifying. 21 MR. SWEETAPPLE: But in all -- 22 THE COURT: So either object with a legal 23 objection or don't and cross examine her. 24 MR. SWEETAPPLE: In all deference of the Court, 25 as awkward as it is, I have -- we never had a time</p>	<p style="text-align: right;">176</p> <p>1 three words or less, I will rule. Or you wait until 2 the end, and you can cross examine. 3 MR. SWEETAPPLE: Understood. 4 MS. GARCIA: So after negotiations failed in 5 March, that settlement agreement was not entered 6 into. A bankruptcy was filed by Mr. Bernstein 7 individually. Now, Mr. Bernstein filed an, in 8 evidence Exhibit 18 -- Defense Exhibit 18, is 9 clearly a suggestion of bankruptcy filed by Mr. 10 Bernstein pro se. That suggestion of bankruptcy was 11 delivered to the Court personally by Mr. Bernstein 12 and Ms. Bernstein, and they went to the clerk, and 13 the clerk canceled the sale based on that suggestion 14 of bankruptcy. The -- in the bankruptcy hearing 15 that resulted in that order, which I will be 16 contesting, they decided to use a strategy of saying 17 that my bank -- that my suggestion of bankruptcy was 18 a fraud, but my suggestion bankruptcy was not used. 19 MR. SWEETAPPLE: Objection. Speculation. 20 THE COURT: I don't understand. If you wanted 21 to refer to all of these hearings, why didn't you 22 all just provide me with the transcripts of these 23 hearings? 24 MS. GARCIA: I did move into evidence all the 25 transcripts for the -- from the -- well, not just</p>
<p style="text-align: right;">175</p> <p>1 where the Court has refused my request to make a 2 witness who is pro se or a lawyer ask the question 3 of themselves and answer it. There's no way I have 4 any idea what she's going to say, what she's 5 responding to, how I should object, and I -- there's 6 nothing I can do either -- that either interrupt her 7 or correct her because this is not the way you take 8 evidence. So I -- 9 THE COURT: I have never -- I have never -- and 10 with all due -- I have never had a witness say, 11 please state your name. My name is John 12 Parnofiello. And what do you do? For I've never 13 seen that before. 14 MR. SWEETAPPLE: After background, I've done it 15 all the time because otherwise -- 16 THE COURT: I've never seen that. 17 MR. SWEETAPPLE: -- otherwise I can't do my 18 job. 19 THE COURT: I -- okay. I've ruled. Go ahead, 20 Ms. Garcia. 21 MS. GARCIA: Okay. So 22 MR. SWEETAPPLE: I'll just wait until she's 23 finished and I'll -- 24 THE COURT: I'm not telling you what to do. You 25 either say objection. You state your legal basis,</p>	<p style="text-align: right;">177</p> <p>1 for a file that Your Honor did the last hearing, all 2 the -- all the -- 3 THE COURT: This has been pending for I don't 4 know how long, and this -- I will agree with Mr. 5 Sweetapple, this is one of the most awkward ways of 6 taking testimony or evidence. And if you're going 7 to just tell me what happened in different hearings 8 that you were a part of, the -- isn't the record the 9 best of evidence? Couldn't you just provide me the 10 record and let me know what was said in the 11 different hearings? As far as why they did these 12 things, that's -- you're just speculating as to 13 that. That's not something I can consider as 14 evidence. That's your legal argument. I'm really, 15 really not sure of what we're doing here with 16 respect to the motion, but I want to give you your 17 due process, so -- 18 MS. GARCIA: What I what I'm explaining to the 19 Court is that, again, they go into court to file a 20 motion to lift the stay again for a party that 21 they've now admitted does not have any rights. 22 Under any Power of Attorney. 23 MR. SWEETAPPLE: Objection. Hearsay. 24 Speculation. 25 THE COURT: Sustained.</p>



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<p style="text-align: right;">178</p> <p>1 MS. GARCIA: Okay. The bankruptcy hearing 2 speaks for itself as far as the order, when you see 3 the order's entered in the name of the estate. So 4 you can consider that to see that's now a party that 5 had has no legal rights based on everything that's 6 been testified to in this Court. The suggestion of 7 bankruptcy that they're claiming that I filed that 8 was fraudulently and entered an order that I was not 9 a party and never saw this order until months and 10 months later, is not true. And there's an evidence 11 that the suggestion of bankruptcy to cancel the sale 12 was done by Mr. Bernstein, not me. Mine was filed 13 as a courtesy. It contained one sentence that had 14 no intentions or no misrepresentations in my 15 opinion, but they're trying to make -- they're 16 trying to use that fraud here to infer that we did 17 other nefarious things when it comes to the 18 settlement. That's why it's important and relevant 19 because there's been numerous times and that will be 20 into 1.540, that deal with the transcripts from the 21 guardianship and the mental health case, which I did 22 provide to the Court. I filed it all in court and I 23 asked them if they would stipulate to it, but they 24 didn't. But I will deal with that in the 1.540. So 25 you'll see why it's so frustrating to me that</p>	<p style="text-align: right;">180</p> <p>1 because my understanding was he was terminated when, 2 first of all, when Twig came in, then there was a 3 bankruptcy pending. And then Mr. Sweetapple himself 4 filed a notice in court that he has in evidence, on 5 April 18th, that basically he doesn't have any more 6 jurisdiction, that there's a pending guardianship. 7 So basically there he's admitting that there's 8 nothing he could do here. His hands are tied. So 9 at that point in May, Ms. Patwell is retained on May 10 1st. Ms. Patwell is approved by the Court through 11 the stipulations and substitutions that are all in 12 evidence. So come -- 13 MR. SWEETAPPLE: Objection. That's a lien of 14 the guardianship case. 15 MS. GARCIA: Ms. Patwell's retainer that as in 16 evidence also states very specifically she was 17 retained for the foreclosure case. So it was 18 represented to me that we would attempt to resolve 19 the foreclosure case through the guardianship case 20 with the approval of Judge Burton, because when a 21 contract is then entered into after reports, which 22 of course we'll get into the contestations of those, 23 but prior to the adjudication, those contracts are 24 presumed valid. And I firmly believed that we had a 25 good basis to do it, and that Ms. Sahm was actually</p>
<p style="text-align: right;">179</p> <p>1 there's orders entered that I firmly believe as an 2 attorney are not appropriate. 3 MR. SWEETAPPLE: I'm going to object, Your 4 Honor, to her feelings and her opinions. 5 THE COURT: And it's not relevant. 6 MR. SWEETAPPLE: The document speaks for 7 itself. 8 THE COURT: Sustained. The objection is 9 sustained. 10 MS. GARCIA: Okay. So what happens then, Your 11 Honor, during the bankruptcy, the daughter, Joanna 12 Sahm, files within three days of finding out that 13 Mr. Morganstein [sic] was hired to settle the case, 14 files a guardianship to be appointed, which she 15 wasn't appointed in the end. Charlie was -- Charlie 16 Revard was appointed by agreement by Amber Patwell 17 in June. 18 MR. SWEETAPPLE: I'm going to object. Hearsay. 19 Speculation. 20 MS. GARCIA: It's in the Court file. It's been 21 stipulated to Your Honor. 22 THE COURT: It is. So I -- I'm not really sure 23 why you're testifying to it. 24 MS. GARCIA: Okay. So what happened then, Your 25 Honor, I didn't deal with Mr. Sweetapple directly</p>	<p style="text-align: right;">181</p> <p>1 competent enough to enter into the contract. She 2 had an attorney's advice. The attorney reviewed it. 3 The retain -- the settlement was given to Ms. 4 Patwell in early May, I think, May 5th or May 8th. 5 She had until May 22nd -- 6 MR. SWEETAPPLE: I'm going to object. Best 7 evidence of that. 8 MS. GARCIA: My testimony. I'm the one that 9 gave it to her. 10 MR. SWEETAPPLE: Where's the document? 11 Where's -- 12 THE COURT: You gave Ms. Sahm -- 13 MS. GARCIA: No. Miss -- Ms. Patwell -- 14 THE COURT: Okay. 15 MS. GARCIA: -- on behalf of -- after she was 16 hired by Ms. Sahm, her retainer -- retained her for 17 the foreclosure and for the guardianship and mental 18 health case. So she's officially her attorney. 19 THE COURT: Is that in evidence? 20 MS. GARCIA: Yes. It's in evidence. It's in 21 the retainer. The retainer -- 22 MR. SWEETAPPLE: No. It's under objection -- 23 MS. GARCIA: -- says specifically for 24 foreclosure. 25 MR. SWEETAPPLE: -- she's testified previous</p>



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<p style="text-align: right;">182</p> <p>1 under her argument. Where's the -- where's the 2 document where she transferred the settlement or 3 anything to Ms. Patwell? 4 MS. GARCIA: It's in evidence, Your Honor, as 5 Exhibit -- let's see. 26. Defense 26 is the 6 Retainer. Defense 25 is the Stipulation for 7 Substitution, the guardianship case with Laura to -- 8 MR. SWEETAPPLE: Ms. Garcia testified she 9 transmitted the settlement agreement to Ms. 10 Patwell -- 11 THE COURT: Defense Exhibit number 26. 12 MS. GARCIA: 26 is Ms. Patwell's retainer. 13 THE COURT: Yes. 14 MR. SWEETAPPLE: The testimony, Your Honor, was 15 that she transmitted the settlement agreement to Ms. 16 Patwell on the 8th of March -- or May. And there's 17 no writings between Ms. Garcia and Ms. Patwell 18 transmitting any settlement agreement ever. And she 19 submitted that. And she says they were all hacked 20 from her computer in her depo. 21 MS. GARCIA: I don't know if I'm supposed to 22 respond, but -- 23 MR. SWEETAPPLE: So I object -- I object to her 24 statement. The best evidence of any transmission of 25 the settlement agreement on May 8th would be a</p>	<p style="text-align: right;">184</p> <p>1 heard it's May 8th and now it's in the text message. 2 Show me where, please, best evidence would be. 3 Where is this -- where and when is this settlement 4 agreement sent to Ms. Patwell? 5 THE COURT: Do you have -- 6 MS. GARCIA: I don't -- 7 THE COURT: -- an e-mail or is it through your 8 text messages that you sent -- 9 MS. GARCIA: No, I transmitted through an e- 10 mail, Your Honor, but my e-mail that I was using at 11 the time lost over a million e-mails. I had been 12 constantly hacked, and I've had to transfer vendors. 13 I could -- I have not been able to recover those. 14 Ms. Patwell moved from one e-mail to another. She 15 couldn't recover it. But I have text messages with 16 her and her acknowledgement that she showed it to 17 her client, talked to her client independent. 18 And I also have here proof, just, Your Honor, 19 so you know, that at one point I'm working with the 20 FBI and with investigators and private investigators 21 to determine the source of the people who keep 22 showing up to my house and the source of the 23 hacking. At one point I received an e-mail that's 24 described as Kevin Hall, but when you look at the 25 real address, it says, johnraymond@nelsonmullins.com</p>
<p style="text-align: right;">183</p> <p>1 scanned document, an e-mail, some writing. Ms. 2 Patwell was on the West Coast of Florida. 3 MS. GARCIA: It was transmitted -- 4 THE COURT: I'm just reviewing -- 5 MS. GARCIA: Yes. 6 THE COURT: -- the Exhibit number 26. So -- 7 MS. GARCIA: The settlement agreement was 8 transmitted to Ms. Patwell. I have text messages 9 which I had produced and from my point of view, it's 10 when I'm talking to her. 11 Are you hired? 12 Yes. 13 You know, here's a settlement, go over it with 14 your client -- 15 MR. SWEETAPPLE: And I -- 16 MS. GARCIA: -- whatever you decide. 17 MR. SWEETAPPLE: -- I -- any writing where 18 she's -- I object. Best evidence would be the text 19 message that shows that she scanned a settlement 20 agreement with Ms. Patwell. 21 THE COURT: So are you withdrawing your 22 objection to the hearsay of the text messages? 23 MR. SWEETAPPLE: No, not as to Ms. Patwell, as 24 to her. She says she sent in a text message, the 25 settlement agreement to Ms. Patwell. And first I</p>	<p style="text-align: right;">185</p> <p>1 via Gmail at some gibberish. 2 So I've given this to the investigators to try 3 to figure out where my e-mails are going, who's 4 erasing them, who's -- 5 THE COURT: Okay. 6 MS. GARCIA: -- erasing my calendars, but it 7 was transmitted to her. She obviously had it. And 8 she agreed in writing to -- on May 22nd after going 9 over it with her client numerous times -- 10 MR. SWEETAPPLE: Move to strike. 11 MS. GARCIA: -- independent -- 12 MR. SWEETAPPLE: Move to strike. Best evidence 13 with your writing. 14 THE COURT: With respect to the best evidence 15 rule objection. The best evidence rule only applies 16 if there is a writing. 17 MR. SWEETAPPLE: She said there is. 18 THE COURT: She's testified that there is not 19 because she's been hacked, and she's lost her e- 20 mails, and Ms. Patwell has lost her e-mails. I'm 21 overruling your objection. Go ahead. 22 MS. GARCIA: So what happened during that time 23 frame, Your Honor, from May 5th to May 22nd, 24 basically Ms. Patwell was -- had the -- had the 25 settlement that -- I basically took the one I had</p>



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<p style="text-align: right;">186</p> <p>1 done with Mr. Raymond and updated it to change it to</p> <p>2 the right parties, which I realized at that point</p> <p>3 was not the estate and otherwise, based on what I</p> <p>4 learned, and changed it to include protections and</p> <p>5 for release of funds. And also the clients had</p> <p>6 determined the price of 225.</p> <p>7 THE COURT: Had you had any communication with</p> <p>8 Ms. Patwell prior to -- prior to Ms. Sahm signing</p> <p>9 the engagement form?</p> <p>10 MS. GARCIA: No. I never even heard of her.</p> <p>11 Just like I never even heard of Mr. Weinstein. I</p> <p>12 had nothing to do with the representation. In fact,</p> <p>13 I refused to talk to Ms. Sahm or do anything</p> <p>14 throughout the records or anything without her</p> <p>15 having a lawyer. There was no way that I was going</p> <p>16 to talk to her or have any communication directly</p> <p>17 with anyone without her having a lawyer that would</p> <p>18 look at it. And I told those lawyers in writing and</p> <p>19 in the phone many a times, this is your client, you</p> <p>20 do what you want. If it's not acceptable, let me</p> <p>21 know. If you want to make changes, make your</p> <p>22 changes. I had zero to do with the approval of it</p> <p>23 on that side.</p> <p>24 What happened? Come May 22nd when it was</p> <p>25 executed, the clients came to my house. They signed</p>	<p style="text-align: right;">188</p> <p>1 my -- let me go ahead and file my appearance in the</p> <p>2 foreclosure case now because I've been retained to</p> <p>3 represent it -- represent her in the foreclosure</p> <p>4 case also.</p> <p>5 So the case was settled. And at that point, I</p> <p>6 firmly believe that they -- when they filed the --</p> <p>7 they filed the guardianship, the timing of it was</p> <p>8 during the bankruptcy. When I disclosed to the</p> <p>9 Court that the case was being settled with another</p> <p>10 lawyer, this guardianship happened. So the</p> <p>11 settlement had already been pretty much communicated</p> <p>12 and agreed to as far as the concepts prior to the</p> <p>13 bankruptcy being dismissed and prior to the</p> <p>14 guardianship being filed.</p> <p>15 But because of the delays in Ms. Sahm being</p> <p>16 able to have her attorneys with Mr. Morgan Weinstein</p> <p>17 leaving and then Amber coming in and then them</p> <p>18 filing the guardianship and her stipulating in with</p> <p>19 Laura and everything he had to do with the timing,</p> <p>20 it took a few, you know, weeks to get it finalized</p> <p>21 and to get it executed.</p> <p>22 So that settlement was executed in good faith,</p> <p>23 and it was settled in, not only my client's favor,</p> <p>24 but significantly in Ms. Sahm's favor. Because if</p> <p>25 you look at the risks, if you look at the rewards of</p>
<p style="text-align: right;">187</p> <p>1 it at my house. Then with Ms. Patwell's knowledge</p> <p>2 and permission, which is also in my e-mails, she</p> <p>3 allowed me to send my clients to the house to sign</p> <p>4 it because it had already been negotiated and</p> <p>5 finalized. And then my understanding is she also</p> <p>6 got on the phone with the client again and made</p> <p>7 sure. And the client signed it.</p> <p>8 So once that happened, Ms. Patwell and I</p> <p>9 immediately informed the guardianship court because</p> <p>10 she was the guardianship attorney, and she also had</p> <p>11 the retainer for this case. But because Mr.</p> <p>12 Sweetapple apparently did not receive the DocuSign</p> <p>13 for the stipulation, which is in evidence for</p> <p>14 signage --</p> <p>15 MR. SWEETAPPLE: Objection. This is all</p> <p>16 speculation.</p> <p>17 MS. GARCIA: You -- he testified that he did</p> <p>18 not receive the stipulation, so --</p> <p>19 THE COURT: He hasn't testified.</p> <p>20 MS. GARCIA: -- I'm saying -- maybe he didn't.</p> <p>21 I don't know.</p> <p>22 THE COURT: He hasn't testified.</p> <p>23 MS. GARCIA: Okay. So the bottom line is that</p> <p>24 the stipulation was never entered into. So at that</p> <p>25 point, Amber Patwell -- well, let's -- let me file</p>	<p style="text-align: right;">189</p> <p>1 settlement and Judge Burton and the transcripts are</p> <p>2 there -- I don't know if you'll stipulate to the</p> <p>3 transcripts, but I'd love to have you have all the</p> <p>4 transcripts. I can -- I'll move them into evidence</p> <p>5 today if you'll take them -- take judicial notice.</p> <p>6 They've been filed in a court file for months.</p> <p>7 I had ordered all the transcripts and analyzed</p> <p>8 them to determine for the guardianship case and the</p> <p>9 mental health case. So Judge Burton started looking</p> <p>10 into the settlement because there were allegations</p> <p>11 made immediately over there, including in the</p> <p>12 answer, and I think the response is that the case is</p> <p>13 settled, Judge, we settled the foreclosure case and</p> <p>14 we're contesting these three committee members.</p> <p>15 Okay. So at that point, the settlement is entered</p> <p>16 into, there's an objection pending on the</p> <p>17 committee --</p> <p>18 MR. SWEETAPPLE: She testified she settled on</p> <p>19 the 22nd.</p> <p>20 MS. GARCIA: -- after the settlement was</p> <p>21 entered into, Ms. Patwell and her client obviously</p> <p>22 made the decision to agree to do a limited</p> <p>23 guardianship, because --</p> <p>24 MR. SWEETAPPLE: Under speculation. The</p> <p>25 document speaks for itself.</p>



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<p style="text-align: right;">190</p> <p>1 THE COURT: Sustained.</p> <p>2 MS. GARCIA: So the guardianship was entered</p> <p>3 into by agreement in July -- I mean, sorry, June</p> <p>4 27th, to bring in Charlie Revard. Mister -- Judge</p> <p>5 Burton held numerous hearings and ordered Ms.</p> <p>6 Patwell to turn over all of her notes, which was one</p> <p>7 of the documents I was trying to get into evidence</p> <p>8 that the judge didn't take in because it was</p> <p>9 hearsay. It was everything that Ms. Patwell turned</p> <p>10 over to the Court, all of her notes and notations</p> <p>11 that he read into the transcript and basically told</p> <p>12 us all at the hearing when Ms. Sahm was saying the</p> <p>13 house is worth \$850 and I want -- you know, we can</p> <p>14 make money selling the house and he's explained to</p> <p>15 her in foreclosures how it works and how you can</p> <p>16 have appeal after appeal and bankruptcy. The</p> <p>17 bankruptcy, you guys need to --</p> <p>18 MR. SWEETAPPLE: This is hearsay, Judge.</p> <p>19 MS. GARCIA: -- you guys need to settle -- or</p> <p>20 not settle, but talk about what you want to do. And</p> <p>21 then he decided to throw it out of his court, and he</p> <p>22 threw it back to the -- to you, to the foreclosure</p> <p>23 court said, go handle it over there. I'm done.</p> <p>24 THE COURT: Okay. The -- whatever happened in</p> <p>25 that action would be in the transcript of that</p>	<p style="text-align: right;">192</p> <p>1 She has no personal knowledge.</p> <p>2 THE COURT: I don't know what she's about to</p> <p>3 say. I need to hear what she says before --</p> <p>4 MS. GARCIA: We reviewed the reports,</p> <p>5 specifically back at the time when they were -- when</p> <p>6 they were brought in. And then it was an</p> <p>7 independent report after the fact, by Dr. Sugar,</p> <p>8 which was relied on, without saying what was</p> <p>9 happening, that I felt comfortable up there looking</p> <p>10 at the reports, looking at the law, looking at the</p> <p>11 misrepresentations, looking at the 119 request I had</p> <p>12 put out, that today, even, when I saw the testimony</p> <p>13 about the MoCA test and mild cognitive, and</p> <p>14 testimony that didn't happen. And we felt</p> <p>15 comfortable that because one of the reports that's</p> <p>16 in evidence said that Ms. Sahm can enter into</p> <p>17 contracts with her attorney, and that's in evidence,</p> <p>18 Amber and I felt comfortable that we were doing the</p> <p>19 right thing and disclosed it to the guardianship</p> <p>20 court immediately. So there was no finding of</p> <p>21 incapacity at the time --</p> <p>22 MR. SWEETAPPLE: Objection. Move to strike. No</p> <p>23 evidence they disclosed this to the guardianship</p> <p>24 court.</p> <p>25 THE COURT: Is there any document that</p>
<p style="text-align: right;">191</p> <p>1 action. Whatever Judge Burton said to explain is not</p> <p>2 hearsay because it's not off the truth of the matter</p> <p>3 asserted. It's the effect on the listener. But be</p> <p>4 that as it may it doesn't really matter. It has no</p> <p>5 moment to what we're doing here.</p> <p>6 MS. GARCIA: Okay. So I -- and I firmly</p> <p>7 believe Ms. Patwell believed this was in everybody's</p> <p>8 best interest to resolve this case. The money was</p> <p>9 sitting in the Court registry ready to pay. And</p> <p>10 instead, here we sit a year and a half later. It</p> <p>11 took him over a year, I believe, to file the motion</p> <p>12 to set aside the settlement. I had tried to get the</p> <p>13 funds released literally within days, and I was</p> <p>14 blocked, but the attorney in the Bernstein -- in the</p> <p>15 -- in the Shirley Bernstein Trust released the</p> <p>16 funds. So basically the settlement was entered into</p> <p>17 voluntarily at the advice of Counsel.</p> <p>18 MR. SWEETAPPLE: Objection. Legal conclusion.</p> <p>19 THE COURT: Sustained.</p> <p>20 MR. SWEETAPPLE: Move to strike.</p> <p>21 THE COURT: Sustained.</p> <p>22 MS. GARCIA: So speak of the reports, Judge,</p> <p>23 there's three reports and one of the people</p> <p>24 obviously testified today --</p> <p>25 MR. SWEETAPPLE: Objection. This is argument.</p>	<p style="text-align: right;">193</p> <p>1 indicates that this is the case?</p> <p>2 MS. GARCIA: Yes, Your Honor. Can I mark as</p> <p>3 Exhibit NN the transcripts that have been previously</p> <p>4 filed, and have you take judicial notice? I can</p> <p>5 tell you --</p> <p>6 MR. SWEETAPPLE: I've never seen -- I've never</p> <p>7 seen them or been provided with them.</p> <p>8 MS. GARCIA: You have been. It's been filed in</p> <p>9 court, and you were served with them, sir. I can</p> <p>10 tell you the docket entry numbers --</p> <p>11 MR. SWEETAPPLE: Okay.</p> <p>12 MS. GARCIA: -- and we're taking judicial</p> <p>13 notice of the entire file.</p> <p>14 MR. SWEETAPPLE: Tell us when we've got</p> <p>15 transcripts of hearings.</p> <p>16 MS. GARCIA: Hold on.</p> <p>17 MR. SWEETAPPLE: And this --</p> <p>18 MS. GARCIA: I'll tell you right now. Let me</p> <p>19 log in.</p> <p>20 MR. SWEETAPPLE: -- it's got her list of --</p> <p>21 and --</p> <p>22 MS. GARCIA: And I have a -- I have a copy that</p> <p>23 I've already provided --</p> <p>24 MR. SWEETAPPLE: And I just want to make --</p> <p>25 MS. GARCIA: -- a copy --</p>



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<p style="text-align: right;">194</p> <p>1 MR. SWEETAPPLE: -- okay. I want to make sure 2 that, Your Honor, something that was said is 3 accurate and noted. But I believe Ms. Garcia 4 testified that she settled this case before the 5 guardianship was filed -- the foreclosure case, it 6 was settled before the guardianship was filed, is 7 what she testified to. 8 THE COURT: Are you asking me that, or -- 9 MR. SWEETAPPLE: I just want to make sure Ms. 10 Garcia is not correcting that testimony because 11 that's what she testified to. 12 MS. GARCIA: The settlement was obviously 13 signed on May 22nd after the advice of Counsel on 14 May 1st. But the concept between the parties and 15 their discussions were -- I think began in January 16 because they're family friends forever. And I had 17 -- Ms. Bernstein had testified to that, that there 18 were conversations had and there was a decision made 19 already back then that they wanted to start to 20 resolve it. And that's why in March I was trying to 21 negotiate, and we had a bankruptcy, and then -- 22 THE COURT: Okay. I don't -- 23 MS. GARCIA: -- two attorneys later -- 24 THE COURT: -- I'm not seeing any transcripts 25 in the Court file.</p>	<p style="text-align: right;">196</p> <p>1 transcript from September 5th, 2023, in front of 2 Charles Burton in the guardianship case. Because 3 Burton was the attorney before -- 4 THE COURT: The judge before Judge Ferrero. 5 MS. GARCIA: Right. Then 268 is the 6 transcripts in the guardianship case where Ms. 7 Patwell was present on October 17th, 2023. 8 MR. SWEETAPPLE: Your Honor -- 9 MS. GARCIA: 269 -- 10 MR. SWEETAPPLE: -- I have no objection to 11 transcripts from the May proceeding. 12 THE COURT: Okay. So then you want me to take 13 judicial notice of docket entries 263 through 274? 14 MR. SWEETAPPLE: Fine. Yeah, just the May -- I 15 don't have any problem -- 16 MS. GARCIA: 275. 17 MR. SWEETAPPLE: I have not read them or seen 18 them, but I mean, we have orders that the Court 19 wants to look at what Judge Burton was saying, 20 right? 21 THE COURT: As opposed to having you all tell 22 me what -- 23 MS. GARCIA: Right. 24 THE COURT: -- what you gleaned from the 25 hearing?</p>
<p style="text-align: right;">195</p> <p>1 MS. GARCIA: Okay. The transcripts were filed, 2 DE 264 through 275. I believe that's the 3 transcripts. I filed them immediately after the last 4 hearing. Let me see. No, that's not it. If I can 5 find it. 6 THE COURT: 265 is a -- 7 MS. GARCIA: No. 8 THE COURT: -- 22-page long transcript. 9 MS. GARCIA: Your Honor, it's -- no, 263. I 10 filed a Notice of Filing for all purposes of the 11 transcripts. I'm trying to see. So I think it -- I 12 believe it starts -- 13 THE COURT: It's a Notice of Filing, but 14 there's nothing attached. 15 MS. GARCIA: Well, because it was large. So I 16 think 265 is the first -- is one of the transcripts. 17 It was a transcript in front of Judge Ferrero 18 (phonetic) in the guardianship case from April 23rd, 19 2024. 20 THE COURT: Right. 21 MS. GARCIA: And that's one. Then the next one 22 is 266. And that was the proceeding in the 23 guardianship case on May 13th, 2024. 24 THE COURT: Correct. 25 MS. GARCIA: The next one was 267, which is the</p>	<p style="text-align: right;">197</p> <p>1 MS. GARCIA: Through 275, Your Honor. 2 THE COURT: Okay. I will -- I will so 3 judicially notice these files. 4 MS. MILLER: 274 is not a transcript. 5 MR. SWEETAPPLE: Huh? 6 MS. MILLER: 274 is not a transcript. 7 MS. GARCIA: Okay. So 274 is not a transcript, 8 Your Honor. 9 MS. MILLER: 273 is not a transcript. 10 MR. SWEETAPPLE: What is a transcript? 11 MS. GARCIA: Would this be composite 27? 12 THE COURT: Well, if you're going to mark it 13 for evidence purposes -- 14 MS. GARCIA: Yes. 15 THE COURT: -- then the clerk is going to need 16 a physical copy. 17 MS. GARCIA: Okay. 18 THE COURT: If you want me to take judicial 19 notice of the Court filing, I could do that. And 20 then on appeal, it would be transferred to the Court 21 without it having to be marked as a separate 22 exhibit. So it's probably easier for Madam Clerk 23 and for trees. 24 MS. GARCIA: I would mark these, Your Honor. 25 THE COURT: If you have them, you can --</p>



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<p style="text-align: right;">198</p> <p>1 MR. SWEETAPPLE: On the May and June 2 proceeding? 3 MS. GARCIA: From all the proceedings. 4 MR. SWEETAPPLE: No, I'm -- we -- we're -- I 5 would -- I object to this being a composite because 6 she's saying from all the proceedings, and I don't 7 think we're here to retry bankruptcy proceedings and 8 trust case proceedings or whatever else has been 9 filed. 10 MS. GARCIA: This is just the guardianship and 11 the mental health cases. 12 THE COURT: And they're filed in the Court 13 file, right? 14 MS. GARCIA: Yes, it -- 15 THE COURT: Do you want to enter them into 16 evidence, or do you want me to just judicially 17 notice it and access it from the Court file? 18 MS. GARCIA: If it's the same effect and 19 admitted into evidence as Exhibit 27, I'm okay. 20 THE COURT: Then if you want to -- then I will 21 receive them into evidence without objection as 22 Exhibit number 27. 23 The clerk will need a copy. 24 MR. SWEETAPPLE: As to -- as to the May and 25 June?</p>	<p style="text-align: right;">200</p> <p>1 be the best evidence of what happened at the 2 hearing, which is why I'm saying, I don't understand 3 why at 4:30 we're just now realizing that perhaps we 4 should have given the judge the transcripts of the 5 things that we've been discussing. 6 MR. SWEETAPPLE: And, Your Honor, she's 7 attempted to collaterally attack these orders that 8 haven't been appealed to her final and saying, oh, 9 at this hearing and that wasn't said, so therefore 10 it's not -- 11 THE COURT: I don't take -- 12 MR. SWEETAPPLE: -- it's not an order. 13 THE COURT: -- I don't take it as a collateral 14 attack. I -- and if that's what I'm being asked to 15 do, I'm not going to do that. I -- so I'm receiving 16 those transcripts into evidence. Yes. Defendant's 17 Exhibit number 28, which are purportedly the 18 transcripts of the eight different court hearings 19 that we're here for the purpose of what transpired 20 at those court hearings. 21 (DEFENSE EXHIBIT 28 RECEIVED INTO 22 EVIDENCE) 23 THE COURT: So since we've disposed of the need 24 of discussing what happened at those court hearings, 25 understanding that Mr. Sweetapple is going to need to have a chance to cross-examine you, what</p>
<p style="text-align: right;">199</p> <p>1 THE COURT: I think those are the ones that 2 were in the Court file. That's all that she's asked 3 me to judicial notice. 4 MR. SWEETAPPLE: And I have no problem with 5 entering into evidence what you take judicial notice 6 on from the dock. And so you don't have to have 7 paper overwhelming you. 8 THE COURT: It's okay. 9 MS. GARCIA: No, Your Honor. It's eight 10 different transcripts. It started May 23rd, 2023. 11 Because they're entered -- they're entered into 12 evidence. For instance, Your Honor, the August 13 14th, 2023, injunction -- 14 MR. SWEETAPPLE: But that's -- 15 MS. GARCIA: -- may say that there were 16 findings made. If you look at the transcript on 17 August 14, 2023, the judge specifically made no 18 findings. It was an agreed extension for 30 days 19 with no findings. And they entered an order making 20 findings and they want you to rely on that when it's 21 not true. 22 MR. SWEETAPPLE: Your Honor, you -- 23 MS. GARCIA: So that transcript is clear, 24 right? 25 THE COURT: Right. The transcript is going to</p>	<p style="text-align: right;">201</p> <p>1 additional testimony do you have? 2 MS. GARCIA: Basically, my testimony is that 3 this agreement that is being attacked was entered 4 into the proper legal advice. The two attorneys of 5 record -- 6 MR. SWEETAPPLE: Objection. Legal conclusion. 7 THE COURT: You are giving me a legal 8 conclusion. 9 MS. GARCIA: Okay. I believe, Your Honor, that 10 we did nothing inappropriate, nothing nefarious, 11 nothing conspiratorial, nothing improper when it 12 came to entering into a settlement agreement with an 13 attorney who was the attorney hired by Mrs. Sahm, 14 accepted by the guardian court and filed a notice in 15 this case. When there's co-counsel -- assuming that 16 he -- that Mr. Sweetapple was still even the 17 attorney after being terminated, I had no obligation 18 to speak to him at that point. So -- 19 MR. SWEETAPPLE: I object and move to strike. 20 Where is there any evidence I was terminated? 21 THE COURT: Overrule the objection. 22 MS. GARCIA: So basically, Your Honor, once Mr. 23 Sweetapple filed that notice on April 18th about the 24 guardianship case, he knew that he had no authority 25 to act. So just because you're the attorney of</p>



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<p style="text-align: right;">202</p> <p>1 record does not mean you have authority to act.  2 According to the bar rules, in fact, it says, you  3 can't even discuss the facts with opposing counsel.  4 You can't do anything when it comes to the case  5 without --  6 MR. SWEETAPPLE: Object. Speculation.  7 MS. GARCIA: -- court authority.  8 THE COURT: Again, you're giving me legal  9 conclusion.  10 MS. GARCIA: My opinion at the time --  11 THE COURT: Which is not a -- you can't opine  12 on what the law is, no matter how experienced you  13 are, right?  14 MS. GARCIA: Okay.  15 THE COURT: I get it. But you can't --  16 MS. GARCIA: I understand.  17 THE COURT: -- it's a --  18 MS. GARCIA: Okay.  19 THE COURT: -- it's a decision for me to make.  20 MS. GARCIA: I understand. So based on my  21 understanding, I negotiated with the right person,  22 which was Ms. Sahm. And Mr. Sweetapple was not  23 reappointed to the case or authorized until recently  24 again, when the guardian substituted back in. And  25 in the meanwhile for over a year, nothing had been</p>	<p style="text-align: right;">204</p> <p>1 Q. And you understood that from the first time  2 you looked at this file, didn't you?  3 A. No.  4 Q. You looked at this note and this foreclosure  5 case and you believe that a joint note between a husband  6 and wife became an estate asset when Mr. Sahm died? You  7 didn't know that it was clearly a survivorship right and  8 you didn't testify to that in your deposition when I  9 asked you?  10 A. I can say this much. Because of the filings  11 in the federal court conflicted with the filings in the  12 state court -- and then I'm told by the estate attorney  13 to negotiate there, I firmly believe that there was a  14 gray area on what rights does the estate really have?  15 They're telling two federal bankruptcy courts that they  16 are the -- the -- the owners. They are the creditor. So  17 I don't know who to believe when all the attorneys are  18 lying to me and -- and -- and confusing and  19 misrepresenting the different situations.  20 Now, you, Mr. Sweetapple, did not -- my  21 understanding is you brought in Mr. Shraiberg to do the  22 bankruptcy case, but you didn't make any filings or  23 representations there. Your position has always been  24 constant and consistent that you can file for the dead  25 man, but it didn't go to the estate. The -- the other</p>
<p style="text-align: right;">203</p> <p>1 filed to set it aside. And I just firmly believe  2 that the allegations that are -- that are against my  3 clients and myself are just not clear and convincing  4 evidence of us doing anything that is -- constitutes  5 undue influence of fraud.  6 THE COURT: All right. To cross-examination?  7 MR. SWEETAPPLE: Have you concluded your  8 direct?  9 THE COURT: Ms. Garcia, are you done on your  10 direct?  11 MS. GARCIA: Yes, Your Honor.  12 CROSS-EXAMINATION  13 BY MR. SWEETAPPLE:  14 Q. Ms. Garcia, you've told me under oath that you  15 have tremendous experience in dealing with notes and  16 foreclosures, right?  17 A. I have experience. Yes, sir.  18 Q. And you told me it was obvious to you that  19 this note was a joint asset and that when Mr. Sahm died,  20 Mrs. Sahm had the right to proceed to collect the note,  21 right?  22 A. I don't recall telling that to you in those  23 terms. What I do recall is being told that no  24 substitution was necessary because the estate had no  25 rights.</p>	<p style="text-align: right;">205</p> <p>1 attorneys were consistent with the estate is the one who  2 has it and it's under a Power of Attorney under pre-  3 guardianship, therefore your client wasn't competent for  4 years, according to the confusion that was given to me.  5 So it's very hard when you have numerous  6 attorneys in different courts and different  7 representations made to different judges for whatever  8 benefits you, when I'm trying to figure out -- begging  9 you guys in e-mails who has rights, who do I go to? Who  10 signs a settlement? What do I do? And that's in  11 evidence. My questions.  12 Q. And I have you on here --  13 A. And I was -- and I was told different things  14 by different attorneys at different times, depending on  15 what met their needs.  16 Q. I have your e-mails right here. I'm going to  17 put them into evidence shortly. But you knew well  18 before your client filed this bankruptcy that this was  19 an asset owned by Mrs. Sahm individually, based on your  20 experience. And you've admitted that in your  21 deposition, haven't you?  22 Please don't go off on a tangent. Just tell  23 us whether or not you have admitted that you knew from  24 the outset that this was a joint asset and that it  25 belonged to Mrs. Sahm after her husband died?</p>



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<p style="text-align: right;">206</p> <p>1 A. I don't believe that -- that was my knowledge  2 at all times. I believe that it fluctuated based on the  3 representations made to the courts and the filings made  4 by the courts --  5 Q. What --  6 A. -- which caused confusion.  7 Q. -- mister --  8 A. When we have an estate saying it's ours and we  9 are the creditor and filing for sanctions and -- and  10 filing also for dead people -- but then it was a typo,  11 and I corrected it. I get confused when I have five  12 different lawyers telling me five different things.  13 That's why everybody was included in this settlement and  14 every court was referred to. Every case was referred  15 to. Every attorney was referred to. So --  16 THE COURT: Other than Mr. Sweetapple.  17 BY MR. SWEETAPPLE:  18 Q. So you saw that Mr. Shraiberg appeared for  19 Mrs. Sahm individually and for the estate, right, in the  20 bankruptcy?  21 A. Yes. Through a pre-need guardianship  22 according to the testimony of Joanna Sahm.  23 Q. And I'm going to show you e-mails, including  24 -- here. Do you have another copy for the court?  25 MR. SWEETAPPLE: If I can approach, Judge? Yes,</p>	<p style="text-align: right;">208</p> <p>1 undertook to represent Mrs. Sahm individually and how I  2 was operated with regard to a Power of Attorney. Why  3 are you asking him the scope of my representation and  4 how I got it?  5 A. I found out about this Power of Attorney for  6 the first time in the bankruptcy court when Joanna Sahm  7 testified to the pre-need guardianship that she  8 supposedly hired Mr. Shraiberg in the -- in the federal  9 court. So therefore I was --  10 Q. And when would it go into effect? It went  11 into effect on Mr. Sahm's death. And I represented Mr.  12 and Mrs. Sahm for two years before he died, right?  13 A. I can finish --  14 Q. Did you -- did you -- did you -- did you ever  15 -- did you ever focus on the fact that I can represent a  16 live husband and wife and when the husband dies,  17 continue to represent the wife, and there can also be a  18 Power of Attorney? And that there's -- they're not  19 mutually exclusive?  20 So why are you asking Mr. Raymond about my  21 representation and making these assumptions? You --  22 you've testified last time we were here, and you keep  23 testifying I've been substituted, I've been terminated,  24 I have no rights, I can be ignored.  25 So --</p>
<p style="text-align: right;">207</p> <p>1 sir. I'll mark this as 14, I believe.  2 THE CLERK: Yes, sure.  3 BY MR. SWEETAPPLE:  4 Q. These are e-mails from Mr. Raymond. And  5 you're -- on March 24th, you're writing, "To be clear,  6 please clarify the following as soon as possible so I  7 know as what to represent to the foreclosure judge and  8 the estate judge in my motion to cancel sale on filing  9 Monday. Is it true the estate has no rights to note  10 that the foreclosure case and only Patricia Sahm, Senior  11 is the beneficial other?" So you believe that was the  12 case, right?  13 A. I asked for clarification because that's not  14 what they filed in the federal court. They said that  15 they had rights. So --  16 Q. Just --  17 A. -- I'm asking for clarification from the  18 estate attorney of what to tell the Court --  19 Q. And you're --  20 A. -- on March 24th?  21 Q. -- and you're asking him, Mr. Sweetapple will  22 represent Patricia Sahm, Senior through Joanna Sahm  23 based only on that Power of Attorney.  24 Why would you be asking him the basis for my  25 representation rather than calling me to find out when I</p>	<p style="text-align: right;">209</p> <p>1 A. On --  2 Q. -- why are you asking anybody other than me --  3 A. -- on the same --  4 Q. -- what my rights are?  5 A. -- on the same day on March 25th at 5:05 p.m.  6 when I wrote that e-mail asking -- I said, I  7 need clarification of these six questions so I could  8 determine who would go in the settlement. I asked about  9 is Joanna Sahm the trustee. Is she the PR? Is she --  10 if she's not a party to the foreclosure and she's not a  11 guardian, is it true that her own involvement in the  12 foreclosure is solely based on Power of Attorney?  13 But then I asked -- then I sent you an e-mail  14 that same day, by the way, in this chain, at 7:49, and I  15 asked you, I'm requesting that you agree to cancel the  16 sale, do an immediate mediation with the plaintiff.  17 Please let me know your client's position so I can form  18 it in my -- support my motion. So --  19 Q. And --  20 A. Because you guys were bouncing me around so  21 much and filing different ownership rights and different  22 representations. I had to ask you guys a question to  23 find out who needs to be in any settlement. That's what  24 that was about. Me asking --  25 Q. Ms. Garcia --</p>



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<p style="text-align: right;">210</p> <p>1 A. -- you guys to please tell me the truth once 2 and for all of who do I need to include in the 3 settlement? 4 Q. -- Ms. Garcia, I have a pleadings address 5 where both counsel of record -- and you're sending e- 6 mails to an address that I have never used on any 7 document ever. And you -- and you complain that I don't 8 respond to you. There is no rsweetapple@sweetapple.com, 9 or whatever it is. Rsweetapple@sweetapple.com. It's 10 sweetapplelaw.com. And pleadings. So -- and then on 11 March 27th, let's keep going through this, where you 12 continuously e-mail me at a non-existent address, even 13 though we're both in the same pleadings file. And if 14 you get this answer on the 27th, as I informed you 15 before, this is just Sweetapple is representing the 16 party plaintiffs in this matter and all responses should 17 come from his office. 18 A. And at that point, I also then wrote to you 19 and Mr. Raymond and Mr. Raymond copied you, by the way, 20 at that address on March 30th at 4:22. He copied you -- 21 Q. At the same address you used. 22 A. -- at the address. 23 Q. At the same address you used. That is not my 24 pleadings address or my address. 25 A. Well, I wouldn't know that. He's -- if he's</p>	<p style="text-align: right;">212</p> <p>1 through a Power of Attorney only, not with the 2 mother. You told her -- or she testified that she 3 had met with you and Mr. Mullins and -- or Mr. 4 Raymond, and you all had to try to decide what to 5 do. And I guess you all decided to file a 6 guardianship -- 7 MR. SWEETAPPLE: I didn't decide -- what do you 8 mean, you all? 9 MS. GARCIA: -- on April 17th. 10 MR. SWEETAPPLE: -- I didn't decide to file the 11 guardianship. I was told there was a guardianship 12 filed. 13 MS. GARCIA: Okay. And so you -- 14 MR. SWEETAPPLE: And I put you on notice and 15 the world on notice. 16 THE COURT: So -- I -- are -- is this cross- 17 examination or -- 18 MR. SWEETAPPLE: Yes, Judge, because I'm not -- 19 THE COURT: -- or you all just arguing with 20 each other about this string of e-mails that I can 21 read? 22 MR. SWEETAPPLE: Yeah. -- 23 THE COURT: Can we move on? 24 MR. SWEETAPPLE: -- e-mails now. I'm talking 25 about my filing with the Court, the notice --</p>
<p style="text-align: right;">211</p> <p>1 responding to you at that address in an e-mail chain 2 with me, I'm going to assume he has the right address. 3 And I do believe there's a plea -- another e-mail that 4 we -- that's in evidence now, that I will look for, that 5 I sent to that address, and you did respond. So you 6 have responded at that address before. 7 Q. No. No, I never -- I've never responded to 8 that address and never got any of these e-mails. But 9 you were repeatedly told that you would have to 10 communicate with me. And at this time -- at this time, 11 you knew that I had filed shortly after this. The fact 12 that I had contacted my client -- she's had no 13 recollection of signing a revocation of a Power of 14 Attorney. 15 A. Objection to hearsay. 16 Q. And I became concerned and filed with the 17 Court a notice that the client indicated she had no 18 knowledge of signing a revocation, that she wanted me to 19 continue with the case. But I also let the Court know 20 that I was concerned about her mental capacity and that 21 a guardianship had been instituted. So you knew I was 22 telling the world that her competency was at issue, 23 right? 24 MS. GARCIA: You did file once you were told by 25 your client, Joanna Sahm, who you had been working</p>	<p style="text-align: right;">213</p> <p>1 THE COURT: Can we move on, please? 2 MR. SWEETAPPLE: Okay. Yes. 3 BY MR. SWEETAPPLE: 4 Q. The order determining limited due capacity. 5 Judge Burton said, this Court, having reviewed 6 the file, having considered the reports of the examining 7 committee, and being fully advised in the premises, 8 finds, based on clear and convincing evidence presented, 9 one, the ward suffers from incapacity of the following 10 nature and scope: unspecified dementia, impaired memory 11 and cognition, and then lists the lack of capacity to 12 contract to assumed lawsuits, et cetera. Do you know 13 that this order that was entered by the judge was based 14 on May 5th reports and you were representing the 15 Bernsteins during this proceeding, right? 16 A. On June 27th, I believe it is. It's your 17 Exhibit 13 or -- no, 3. This order was entered into 18 after the settlement was completed by the same attorney 19 who entered into the settlement and this order to 20 determine limited capacity was entered by agreement? Not 21 by me, because nobody approached me. I would've 22 definitely contested it because I had been ready to 23 fight the insanity of these reports that were -- 24 Q. Ms. Garcia, you were counsel of record in this 25 case, and you've never filed an appeal of this order.</p>



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<p style="text-align: right;">214</p> <p>1 You represented your client's in this proceeding in the  2 guardianship court they had counsel, you, and your  3 clients were involved from day one and knew about these  4 guardianship examinations, didn't they?  5 A. These orders -- this order was sent into by  6 agreement of Ms. Patwell. And --  7 Q. Where does it say the Court's duty based on  8 agreement? So you see or -- see copies of for it --  9 your --  10 A. I've seen the communicate. I --  11 Q. You're served. You're served with this.  12 A. I was e-mailed during this time frame. I  13 remember after the fact when you all were going back and  14 forth between Eileen O'Malley, who was Joanna's  15 attorney, because Joanna applied to be the guardian. And  16 the Court was not inclined to allow Joanna or Patricia  17 Junior to be guardians because there was a fight among  18 the two daughters.  19 Q. And you were --  20 A. So there -- because the estate documents  21 stated that Charles Revard would be the successor  22 trustee, Ms. Patwell determined at that point, okay.  23 The foreclosure case is done. Now I have to deal with  24 my client in the incapacity case at that point because  25 the foreclosure case was already done. The settlement</p>	<p style="text-align: right;">216</p> <p>1 which was the Bernsteins, we filed a notice of interest  2 because they were making allegations against us in the  3 settlement in the guardianship case. And I believe  4 there's testimony that the whole reason that the  5 guardianship case was even filed was to stop the  6 settlement. It was -- it was purposely timed and done  7 solely to stop the settlement in my opinion.  8 Q. And this order determining limited capacity  9 that you were served a copy of has never been appealed  10 or vacated, has it?  11 A. There's been many, I don't know how you call  12 it rumblings or filings that deal with the fact that  13 this violated Ms. Sahm's rights to due process because  14 there was no hearing held and there was no actual  15 determination made by the judge --  16 Q. Who filed -- who filed that?  17 A. It was done by an agreement.  18 Q. Who filed that?  19 A. I'd have to look at the file, but I do recall  20 reading differing pleadings and allegations in this  21 case. I mean, because I think Ms. Patwell did a  22 wonderful job for her client. I completely disagreed  23 with entering into an order of capacity when you had so  24 many good defenses, but that doesn't make an attorney  25 bad or good if we disagree. I'm telling you this that I</p>
<p style="text-align: right;">215</p> <p>1 had been signed. She filed objections to the reports.  2 At that point, the agreement was made without me  3 agreeing. I think Kevin Hall accidentally agreed  4 because he was led to believe that everybody agreed from  5 my understanding.  6 But you all entered into this order. And  7 well, I mean, you all, I don't mean you Mr. Sweetapple  8 because you had nothing to do with this case. Eileen  9 O'Malley and Amber Patwell. So Joanna and her -- Joanna  10 and her mother's attorney, Ms. Patwell, agreed to allow  11 Charlie to have some limited rights moving forward, not  12 retroactively. And by the way, no motion was ever filed  13 in that -- in that case to set aside a settlement, which  14 is where the Court then -- had they gone to this Judge  15 Burton at the time and said, Judge, we got a problem. We  16 want to set it aside. Judge Burton started listening to  17 it, and you'll see in the transcripts he started saying,  18 the paper, a privilege is waived. Accusations started  19 flying quick. And you'll see what he said in the  20 transcript from. But this order was entered -- this  21 order was entered very be voluntarily.  22 Q. Ma'am, from the very beginning, your clients  23 involved with the guardianship, right?  24 A. My clients did not do much in this  25 guardianship at all. Originally -- my original client,</p>	<p style="text-align: right;">217</p> <p>1 did not agree to this limited incapacity order. I  2 firmly believed at the time we did the settlement  3 agreement that they would win this issue. But after the  4 fact it was determined to be settled in June 27th,  5 because it wouldn't have had an effect on the settlement  6 because the settlement was done. This was moving  7 forward. So my client, the Bernsteins, were out, there  8 was nothing for them to do. We were done, over. I  9 thought we were gone. The money was going to registry  10 ready to go on May 23rd. And then all of a sudden, all  11 these nefarious allegations come out about me and Ms.  12 Patwell in our actions.  13 Q. And so do you have any order -- this is a --  14 this was an order determining limited in capacity by  15 Judge Burton (phonetic). Is there any order or opinion  16 in any way vacating this?  17 A. There's filings that --  18 Q. Is there any order or opinion vacating this  19 yes or no, please? And then explain.  20 A. There is no order vacating this. No.  21 Q. No. And the judge says he relied on the May  22 5th guardianship examinations, doesn't he?  23 A. I don't know.  24 Q. Doesn't he say that right in the preamble?  25 A. He says that he reviewed the files. He</p>



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<p style="text-align: right;">218</p> <p>1 considered the reports.</p> <p>2 Q. Okay. And you were a --</p> <p>3 A. And he was forming --</p> <p>4 Q. -- council of record -- you were a council of</p> <p>5 record for your clients in this proceeding, correct?</p> <p>6 A. It -- yes.</p> <p>7 Q. Yes or no?</p> <p>8 A. Yes. And it also says he was informed of the</p> <p>9 agreement of Patricia Sahn, and it says, and all</p> <p>10 interested parties, but I never agreed to this because</p> <p>11 as usual orders keep getting submitted to the courts</p> <p>12 without my agreement or my knowledge, or that are</p> <p>13 inconsistent with the file. And the only reason that I</p> <p>14 haven't filed these orders to date is because my client</p> <p>15 hasn't paid me in two years and has no money.</p> <p>16 Q. So you got this order --</p> <p>17 A. When I get money, I will address all these</p> <p>18 issues, sir, because I'm tired of these representations</p> <p>19 being made that aren't true.</p> <p>20 Q. So when you got this order on June 27th, '23,</p> <p>21 a year and a half ago, it was mailed to you think it is</p> <p>22 erroneous and you've not attacked it because you haven't</p> <p>23 been paid, but when you get paid, you're going to attack</p> <p>24 it.</p> <p>25 A. Well, now that the ongoing --</p>	<p style="text-align: right;">220</p> <p>1 MS. GARCIA: Let's see. Defendants -- it's</p> <p>2 Defendant 6.</p> <p>3 BY MR. SWEETAPPLE:</p> <p>4 Q. Don't you mention that there's a foreclosure</p> <p>5 case and the case number is listed on the bottom of the</p> <p>6 first page?</p> <p>7 A. Well, I can say this documents --</p> <p>8 Q. Can you answer yes or no?</p> <p>9 A. -- the document speaks for itself. However,</p> <p>10 it's not captioned in the foreclosure case. It's</p> <p>11 caption settlement agreement. And it says that the</p> <p>12 interested parties are Bernstein Family Realty, the</p> <p>13 Bernstein Family members, Patricia Sahn, and now at that</p> <p>14 point, after being told she's the sole owner and</p> <p>15 surviving spouse of Walter Sahn, and for good and</p> <p>16 valuable consideration, we acknowledge we entered the</p> <p>17 settlement agreement, and this settlement agreement</p> <p>18 deals with all the cases. It cite the Marion County</p> <p>19 case. It cites the --</p> <p>20 Q. Show me where it cite --</p> <p>21 A. -- foreclosure case.</p> <p>22 Q. Show me where it cites the probate case that</p> <p>23 you say you're litigating. Where's the probate case</p> <p>24 mentioned here?</p> <p>25 A. Under the first page, sir. The second</p>
<p style="text-align: right;">219</p> <p>1 Q. Is that your testimony?</p> <p>2 A. My testimony is I have not attacked it yet</p> <p>3 because I can't afford to as a sole practitioner. My</p> <p>4 client can't afford to pay me because his funds are held</p> <p>5 up, and the fact that we're still ongoing and using</p> <p>6 these orders, knowing that they're not true, it's an</p> <p>7 ongoing fraud that I will deal with now that it's timely</p> <p>8 again.</p> <p>9 Q. And when did you move to enforce the</p> <p>10 settlement agreement? It was allegedly entered on May</p> <p>11 22nd, 2023. When did you file a motion to enforce it?</p> <p>12 A. I did not file a motion to enforce it because</p> <p>13 we were dealing with this in the guardianship case, I</p> <p>14 think through June, July, August, and Judge Burton was</p> <p>15 having hearings on it and doing discovery and</p> <p>16 disclosures. And Ms. Patwell and I decided, let's just</p> <p>17 wait and let the guardianship court, or whoever, rule on</p> <p>18 it, because the allegations from day one have been about</p> <p>19 our affairs conduct. And at that point, her and I both</p> <p>20 took a pause and said, you know what we feel like we did</p> <p>21 the right thing, but there's allegations out there. Let</p> <p>22 a court determine what they believe.</p> <p>23 Q. Isn't the settlement agreement captioned in</p> <p>24 the foreclosure case number?</p> <p>25 THE COURT: Yes. There is 12.</p>	<p style="text-align: right;">221</p> <p>1 paragraph on the recitals, it says, on June 24 -- June</p> <p>2 24, 2021, it was an order admitting a will to probate</p> <p>3 and appointing personal representative Joanna Sahn --</p> <p>4 Q. That's not the mental health case.</p> <p>5 A. -- that was entered into for Walter Sahn and</p> <p>6 Marion County case 2.1P002326 --</p> <p>7 Q. Then it says, Patricia Sahn has full authority</p> <p>8 to resolve the mortgage and no foreclosure matter. Okay.</p> <p>9 There's no mention of anything about a guardianship in</p> <p>10 this document. Is there no case number involved in the</p> <p>11 guardianship, right?</p> <p>12 A. I'd have to look through it.</p> <p>13 Q. Take a look.</p> <p>14 A. Now let me see. At this point in time, this</p> <p>15 was May 22nd. There was no guardian appointed yet. So</p> <p>16 this was May 22nd, 2023. So there would be no guardian</p> <p>17 to mention, but --</p> <p>18 Q. And you were dealing with --</p> <p>19 A. -- I go through -- sir, I'm sorry.</p> <p>20 Q. -- Ms. Patwell. And you decided to settle</p> <p>21 this. You and she agreed on the 22nd of May. You</p> <p>22 testified that's when you agreed to settle it, right?</p> <p>23 May 22nd.</p> <p>24 A. That's when the settlement was actually</p> <p>25 signed. The agreement between the clients had been much</p>



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<p style="text-align: right;">222</p> <p>1 earlier on maybe as early as January, February, March  2 where they had their communications and agreements.  3 However, there was the bankruptcies and then there was  4 her having to hire attorneys and then the guardianship  5 case was filed. So there were numerous delays that were  6 outside of my control.  7 Q. And you here's your testimony on page 69 at  8 line 5. And then basically we said, okay, we agree on  9 the 22nd. She said, we agree, let's get it done. I'll  10 file my appearance. So she agrees with you on the 22nd  11 of May. And that's when she files an appearance at 6:37  12 at night.  13 A. Did --  14 Q. Right? That's what you testified to -- you  15 and Amber agreed on May 22nd to settle the case. And  16 then she files her notice of appearance.  17 A. On the 22nd is when she had made her final  18 decision with her client, independent of me or anyone  19 else after reviewing with her client. They hadn't, like  20 I said, I think since the 5th of the 8th.  21 Q. So you were negotiating with --  22 A. She decided --  23 Q. -- for how long -- for how long when she was  24 in counsel of record? You knew I was council of record.  25 You knew she wasn't council of record. How long were</p>	<p style="text-align: right;">224</p> <p>1 Right. Your clients all went to Mrs. Sahm's  2 house -- how many people how many people did you send to  3 Mrs. Sahm's house with this settlement agreement to get  4 signed the evening of May 22nd?  5 A. I didn't direct numerous people to go. I  6 asked -- Amber was out of town. Ms. Patwell was out of  7 town, and I said, the clients are at my house. It's in  8 text messages. I said, I can send them to the house to  9 sign it. And she said, fine.  10 Q. So --  11 A. So I can't tell you how many people went, but  12 I can tell you that the case had been settled before  13 they got there. So there was no undue influence or  14 pressure on Ms. Sahm that night. It had already been  15 decided by both lawyers. We agreed to the logistics --  16 Q. Who did --  17 A. -- due to the location of the house and the  18 location of Ms. Patwell, and the fact that nobody could  19 afford couriers. So --  20 Q. So how many of your clients left your house  21 and drove to see 84-year-old Mrs. Sahm by  22 herself in her house the evening of May 22nd?  23 A. I think the only people that were at my house  24 that day were Elliot and maybe Ms. Bernstein because the  25 boys signed it at their houses. So they kind of made</p>
<p style="text-align: right;">223</p> <p>1 you negotiating with her before May 22nd?  2 A. I knew of Amber once she was retained. I  3 assume about May 2nd, May 3rd, because the guardianship  4 case had been filed, and she was hired to do the  5 foreclosure in her retainer and the guardianship.  6 Q. And she appeared in the guardianship, but  7 didn't appear in the foreclosure, right?  8 A. She did eventually file a notice of  9 appearance, but she had been retained specifically for  10 that case told and represented that to me so I relied on  11 it.  12 Q. She told you -- she told you I had been  13 retained in the foreclosure, and you negotiated with  14 her, and she hadn't appeared. So you know, I'm counsel  15 of record. You don't send me any proposed settlement  16 agreement. You don't talk to me. You know I represent  17 Mrs. Sahm, but you're dealing with Amber Patwell, who's  18 told you she's been retained in a foreclosure, but  19 hasn't appeared to the case, right?  20 A. She filed her notice as you know, on the same  21 day in the foreclosure case.  22 Q. No. The evening.  23 But --  24 A. The evening. In the evening.  25 Q. The same day.</p>	<p style="text-align: right;">225</p> <p>1 stops. So it started at my house and with approval of  2 Ms. Patwell, it went like from my house, then it went to  3 the different -- three different boys' houses. And then  4 it went to Ms. Sahm's house.  5 Q. And this sound only doesn't have any signature  6 by counsel, right?  7 A. No.  8 Q. And it doesn't have any date that the payment  9 has to be made, right?  10 A. It does very specifically address, which we  11 really covered on direct the fact. And I can read it to  12 you again, if you'd like.  13 Q. I know if there's a date. What date -- what's  14 it -- we're now -- we're now almost two years from the  15 date this was allegedly signed. We're approaching that.  16 When is the -- when is this money happening -- paid by  17 of this agreement?  18 A. It will be paid within however quick. The  19 clerk can cut a check once the judge makes a ruling that  20 the settlement is binding.  21 Q. Well, you haven't asked for that --  22 A. Settlement wasn't binding.  23 Q. You haven't asked for that ruling. You  24 haven't sued the guardian asking the guardian to sign  25 anything. You just filed this in November of '23</p>



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<p style="text-align: right;">226</p> <p>1 attached to some other document, right? You've never  2 asked the Court to have Mrs. Sahm enforce this or Mr.  3 Revard, the guardian, to sign this?  4 A. The --  5 Q. This -- right?  6 A. The agreement was provided immediately and the  7 next day, Mr. Rose had it in the -- in the -- in the  8 Shirley Trust case. And I asked him if I could release  9 the funds and he said, don't release the funds. Let's  10 see how it plays out in the guardianship. Ms. Patwell  11 and I decided because now they became an issue as far as  12 complaining about the settlement that we would let the  13 guardianship court tell us where the money to go. So I  14 didn't know where to pay the money once it was signed,  15 but the money has been sitting there -- and it says very  16 clearly on Page 4 about the payment and how and when it  17 will be paid. And it says it would go to Ms. Patwell  18 trust account, the two -- the 225. But then it says  19 that they're being held in the registry to the benefit  20 of the three young Bernstein boys. The parties agreed  21 to cooperate at a hearing to be held to ensure the 225  22 are released directly to the trust of Ms. Patwell --  23 Q. What's the date, ma'am?  24 A. -- as directed by the court order.  25 Q. What's the date? What's the outside date that</p>	<p style="text-align: right;">228</p> <p>1 party or person can interfere with the agreement or  2 cause any further delays in releasing the funds or cause  3 the property to settle the foreclosure.  4 Q. So what I'm --  5 A. Now what happened is instead of cooperation  6 immediately in the guardianship, it got raised that they  7 had a problem with the settlement. So because of case  8 we asked Judge Burton for direction and then Judge  9 Burton started holding hearings specifically about the  10 settlement and the money, and the release, and  11 everything else until finally he got frustrated and  12 threw it back at the at the -- this Court to determine  13 if this court believes it's settled or not.  14 And so what did you do in this Court to  15 enforce  16 enforce --  17 THE COURT: This has been asked and answered so  18 many times.  19 MR. SWEETAPPLE: Okay. And the record's clear.  20 The record's clear. I apologize.  21 THE COURT: Can we please move on? How much  22 more cross-examination do you need?  23 MR. SWEETAPPLE: Not many.  24 THE COURT: Then please ask leading questions.  25 MR. SWEETAPPLE: Right.</p>
<p style="text-align: right;">227</p> <p>1 this asset be performed by?  2 A. The --  3 Q. Is there any such date in the agreement?  4 A. The only reason it hasn't been paid yet is  5 because you're contesting the validity so --  6 Q. That's not what I asked.  7 A. -- can't ethically release the cost to Ms.  8 Patwell.  9 Q. That's not what I'm asking you. I'm asking  10 what --  11 A. It --  12 Q. Where's the material term of this agreement?  13 A. The material term -- there's 10 of them. If  14 you look through the payment, it's very detailed and it  15 says exactly what's going to happen. It says, the  16 parties are going to cooperate for a hearing, but the  17 parties didn't cooperate. Then it says, the Bernstein  18 shall pay the entire check directly issued to the clerk  19 registry. And then it says, if court orders are  20 necessary, either in the Walter Sahm probate case in  21 Marion County, or the Palm Beach foreclosure case, or in  22 the Shirley Bernstein case, the parties agree to fully  23 cooperate and file any needed joint agreed motions to  24 confirm the settlement and to release the funds as  25 agreed and to file a dismissal of the foreclosure. No</p>	<p style="text-align: right;">229</p> <p>1 THE COURT: I got it. There's no material.  2 There's no date that it needs to be completed.  3 There isn't a date in this is there. No.  4 BY MR. SWEETAPPLE:  5 Q. And there was never a motion before or after  6 the argument was appointed. And so your clients did  7 sign the March settlement agreement indicating that Mrs.  8 Sahm, Senior was incapacitated and agreeing to pay her  9 \$355,000, right?  10 A. Let me look at the agreement. What exhibit  11 number was that? That was Exhibit -- plaintiff.  12 Q. Do you need to look at that?  13 A. Yes. I do need to look at this settlement  14 because that settlement was never used. So you are  15 asking me to comment about my thought process during  16 another settlement that's not this settlement. So I  17 need to look at that settlement before I make any  18 comments, sir. I'd like to refresh my recollection.  19 Q. You don't know that your client signed it and  20 355,000, you've already testified to that within the  21 last two hours?  22 A. That was not the question. We -- you had  23 added something to it, so --  24 Q. No. I asked you if your client signed that  25 March settlement agreement that indicated that Mrs. Sahm</p>



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<p style="text-align: right;">230</p> <p>1 was capacitated and provided for payment of \$355,000.  2 A. So I need to look at that part about the  3 statement you're making so I can understand why it's  4 there and testify to you. What happened? Let's see.  5 THE COURT: It's a yes or no question. Did he  6 sign it or not?  7 MS. GARCIA: He signed the -- he did sign the  8 retainer. I mean, he did sign a settlement  9 agreement, but --  10 THE COURT: Okay. Next question.  11 BY MR. SWEETAPPLE:  12 Q. Okay. And did you ever provide Ms. Patwell  13 with that signed agreement where your clients had  14 offered to pay 355 before you sent over \$225,000  15 settlement agreement in May?  16 A. No. But I told her about it. I told her  17 exactly what was going on. And in fact, her and I had  18 many discussions about the rewards and the risks of the  19 settlements and of the guardianships and of the  20 bankruptcy and of what was in the best interest of our  21 clients. And then each of us consulted with our  22 individual clients and determined that this was in their  23 best interest to end this madness once and for all and  24 let everybody move on.  25 MR. SWEETAPPLE: All right. Let me, Your</p>	<p style="text-align: right;">232</p> <p>1 Judge, the order granting end member relief that's  2 in evidence when the Court specifically found that  3 you had filed the suggestion, and you -- and that  4 you were -- and that it was factually false and  5 legally incorrect, and was designed to mislead the  6 state court of the -- clerk of the Court. You  7 haven't appealed that order either, have you?  8 MS. GARCIA: No. But I do plan on it now that  9 it's being used in the way it's being used. I do  10 have an attorney ready to go in there because --  11 MR. SWEETAPPLE: You don't think it is time  12 barred, April 14, 2023? And we're now in January of  13 '25?  14 MS. GARCIA: No. Not according to my  15 bankruptcy lawyer. You said direct fraud on the  16 Court.  17 MR. SWEETAPPLE: And who do you think committed  18 a fraud on the bankruptcy?  19 MS. GARCIA: Joanna Sahm and her attorney, Mr.  20 Shraiberg, who took on that case with no retainer  21 based on a purported Power of Attorney of Joanna,  22 although at the same time you're claiming that she's  23 incapacitated and can't answer the contracts or do  24 anything. Mr. Shraiberg appeared in the Court  25 believing the Power of Attorney existed.</p>
<p style="text-align: right;">231</p> <p>1 Honor, if you can one moment.  2 THE COURT: Sure.  3 MR. SWEETAPPLE: Okay.  4 THE COURT: These e-mail strings has just been  5 brought to me, but it's not in evidence. So --  6 MR. SWEETAPPLE: Oh, what's that, Your Honor,  7 the e-mails?  8 THE COURT: The e-mails. It's not in evidence.  9 MR. SWEETAPPLE: Yeah. I'll move that into  10 evidence, Your Honor. That's with the notation that  11 -- that's not my e-mail address on the -- those text  12 -- those e-mails.  13 MS. GARCIA: Do I have a copy of it?  14 MR. SWEETAPPLE: Yeah.  15 MS. GARCIA: Is that what you handed to me?  16 THE COURT: It was used during the first, I  17 believe 45 minutes of cross-examination.  18 MR. SWEETAPPLE: Yeah. You have a copy.  19 THE COURT: You all read them back and forth to  20 me.  21 MR. SWEETAPPLE: I moved it in as 14, that one.  22 THE COURT: We received the evidence as  23 Plaintiff's Exhibit number 14.  24 (PLAINTIFF EXHIBIT 14 RECEIVED INTO  25 EVIDENCE)  MR. SWEETAPPLE: And as for the bankruptcy,</p>	<p style="text-align: right;">233</p> <p>1 So as an officer of the Court because I know  2 his business partners, I told him at the hearing,  3 Mr. Shraiberg, you may not be aware of this, but  4 your client, Joanna Sahm, does not have a Power of  5 Attorney anymore. Therefore you don't have a  6 client, and the estate is not a client. And then I  7 also explained to the Court at that time that the  8 suggested bankruptcy that was actually used to  9 cancel sale was not my suggested bankruptcy, but Mr.  10 Shraiberg went ahead and gave the order to the  11 Court, so we'll do it there.  12 MR. SWEETAPPLE: So did you -- did you file any  13 motions for sanctions against Mr. Shraiberg or  14 anybody?  15 MS. GARCIA: No, I don't like to go up there.  16 Other lawyers normally, especially ones I've known  17 for years and years, but --  18 MR. SWEETAPPLE: And so you don't think Mr.  19 Shraiberg represented Joanna Sham in the  20 bankruptcy --  21 THE COURT: It's not relevant. It's --  22 MR. SWEETAPPLE: Pardon?  23 THE COURT: The question is not relevant. The  24 question's not relevant.  25 MR. SWEETAPPLE: All right. I -- I'm I have no</p>



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<p style="text-align: right;">234</p> <p>1 more questions, Judge.  2 THE COURT: How many additional witnesses do  3 you have, Ms. Garcia?  4 MS. GARCIA: Can I -- if I could have a two-  5 minute break, I'd like be done.  6 THE COURT: Sure.  7 MS. GARCIA: If I could step outside.  8 THE COURT: Sure.  9 MS. GARCIA: Thank you, Your Honor.  10 (OFF THE RECORD)  11 THE COURT: All right. Both the plaintiff and  12 the defendant have rested.  13 MR. SWEETAPPLE: Can I suggest, Your Honor,  14 since you've been more than patient with this that  15 we submit written?  16 THE COURT: That was what I was going to  17 suggest. How long would it take for you all to  18 correct a written closing arguments?  19 MR. SWEETAPPLE: Ten days, two weeks.  20 MS. GARCIA: Two weeks.  21 THE COURT: Two weeks.  22 MS. GARCIA: That way we can give you the  23 memos.  24 MR. SWEETAPPLE: We get the transcript and --  25 THE COURT: What -- two -- I just -- so</p>	<p style="text-align: right;">236</p> <p>1 and e-mail it to Chambers.  2 MS. GARCIA: Okay.  3 THE COURT: Just make sure that the other side  4 is copied on it so that everybody has it because  5 otherwise it takes a couple days before it's  6 docketed before I'd be able to see it.  7 MR. SWEETAPPLE: How about if we both do it at  8 5:00 on the 13th?  9 THE COURT: You can do that. However you want  10 to do it. Just -- I'll keep my eye out for those.  11 And then once I receive those, I will enter an  12 order.  13 MS. GARCIA: And then. Your Honor, if there's  14 any -- would you like to provide copies of the case  15 is also there or statutes, or just cite them?  16 THE COURT: If there's something that's  17 relevant and germane to your argument, you want me  18 to review it, you can provide it to me like a  19 briefing book.  20 MS. GARCIA: Okay.  21 THE COURT: I do have -- I have access to  22 Westlaw so I can look it up, but if it's something  23 that's very important, you may want to provide me a  24 copy of this.  25 MS. GARCIA: Okay.</p>
<p style="text-align: right;">235</p> <p>1 there's a date on it. What's two weeks? Two weeks  2 would be --  3 MS. GARCIA: Today's the 20 --  4 THE COURT: This is the 11th work for you all?  5 I have seven days being the 4th and 14 being the  6 11th. You want the 12th? 13th? You tell me --  7 MS. GARCIA: 12th or 13th.  8 MR. SWEETAPPLE: What day -- what day is the  9 14th?  10 MS. GARCIA: The 14th is --  11 MR. SWEETAPPLE: Is that on Wednesday?  12 MS. GARCIA: Yes.  13 THE COURT: 14 days would be the 11th?  14 MR. SWEETAPPLE: How about --  15 MS. GARCIA: Could we do the -- could we do the  16 13th?  17 MR. SWEETAPPLE: That's what I was going to  18 suggest.  19 MS. GARCIA: Because yeah, I'm --  20 THE COURT: Okay. You -- do you both agree to  21 it? Could you just file the written closing  22 arguments in the Court file, but also provide a  23 courtesy copy of the division AO to the CAD?  24 MS. GARCIA: Yeah. On E courtesy?  25 THE COURT: Not the E courtesy, the -- scan it</p>	<p style="text-align: right;">237</p> <p>1 THE COURT: Okay. Okay.  2 MR. SWEETAPPLE: Thank you for hearing us,  3 Judge.  4 THE COURT: All right. Thank you all.  5 UNIDENTIFIED SPEAKER: Thank you.  6 MS. GARCIA: We do appreciate your time and  7 your patience, Your Honor. Thank you.  8 THE COURT: All right. Have a nice --  9 (HEARING CONCLUDED AT 5:16 P.M. ET)  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>



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## 1 CERTIFICATE

2

3 STATE OF FLORIDA)

4 COUNTY OF ORANGE)

5

6 I, FLOR LOPEZ, Court Reporter and Notary Public for

7 the State of Florida at Large, do hereby certify that I

8 was authorized to and did report the foregoing

9 proceeding, and that said transcript is a true record of

10 the said proceeding.

11

12 I FURTHER CERTIFY that I am not of counsel for,

13 related to, or employed by any of the parties or

14 attorneys involved herein, nor am I financially

15 interested in said action.

16

17 Submitted on: February 5, 2025.

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23 \_\_\_\_\_  
FLOR LOPEZ

24 Court Reporter, Notary Public

25



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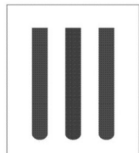
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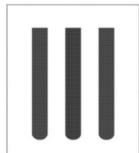
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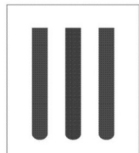
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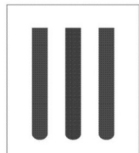
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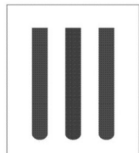
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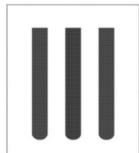
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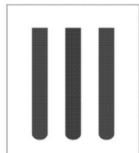
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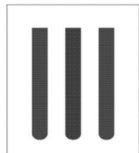
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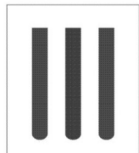
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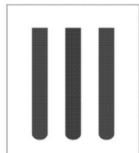
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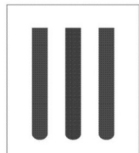
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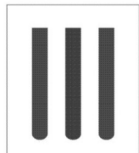
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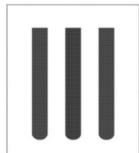
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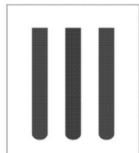
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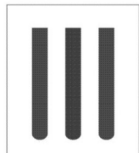
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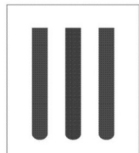
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