

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**  
2   PIERRE        HASCHEFF,        AN    Case No. 86976  
3   INDIVIDUAL,

4                   Appellant/Cross-Appellant,

5   vs.

6   LYNDA         HASCHEFF,        AN  
7   INDIVIDUAL,

8                   Respondent/Cross-Appellant.

Electronically Filed  
Nov 16 2023 03:36 PM  
Elizabeth A. Brown  
Clerk of Supreme Court

9                   **APPENDIX TO APPELLANT’S OPENING BRIEF**

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1 MR. TORVINEN: I mean this is -- Your Honor, may I? You  
2 know, again, it's out of my pay grade, I don't do any of this  
3 stuff. But from my examination of this case, it's not rocket  
4 science to appreciate the fact that the underlying action has to  
5 be resolved prior to any, you know, going forward on a malpractice  
6 action. Because the facts -- the facts and the findings in the  
7 underlying actions drive that.

8 THE COURT: And the report that led to the filing of the  
9 malpractice action, was it contained within the file?

10 MR. TORVINEN: I don't know. You mean produced? Or you  
11 mean my client's file?

12 THE COURT: Yes. Was it in the file that was the  
13 subject of the 41-page subpoena?

14 MR. TORVINEN: It shouldn't have been because that came  
15 in later.

16 My client took the bench in '13.

17 THE COURT: So you concur with Mr. Meador that the  
18 report came from a collateral third party?

19 MR. TORVINEN: It did. It appears that that's the case.

20 THE COURT: Okay.

21 MR. TORVINEN: But, you know, Your Honor, any -- any --  
22 I mean, look, Stan Jaksick or Todd Jaksick is not a lawyer. But  
23 anybody standing in my client's shoes -- and, again, this is  
24 proven by the 2017 pleading filed by, which is Mr. Meador's  
25 exhibit. I agree, it should come in evidence, 16, they're trying



1 to set aside the second amendment restatement that my client did  
2 in 2012.

3           You combine that with the 41-page subpoena and you know  
4 there's malpractice issues brewing. It's not rocket science.

5           THE COURT: Well, Mr. Alexander is present. I  
6 understand Mr. Meador's concerns related to this declaration.

7           I also understand Mr. Torvinen's concerns that when you  
8 say that at exhibits submitted and admitted into Court, I don't  
9 know why we should be limiting it. So I think I want to hear from  
10 Mr. Alexander, and I may also want to hear from Judge Hascheff.

11           I know you are not going to be happy with that,  
12 Mr. Meador, but that's just the reality. I'm going to flesh out  
13 this file as best I can. So I --

14           MR. MEADOR: May I make a few comments in response  
15 first?

16           THE COURT: Yes.

17           MR. MEADOR: Okay. The first, I would ask you to look  
18 at Exhibit 1, which was Judge Hascheff's notice.

19           THE COURT: Uh-huh.

20           MR. MEADOR: You will note first that he doesn't say  
21 when he was sued, by whom he was sued, for what he was sued; nor  
22 does he indicate -- he states that the bills are ongoing, but  
23 doesn't state that the action was stayed and the ongoing bills are  
24 in the collateral matter, doesn't even refer to a collateral  
25 matter.

1           If you then turn over to, a couple of pages, to the bill  
2 he sent from Lemons, Grundy & Eisenberg, it does not make any  
3 sense whatsoever. He demands payment of 50 -- \$5,200.90. And yet  
4 if you look at the bills, they reflect two payments by  
5 Mr. Hascheff totaling \$2,000. And nowhere -- you know, it's  
6 difficult for me to understand that.

7           Then if you look at --

8           THE COURT: Which -- you were on what would be marked as  
9 LH 3?

10          MR. TORVINEN: Your Honor, it's Exhibit 15, I think  
11 Mr. Meador is referring to.

12          MR. MEADOR: LH 2 and 3.

13          THE COURT: Okay. Thank you.

14          MR. MEADOR: I see two payments from PAH Limited. I  
15 don't see \$10,000 of payments reflected.

16          If you look at -- Judge Hascheff's argument is that all  
17 he has to do is provide proof of payment, that's it. That's his  
18 only obligation.

19          I got copies of those checks showing proof of payment on  
20 December 9th, 2020. And it's not --

21          THE COURT: Who is Allied World? Is that the  
22 malpractice carrier?

23          MR. TORVINEN: Yes.

24          Your Honor, may I refer you to Exhibit 15?

25          THE COURT: So in the statement from Lemons and Grundy,

1 it shows that there was a payment made in the amount of a thousand  
2 dollars on 10/18. And then in 003 it shows a payment made in the  
3 amount of a thousand dollars from Pierre Hascheff on 4/8 of '19,  
4 and then on 5/16. So \$3,000 total seems to have been paid by  
5 Mr. Hascheff according to the billing statement he sent in  
6 January. Is that what you are referring to, Mr. Meador?

7 MR. MEADOR: Yes, and that I actually got those checks.  
8 His argument is, all I'm entitled to is proof of a payment. I got  
9 that proof December 9th, 2020. That's when I got copies of those  
10 checks.

11 MR. TORVINEN: Your Honor, I take exception to that. If  
12 you turn to Mr. Meador's Exhibit 15, this was produced on  
13 May 29th.

14 THE COURT: Okay. I'm looking at 15.

15 MR. TORVINEN: The first page is LH 000091.

16 THE COURT: Yes.

17 MR. TORVINEN: The payment record. There's the Allied  
18 payment that shows all of the payments, except for one \$653  
19 payment that's later back there, but that totals the 11,008 bucks.  
20 If you look at those, total number is four, there are four \$1,000  
21 payments, and then this nearly \$6400 payment that he made on  
22 December 18th, 2019.

23 And then later there's a -- he made a later, sometime  
24 last spring, another \$653 payment.

25 THE COURT: If you look at that final billing that you

1 say says 6,000, it says "Thank you Pierre Hascheff, Allied World  
2 Insurance Company." So who paid that bill?

3 MR. TORVINEN: What exhibit are you under, Your Honor?

4 THE COURT: I'm under 91.

5 MR. TORVINEN: Okay.

6 THE COURT: So this statement again says that your  
7 client paid \$3,000, which is the same thing that it says that he  
8 paid back in January when he sent his little handwritten note.

9 And the last payment is 6,000 whatever, I can't quite  
10 read it, 6351, I think -- that that says "Thank you Pierre  
11 Hascheff, Allied World Insurance Company."

12 MR. TORVINEN: Yeah, that's miscoded, because there's  
13 proof -- if you look back, I think it's back at -- it's just  
14 miscoded.

15 So if you look back -- hang on. Can you bear with me a  
16 moment, Your Honor?

17 THE COURT: I sure can.

18 MR. TORVINEN: Hang on. Hang on. I'll find it.

19 THE COURT: Let's take a couple-minute break right here  
20 so Mr. Torvinen can find that and we'll come back. Be back in  
21 10 minutes.

22 MR. TORVINEN: Okay. All right.

23 (A recess was taken.)

24 THE COURT: We are back on the record in DV13-00656.

25 So Mr. Torvinen --

1 MR. MEADOR: Your Honor, may I interrupt?

2 THE COURT: Yes.

3 MR. MEADOR: I just noticed and thought it might be  
4 worth commenting on that your law clerk is participating today.

5 THE COURT: Yes.

6 MR. MEADOR: I didn't really notice that, and it might  
7 be appropriate to advise people that our firm has made an offer of  
8 employment to your law clerk to start, I believe, in the fall of  
9 this -- well, the upcoming year, next year.

10 THE COURT: Thank you for noting that, yes. And be  
11 aware that we're very conscientious and very careful about that,  
12 and the work in this case will be done by the Court, not by the  
13 law clerk. He'll help me but the final decision will be written  
14 by the Court, he'll be assisting, but we are very careful and  
15 conscientious in that regard.

16 Mr. Torvinen, are you aware -- is that acceptable to  
17 you?

18 MR. TORVINEN: I was not aware of that. Yes, Your  
19 Honor. I was not aware.

20 THE COURT: And is that acceptable, that the Court will  
21 be making the final determinations in this case?

22 MR. TORVINEN: Yes, Your Honor.

23 THE COURT: Thank you.

24 MR. MEADOR: At the appropriate time I would like to  
25 finish my response to Mr. Torvinen's argument, Your Honor.

1 MR. TORVINEN: Well, I got stuck, didn't I?  
2 You were asking me to find something for you and I found  
3 it.  
4 THE COURT: Okay. Thank you. So tell me where it's at,  
5 sir.  
6 MR. TORVINEN: Well, I guess we should explore --  
7 Mr. Meador, do you have any objection to any of our exhibits?  
8 MR. MEADOR: I'm not stipulating to any of them since  
9 you wouldn't communicate with me about the issue.  
10 MR. TORVINEN: Well, I'm sorry, I'm just not in a good  
11 place so I apologize for that, but I'm trying to move the process  
12 along now, so please help me.  
13 THE COURT: So Mr. Meador is not stipulating. What  
14 exhibit did you want to deal with?  
15 MR. TORVINEN: Okay. It's our H.  
16 THE COURT: Okay. Mr. Meador, please take a look at H  
17 and see whether or not you can agree to H.  
18 MR. MEADOR: These are the bills I got December 9th,  
19 Your Honor.  
20 MR. TORVINEN: Your Honor, I tried to see if there was  
21 going to be any issue with this at the status conference. And so  
22 now apparently there is.  
23 Mr. Meador told you he didn't think there would be, at  
24 the status conference.  
25 THE COURT: Okay. Here's my question, is -- Mr. Meador,

1 do you have an objection to this exhibit coming in as long as  
2 Mr. Torvinen agrees that you didn't receive it until December 9th?

3 MR. MEADOR: No, Your Honor, I don't.

4 THE COURT: Mr. Torvinen, do you agree that he received  
5 it December 9th?

6 MR. TORVINEN: The checks, yes. That's under Exhibit H,  
7 yes.

8 THE COURT: Okay. Then Exhibit H will be admitted with  
9 the acknowledgment that it was received by opposing counsel on  
10 December 9th.

11 (Exhibit H was admitted into evidence.)

12 THE COURT: All right. And that check does reveal that  
13 there had been a payment, and that payment was made in the amount  
14 of 6351.80, and that was paid by Mr. Hascheff, or Judge Hascheff.

15 MR. TORVINEN: Then if you go to the next page, Your  
16 Honor, there's the follow-up. In fact, I told you, I think I said  
17 it was \$654, it's actually \$648, is check number 2493. Do you see  
18 that?

19 THE COURT: Yes.

20 MR. TORVINEN: And so just to reiterate, this billing  
21 statement, though, that's under I, and I think Mr. Meador put this  
22 in, it was in his exhibits too, that was received on May 29th.

23 THE COURT: Your Exhibit I?

24 MR. TORVINEN: Correct.

25 THE COURT: Okay. And which is --

1 MR. TORVINEN: This is the same thing that Mr. Meador, I  
2 think -- I didn't look at it in great detail -- but he also put  
3 this in evidence, the billing statements, along with the billing  
4 summary sheet, which is the first piece of paper under Exhibit I.  
5 I think. Let meet go back and look at it.

6 THE COURT: Mr. Meador, is this Exhibit I the same as  
7 your Exhibit 15?

8 MR. MEADOR: I believe so, Your Honor, unless there's  
9 been some change that I didn't notice.

10 MR. TORVINEN: No, it's the same. It's the same. It  
11 sure looks like to me. I can count the number of pages.

12 THE COURT: Well, I mean, I can see the first page is  
13 the same, but the question becomes is -- and I went to the last  
14 page, and it's the same as your last page.

15 MR. TORVINEN: All right.

16 THE COURT: So this is already in, in 15. So it's  
17 already in on one side. I have no problem with it coming in on  
18 the other, so I is in.

19 (Exhibit I was admitted into evidence.)

20 THE COURT: And I reflects the payments through the  
21 648.10, but doesn't reflect the \$648; correct?

22 MR. TORVINEN: It does not.

23 THE COURT: Thank you.

24 MR. MEADOR: And I can't tell who it reflects made the  
25 6351 payment.



1 MR. TORVINEN: I'm sorry, I didn't hear that.

2 MR. MEADOR: From the billing statement I can't tell who  
3 made the payment.

4 MR. TORVINEN: Which one?

5 MR. MEADOR: The one that's --

6 THE COURT: There's a large payment here that's unclear  
7 to the Court as it is -- I think Mr. Meador is saying this -- if  
8 you go back to page 1 of this exhibit, which is 91 or the  
9 beginning of the first page of your exhibit, sir, when it talks  
10 about the total payments that had been made, the final payment is  
11 a transaction that occurred in December of 2019, and said there  
12 was a payment for 6,000 -- and, again, I should have reading  
13 glasses on -- something, 351.80, that that was made. It says  
14 "Thank You Pierre Hascheff Allied World Insurance Company."

15 So I don't know from this document, and that's why I had  
16 asked you, from this document it looks more that the insurance  
17 carrier paid the 6300, as compared to Judge Hascheff paying the  
18 6300. And that's the difference, but that's just looking at it.

19 So Mr. Meador's comment is he didn't have proof until  
20 December 9th of this year that your client is the one who made the  
21 payment as compared to a DNB insurance carrier that made the  
22 payment.

23 MR. TORVINEN: Well, it says on the bottom, at the  
24 bottom of each of those coding entries, it says if Allied made it  
25 or -- so, for instance, three of them say PAH Limited. If you

1 look at -- I think it's under I.

2 THE COURT: And what -- what page are you looking at,  
3 sir?

4 MR. TORVINEN: I'm looking at I -- if you go to our I or  
5 their, let's see, their, opposing party's 15, they are both tiny.

6 THE COURT: Okay. And you are asking me to look at --  
7 you're expecting everyone to look at the billing code to see  
8 whether or not the code was different?

9 MR. TORVINEN: Well, no, not the code. It says -- so,  
10 for instance, the first payment that Mr. Hascheff made on -- shit,  
11 that -- shoot, excuse the French -- shoot, the copy is small. I  
12 think it's 4/8 of '19 and it's a thousand dollars. It says "Thank  
13 You PAH Limited." Do you see that, Your Honor?

14 THE COURT: Yes.

15 MR. TORVINEN: Right. So that --

16 THE COURT: Do you see on the last transaction? Do you  
17 see on the last transaction where --

18 MR. TORVINEN: Yeah, but it says Pierre Hascheff not  
19 Allied World, so it was made by him personally.

20 THE COURT: But it also says Allied World Insurance  
21 Company.

22 MR. TORVINEN: Well, do you want to hear from my client  
23 about this, Your Honor? Again, I tried to bring this up so we  
24 weren't going to have an issue with it, and here we are having an  
25 issue with it.

1 THE COURT: I get it, but I can see what Mr. Meador is  
2 saying is he asked you for the cancelled checks, and he got them  
3 on December 9th.

4 MR. TORVINEN: He didn't ask -- I'm not sure he asked  
5 for the cancelled checks. I thought that was proof of payment. I  
6 don't remember. And that's why I brought that up so we wouldn't  
7 have this issue, and I got him the cancelled checks.

8 THE COURT: Can I even ask --

9 MR. TORVINEN: And I got them in December.

10 THE COURT: That's okay. I'm going to ask this  
11 question.

12 Your client makes a request with his handwritten note,  
13 your Exhibit 1, for 5290.

14 MR. TORVINEN: Right.

15 THE COURT: That's \$5,200.90. Okay?

16 It lists there that there's \$11,851.80 less 1400, which  
17 I don't know what the less 1400 is for, to get to \$10,401.80. So  
18 she should pay \$5,200.90.

19 The exhibits that you've produced without the \$650, show  
20 that your client made \$3,000 worth of payments. And now you've  
21 shown that he's actually made a payment in the amount of -- what,  
22 again, was that third check?

23 MR. TORVINEN: It was 6,351 bucks but I'll double-check  
24 it.

25 THE COURT: Okay.

1 MR. TORVINEN: \$6351.80.

2 THE COURT: Okay. So that means that the total that  
3 your client paid was \$9,351.80. Okay?

4 And if I divide that by two, that would be 4675.50. How  
5 do you get that exhibit number in this handwritten note to be  
6 \$5,200 that you are --

7 MR. TORVINEN: My client made an error. Later on, I  
8 think Mr. Meador would admit this, when we started doing this,  
9 exchanging emails, and then my letter of, I think it's May 29th,  
10 asked for the 4651 or thereabouts, the number you just mentioned.

11 There was a mistake.

12 THE COURT: Do you have any other preliminary comments  
13 to make, Mr. Meador, before we hear from Mr. -- current Judge  
14 Hascheff?

15 MR. MEADOR: Yes, Your Honor, a couple. The first, just  
16 trying to respond to the arguments that Mr. Torvinen made in his  
17 response to my opening argument.

18 The first is that the Wendy Jaksick document, which I  
19 believe is Exhibit 16, reflects that she's trying to set aside the  
20 estate plan and, therefore, that somehow tells us there's an  
21 allegation of malpractice. And yet, her specific allegation was  
22 that her father lacked testamentary capacity, not that there was  
23 malpractice.

24 We don't even have evidence before us that Judge  
25 Hascheff prepared the second amendment or that he was present when

1 it was signed, or that there was any actual evidence that  
2 Mr. Jaksick lacked competence.

3           Then Mr. Torvinen argued that the parties' interests are  
4 aligned, and yet insists that my client isn't entitled to the  
5 information because of the attorney-client privilege.

6           And, you know, the fundamental obligation here, the  
7 obligation we're talking about, is: Is Mr. Hascheff, is Judge  
8 Hascheff liable for conduct that happened during the marriage, a  
9 community debt.

10           So he says she's liable for this community obligation.  
11 We're divorced now, but the event that we're talking about took  
12 place during the marriage, and our interests about that are  
13 present, existing and equal, and our interests are aligned, but I  
14 get to keep that confidential from her, all the facts about it.

15           And there's no authority for that position I'm aware of,  
16 and yet it's in all of the emails from Judge Hascheff, all of the  
17 correspondence from Mr. Torvinen and from Mr. Alexander, that  
18 she's not -- she's expected to pay the bill but she's not entitled  
19 to know what the bill is for.

20           Mr. Alexander's bills reflect over \$3,000 of  
21 analysis/strategy that my client is expected to pay for that she  
22 has absolutely no clue what it was for.

23           I would say -- I would note that --

24           THE COURT: By what authority is she supposed to be  
25 provided with notice of the nature of the claim?

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MR. MEADOR: Excuse me, Your Honor?

THE COURT: Well, you're saying she had no notice of what they are talking about, she had no notice of what the strategy was.

Where is the authority that, if this is in preparation for a malpractice claim; because let's be frank, it says "or related claim." I mean, let's be clear --

MR. MEADOR: It doesn't, Your Honor. That was my next point. They keep arguing that she's responsible for bills related to a malpractice claim. That is not the language.

They've insisted that the language has to be strictly interpreted. It does not other us the word "related" anywhere. It says "in defense of." She's entitled --

THE COURT: Well, "the warranting party" -- "the warranting party shall also indemnify the other and hold him or her harmless against any loss or liability that he or she may incur as the result of the claim, action or proceeding, including attorney's fees and costs and expenses incurred in defending or responding to such action."

MR. MEADOR: Right. And we have no proof that these bills were for that purpose.

I don't know if this was actually Judge Hascheff defending a malpractice action, particularly when it had not even been filed or threatened, or whether it was about helping Todd Jaksick, his client, against Todd's sister, Wendy. I don't know

1 that and we don't have evidence in this file to reflect that.

2 And we don't have it because Judge Hascheff insists  
3 we're not entitled to it. We just have to silently accept what he  
4 says and pay the bill.

5 It's that, the issue of the dishonest husband saying  
6 here's the check, you have no right to follow up to get underlying  
7 information to see if this check is really within the indemnity or  
8 not.

9 THE COURT: Well, when were you provided with  
10 Mr. Alexander's affidavit?

11 MR. MEADOR: And so Mr. Alexander then has become the  
12 judge and jury in this case and he's allowed to do broad general  
13 characterizations.

14 THE COURT: That's not the question I asked you,  
15 Mr. Meador. You received Mr. Alexander's affidavit sometime after  
16 April 10th of 2020.

17 MR. MEADOR: And if you look at my Exhibit 9, I asked  
18 for the specific basis on which he made those conclusions and  
19 characterizations, and I was told it was none of my business.

20 THE COURT: Clarifying timelines here.

21 MR. MEADOR: Right. So my Exhibit 9 --

22 THE COURT: I see it. I looked at it, it's been  
23 admitted, and you do ask for that.

24 MR. MEADOR: And I had also asked that in other  
25 correspondence with Mr. Torvinen, was told I'm not allowed to know

1 the basis of Mr. Alexander's statement.

2 And I have good reason to question Mr. Alexander since  
3 he claims that his discussions with Kent Robison, Todd Jaksick's  
4 lawyer who sued Judge Hascheff, are protected by the  
5 attorney-client privilege. How could that be, that your  
6 communications with opposing counsel, who sued you?

7 Now he hadn't sued the time of some of them, but he had  
8 at times -- the January, February conversations with Mr. Robison  
9 were all after Mr. Robison had sued Judge Hascheff for  
10 malpractice. On what basis could that possibly be covered by,  
11 protected by attorney-client privilege? And yet that's what I'm  
12 told. That's what I had to deal with.

13 THE COURT: Mr. Torvinen, that's a good question. How  
14 does the conversation between opposing counsel -- I mean if there  
15 is bills to --

16 MR. TORVINEN: Your Honor, I did address this. And, you  
17 know, they asked for redacted bills, they got redacted bills.  
18 Right?

19 So first it was the policy and the payments, then  
20 redacted bills that were produced. And then the recurring theme  
21 was there's no nexus between this underlying action of  
22 malpractice. So then my client obtained the affidavit from  
23 Mr. Alexander. And then the rope-a-dope started again and they  
24 changed the bar one more time.

25 THE COURT: You are not answering my question, sir.



1 MR. TORVINEN: Okay. Ask again, Your Honor.

2 THE COURT: My question is, how are conversations  
3 between opposing counsel attorney-client privilege?

4 MR. TORVINEN: Well, they may be confidential, they may  
5 not be attorney-client privilege. And I did address this  
6 directly, is because the matter is still up on appeal and  
7 pending -- and this goes back -- they may be confidential.

8 This goes back to the issue -- and Mr. Meador keeps  
9 saying, well, it's a community debt, blah-blah-blah. Well, Your  
10 Honor, if I may point you to Exhibit 13. I briefly mentioned this  
11 before, that's the MSA. And Mr. Meador, opposing counsel, put  
12 this into the record. It's in as an exhibit.

13 Are you there, Your Honor?

14 THE COURT: Yes.

15 MR. TORVINEN: Would you go to page 39.

16 THE COURT: Yes.

17 MR. TORVINEN: Those are omitted debts. That is not  
18 what this provision is being operated under. It's not under 24.  
19 It just isn't, right? That's not what it's under. It's not under  
20 omitted debts. It's not saying it's a community obligation. It's  
21 an indemnity clause for this very reason.

22 And, frankly, as part of -- you know, there's retention  
23 of 10,000 bucks here plus a little more exposure because Allied  
24 agreed to pay part of the subpoena costs.

25 That's why it's drafted as an indemnity clause and not

1 under omitted debts or treated that way, so we don't have to have  
2 this discussion about notice and delving into the underlying claim  
3 and all that stuff.

4           It's simply an indemnity clause, which actually  
5 ironically protects Ms. Hascheff. It protects her, which is  
6 maddening here. It's 5500 bucks. It's not a boomer, Your Honor.

7           It protects her. The agreement to buy this tail policy  
8 and the retention is part of that policy to which she agreed and  
9 is part the indemnity clause protects her.

10           And my client, frankly, has done back flips to try to  
11 address their concerns.

12           Pardon?

13           THE COURT: "In the event husband is sued for  
14 malpractice, wife agrees to defend and indemnify husband for  
15 one-half of the costs of any defense and judgment."

16           Now, how does that get us back to he gets served a  
17 subpoena and he runs to an attorney because he believes that the  
18 Jaksicks are ultimately going to serve him, or that Todd Jaksick  
19 is ultimately going to sue him for malpractice?

20           MR. TORVINEN: Because in no malpractice action where  
21 there's -- where there are a collateral case going on that will be  
22 determinative of whether or not there's a malpractice claim, in  
23 none of those cases would a claim necessarily be filed until the  
24 underlying action is resolved.

25           And that's -- we put this in many of our pleadings, Your

1 Honor. It defies common sense. It's just there's no way,  
2 although they --

3 THE COURT: Does the actual language of your indemnity  
4 clause say that in the event that the husband is sued or may be  
5 sued for malpractice, is there anywhere that says that there's a  
6 collateral action that she's supposed to defend him against?

7 MR. TORVINEN: Not directly, no, but -- but I would say  
8 that, again, the malpractice action was dependent upon the  
9 underlying trust litigation.

10 That's where the exposure came from. The exposure  
11 didn't come from just a malpractice complaint. The exposure came  
12 from Wendy Jaksick saying this estate plan is all botched up,  
13 Pierre.

14 MR. MEADOR: That's not what she said.

15 MR. TORVINEN: Well, that's what she's essentially --  
16 I'm paraphrasing.

17 MR. MEADOR: She said her father lacked testamentary  
18 capacity.

19 THE COURT: Whoa, whoa, whoa. Stop, Mr. Meador.

20 MR. TORVINEN: Do you want to hear from my client?

21 THE COURT: Wendy Jaksick is not the client; correct?

22 MR. TORVINEN: Correct.

23 THE COURT: Thank you.

24 I did tell you I would hear from your client, so yes.

25 MR. TORVINEN: You want him sworn?

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THE COURT: Of course.

MR. TORVINEN: Okay. Do you want to the swear him in?

PIERRE HASCHEFF

called as a witness, having been duly sworn,  
testified as follows:

MR. MEADOR: Your Honor, may I make an objection to Judge Hascheff offering any facts or testimony that he refused to share in response to my multiple requests for information.

THE COURT: You may object because I don't know what he has refused to share, so you may object as we go along.

MR. MEADOR: Thank you, Your Honor.

MR. TORVINEN: So -- go ahead.

THE COURT: Go ahead.

THE WITNESS: So, Your Honor, is there any particular place you want me to start? Or do you want me to kind of start from the beginning and try to address each one of these concerns?

MR. MEADOR: I object to a narrative, Your Honor.

MR. TORVINEN: And we won't do a narrative.

Your Honor. My client is asking you what you want him to focus on. I can start at beginning of the exhibit book with the emails and get them into evidence. What would you like to hear?

THE COURT: I've explained to you that I want to hear

1 why there was no notice provided, that if he believed that the  
2 subpoena itself in 2018 was going to result in a malpractice  
3 action being filed and he expected to be indemnified, how come he  
4 didn't provide notice.

5 MR. TORVINEN: Okay.

6

7 DIRECT EXAMINATION

8 BY MR. TORVINEN:

9 Q You have the judge's question. Yes.

10 A And I will address that. We actually mentioned this in  
11 some of the pleadings.

12 So here comes the subpoena in July. So we don't know  
13 what to expect, but it's a blanket request for all of my files,  
14 basically.

15 But the thrust of it was that Wendy Jaksick was accusing  
16 Todd Jaksick of manipulating the estate, to the point -- I mean  
17 that's one of the allegations -- to the point that somehow in my  
18 conversations and advice with Sam Jaksick, that somehow I was  
19 taking advantage of Sam, and that Wendy --

20 MR. MEADOR: Your Honor, I object and move to strike. I  
21 requested the basis on which the affidavit gave notice and was not  
22 provided with this information.

23 THE COURT: Is that true, Mr. Torvinen?

24 MR. TORVINEN: Your Honor, no -- that's correct, except  
25 that it's part of the additional raising the bar every time we

1 tried to address an issue, and we just threw up our hands. I'm  
2 sorry.

3 MR. MEADOR: Your Honor, that representation that  
4 counsel repeatedly makes is not accurate, as you'll be able to see  
5 from the exhibits, particularly the early emails that I sent and  
6 that Mr. Alexander's affidavit was obtained long before I had sent  
7 Mr. Torvinen an email outlining the information I needed. So it  
8 was not a response to any alleged raising of the bar.

9 MR. TORVINEN: Well, Your Honor, I can address that.  
10 There was a letter that came back a few days later after that  
11 affidavit and the bills went over there. There was more -- it  
12 raised the bar again. It was only a few days. It's in  
13 Mr. Meador's exhibit binder. You can draw your own conclusions.

14 THE COURT: I want to hear from Judge Hascheff over  
15 objection of Mr. Meador.

16 Mr. Meador, I note your objection. I recognize your  
17 objection. And the Court will weigh the testimony accordingly.

18 Judge, please proceed.

19 THE WITNESS: All right. So there was a concern at the  
20 time the subpoena came in, and proof of that ultimately is that  
21 malpractice action was filed.

22 THE COURT: It was a concern by you, sir?

23 THE WITNESS: Me, personally?

24 THE COURT: Yes.

25 THE WITNESS: Yes. There's a lot of dynamics in this

1 family, and as proof, they mentioned eventually a complaint was  
2 filed.

3 The testimony that I gave in the deposition and at trial  
4 was primarily my advice to Sam Jaksick, Wendy Jaksick's attempt to  
5 invalidate the second amendment that I prepared, that I did not  
6 provide correct advice to Sam that somehow cost Wendy Jaksick, for  
7 her to receive less.

8 With respect to Todd Jaksick, especially since this case  
9 is on appeal, to the extent that I would have provided him with  
10 wrong advice and Wendy was able to prove that, whether it be Todd  
11 or Sam -- and these are all allegations of course, that -- that  
12 then he relying on my advice may have caused him some exposure.  
13 That's why I think he filed the complaint. All right?

14 MR. MEADOR: Your Honor, do I have a continuing  
15 objection?

16 THE COURT: You have a continuing objection, especially  
17 related to statements by Judge Hascheff that this is why he thinks  
18 the complaint was filed.

19 THE WITNESS: All right. So yes, there was a concern.  
20 And as I mentioned in the pleadings, I was just going to eat it,  
21 you know. I wasn't -- I just thought, you know, it's probably  
22 going to be more trouble than it's worth.

23 And then as the bills started to pile up, I thought at  
24 that point it would be appropriate to provide the notice. Keeping  
25 in mind, the subpoena came in, in July, and nothing really

1 happened for months, months and months. It really did not heat up  
2 until January of the following year.

3 And so when it became apparent to me that it was going  
4 to be -- we were going to exhaust the money before the deductible,  
5 we're going to exhaust the deductible, then I thought in fairness,  
6 as I indicated in my letter in July, that -- that in fairness, I  
7 thought we should split it.

8 And that's why.

9 THE COURT: So you felt that in 2019, in fairness, you  
10 should split it?

11 THE WITNESS: In February, when I got the bill, yes.  
12 Sometime in March or April, and February -- I mean March or April,  
13 I thought, yeah, at that time I've gotten bills now, I think we  
14 should split it.

15 THE COURT: Were you not provided with the bills on a  
16 monthly basis from Lemons, Grundy & Eisenberg?

17 THE WITNESS: No. No. In fact, that's why you see the  
18 payments of a thousand dollars from my LLCs, because I wasn't  
19 getting a bill. So that's why I started just paying it because I  
20 knew I owed something. And then ultimately I got the bill, the  
21 large bill, the 6351.80. And I did pay that.

22 If you note, all of the -- all of the invoices refer to  
23 Allied World Insurance, because they're the insurance company.  
24 Whether they made the payment or whether I made the payment, they  
25 all refer to Allied World Insurance.



1           So when you see "Thank you PAH Limited," or "Thank you  
2 Pierre Hascheff," they all have the same Allied World designation  
3 under it, the same thing with Allied, but I paid those bills.

4           THE COURT: And the report that Todd Jaksick refers to  
5 in the malpractice claim was not contained within your file?

6           THE WITNESS: I can't tell you for sure what that is all  
7 referring to. There were several expert reports in the underlying  
8 litigation. I don't know what they're referring -- I don't  
9 believe it's in my file. Very seldom -- the only expert reports  
10 we would have would be appraisers, so I don't think it was in my  
11 file.

12           THE COURT: Okay. And when were you deposed?

13           THE WITNESS: I believe I was deposed in January -- let  
14 me look at the bills. I think I was deposed in January and  
15 February.

16           MR. TORVINEN: Of what year?

17           THE WITNESS: In 2019.

18           THE COURT: And did you testify at the trial?

19           THE WITNESS: Yes.

20           THE COURT: Were you represented during your testimony?

21           THE WITNESS: Yes.

22           My concern, obviously, Judge, was you just don't know  
23 how these things are going to turn.

24           I mean, we're having conversations with Mr. Jaksick's  
25 lawyer. I don't know if he's going to sue me. Or the real

1 threat, I think, is from Wendy.

2 So ultimately I needed counsel to make sure that I would  
3 have the right guidance, we would not do anything that created a  
4 problem in a mal- -- in a malpractice action.

5 Obviously, the underlying case, in my opinion, the  
6 collateral case, was extremely important. We were able to --  
7 which I believe we did, in the underlying trust litigation --  
8 close down any of those allegations, the collateral estoppel and  
9 res judicata in any subsequent malpractice actions. That was  
10 really the litmus test for us to put up our defense, not for me to  
11 go in blind and without counsel.

12 THE COURT: You were sued for malpractice in December  
13 of 2018.

14 THE WITNESS: Correct.

15 THE COURT: And you provided notice of that suit in  
16 January of 2020.

17 THE WITNESS: Correct.

18 THE COURT: Okay. Mr. Torvinen, do you have questions  
19 for your client?

20 MR. TORVINEN: I don't, Your Honor, except to point out  
21 to you, I think in a broad and general sense, the affidavit of  
22 Mr. Alexander is entirely consistent with what my client just told  
23 you. There's more detail, no question, but it's completely  
24 consistent.

25 THE COURT: Okay. Well, we're talking about -- we're

1 not in argument. I asked you had if you had any questions.

2 MR. TORVINEN: I understand. I don't have any further  
3 questions.

4 THE COURT: Mr. Meador, do you have questions?

5 MR. MEADOR: Yes, I do. Thank you.

6  
7

CROSS-EXAMINATION

8 BY MR. MEADOR:

9 Q Judge Hascheff, you just testified that there were  
10 really no bills until 2019 and your deposition was in 2019.

11 Will you please turn to Exhibit 15, and your bill for  
12 September of 2018?

13 MR. TORVINEN: Counsel, can you point him to a page  
14 number?

15 MR. MEADOR: LH 96.

16 THE WITNESS: So I don't recall that being my testimony  
17 but, 96, did you say?

18 BY MR. MEADOR:

19 Q LH 96. The entry for September 14th, 2018.

20 A Okay. September 14, 2018.

21 I have it.

22 Q Does that refresh your recollection that the first day  
23 of your deposition was in September of '18, before you were sued?

24 A Looks like it, yes.

25 Q And then what was my client charged for, that you

1 redacted?

2 A I couldn't tell you.

3 Q And then turn to LH 100. The entry for November 17th of  
4 2018. Does that refresh your recollection that your deposition  
5 was in November of 2018, before you were sued for malpractice?

6 A That's what the entry indicates, yes.

7 Q And if you turn to 103, there's a bill for \$825 on  
8 January 24th, 2019. What was that for?

9 A I can't recall what it was for, but everything that was  
10 redacted we believe were privileged, should not be disclosed.

11 Q And you and you alone get to make that decision?

12 A No.

13 Q And turn to 104. Or, excuse me, 105. On February 20th,  
14 a bill for \$1,175. What was that for?

15 A Again, it was a privileged communication, I couldn't  
16 tell you.

17 Q What's the basis of the privilege?

18 A This was something I had in conversation with my  
19 attorney.

20 Q And do you contend that this is, that your interests are  
21 identical to my client's interests?

22 A Yes, they are.

23 Q And that they arise out of the same potential liability  
24 for your action during the marriage?

25 A We're both responsible in the indemnity agreement, so

1 yes, if a judgment is entered against me, she's going to have to  
2 pay half.

3 Q Turn to page 106. On February 22nd there's an entry for  
4 \$775. What was that for?

5 A It was a privileged communication.

6 Q And what's the nature of the privilege?

7 A All I can tell you is we looked at that entry, we  
8 determined it to be privileged and confidential. As you notice,  
9 all of the --

10 Q I didn't ask you any other question. I asked you the  
11 basis of the privilege. We don't even know if you were talking to  
12 your counsel.

13 So what's the basis of the privilege for that one?

14 A I believe I've told you that Mr. Torvinen and I looked  
15 at these entries and made a determination those were privileged  
16 communications.

17 Q And did you provide a privilege log?

18 A Excuse me?

19 Q Did you provide a privilege log?

20 MR. TORVINEN: Your Honor, I object. That's -- it's  
21 irrelevant. Attorney-client communications are privileged.  
22 Everybody knows that.

23 MR. MEADOR: We don't even know if it's an attorney  
24 client privilege -- client communication, Your Honor.

25 BY MR. MEADOR:

1 Q Judge Hascheff, if you look at the entries for 2/24,  
2 your lawyer was meeting with Kent Robison, Todd Jaksick's lawyer,  
3 to prepare for your testimony; correct?

4 A That's correct.

5 Q And this is after he sued you?

6 A Correct.

7 Q And yet your lawyer tells me I'm not entitled to know  
8 what you spoke with Mr. Robison about, doesn't he?

9 A Well, there were a lot of things that were discussed, a  
10 lot of --

11 Q Turn to 107.

12 A Okay.

13 Q Do you see an entry L 120, analysis/strategy?

14 A Yes.

15 Q How much were you charged for analysis/strategy?

16 A In total?

17 Q Yeah. What does it say?

18 A \$3,350.

19 Q And it's your position my client has absolutely no right  
20 to know what that analysis or strategy were, she just has to write  
21 a check for half the bill?

22 A Well, we produced -- you asked me --

23 Q Would you please answer my question, sir.

24 A Yes, we provided the information.

25 Q Now, please turn to Exhibit 3.

1 THE COURT: Could you hold for one second.

2 MR. MEADOR: Sure.

3 THE COURT: Judge, you and Mr. Torvinen decided what  
4 would be redacted?

5 THE WITNESS: Yes.

6 THE COURT: So it wasn't decided between you and  
7 Mr. Alexander what would be redacted?

8 THE WITNESS: Well, Mr. -- if I recall correctly, he may  
9 have been involved in part. Based on my discussions with him --  
10 again, I don't want to do anything to waive the privilege -- based  
11 on my many discussions with him, we knew what was sensible, what  
12 could be disclosed.

13 THE COURT: From -- these billing records relate that  
14 someone sat in for the trial, that didn't even relate to your  
15 testimony?

16 THE WITNESS: Sorry, Judge?

17 MR. TORVINEN: Can you be specific, Your Honor?

18 THE COURT: At 105, or at 106.

19 MR. TORVINEN: Okay. Would you ask my client the  
20 question again?

21 THE COURT: Review and analyze trial testimony of other  
22 witnesses in the Jaksick trial in preparation of that trial.

23 So they're reviewing other people's testimony and you're  
24 being charged for that, as part of a malpractice suit?

25 THE WITNESS: Are you talking about the entry that's

1 dated February 5th, 2019?

2 THE COURT: It would have been February 21st, and it's  
3 on 106. Review and analyze testimony of other witnesses in  
4 Jaksick trial in preparation of your trial testimony.

5 THE WITNESS: Correct.

6 That's my understanding, that Mr. Alexander looked at  
7 the testimony of some of the other witnesses and how that may  
8 impact my testimony, the questions I might be asked.

9 THE COURT: Okay. Thank you. Please proceed.

10 BY MR. MEADOR:

11 Q And on that same February 22nd, Judge Hascheff, your  
12 lawyer appeared to sit through your testimony, even though he  
13 would have no ability to ask you questions or object to questions;  
14 correct?

15 A I don't know about that, but he would have no --

16 Q Well, you weren't a party to that action, were you?

17 A I was a witness.

18 Q Are witnesses' lawyers allowed to ask them questions at  
19 a trial that they're not a party to?

20 A No, but he can converse with the other parties.

21 Q Thank you.

22 A He can converse with the other parties.

23 Q Now please turn to Exhibit 3, and the page LH 8.

24 A All right.

25 Q And please read paragraph 18 to yourself and let us know



1 when you've had a chance to do so.

2 A I've read it.

3 Q So does that refresh your recollection that the expert  
4 report that gave -- that Todd Jaksick claimed gave him notice was  
5 not part of your file?

6 A I do not believe that expert report was part of my file.

7 Q Thank you.

8 And would you please turn to Exhibit 14?

9 A Okay.

10 Q Show me, identify for me the paragraph in which Wendy  
11 Jaksick accused you of malpractice.

12 MR. TORVINEN: Your Honor, that was never my client's  
13 testimony, nor was it my argument.

14 It was actually under Exhibit 16. That misstates what I  
15 said. It was under 16. He's pointing my client to the subpoena.

16 MR. MEADOR: Yes, I want to know what paragraph of the  
17 subpoena --

18 THE COURT: It's cross-examination and I'm going to  
19 allow the question.

20 THE WITNESS: And you can appreciate, Mr. Meador, when  
21 you look at the documents, that they were --

22 MR. MEADOR: Would you please just answer my question,  
23 please. I want the paragraph number.

24 THE WITNESS: You want me to read the whole thing all  
25 over again?

1 BY MR. MEADOR:

2 Q I want you to tell me which paragraph reflects that  
3 Wendy Jaksick was accusing you of malpractice. I believe that is  
4 what --

5 MR. TORVINEN: Your Honor, that's --

6 MR. MEADOR: -- you just testified to.

7 MR. TORVINEN: Your Honor, my client testified or he  
8 said, I think, if I recall correctly, that it was the totality of  
9 this thing, not a specific --

10 MR. MEADOR: I would ask that counsel not testify for  
11 his client.

12 MR. TORVINEN: I'm not. It's mischaracterizing.

13 THE COURT: Okay. Whoa. Whoa.

14 Judge Hascheff, you answer his question if you know the  
15 answer.

16 THE WITNESS: I do know the answer.

17 All of these entities are intertwined with the estate  
18 plan. The SS LTD was a subject of concern. Jaksick family  
19 entities, same thing, all part of the estate planning. Entities  
20 were set up. There's a big picture here, about how we structured.  
21 The big picture was the estate plan, and all of these entities fit  
22 into that estate plan. All right?

23 It was also -- part of the estate planning was Jaksicks  
24 were in trouble because of the recession, and they had a huge  
25 amount of real estate holdings, all of which were subject to that.

1           So in order to do credit protection as part of the  
2 estate plan, many of these entities were set up, specifically the  
3 Tahoe property which we referred to on page 16, the  
4 indemnification agreement, part of the estate plan, SSJ part of  
5 the estate plan.

6           They wouldn't be asking for these unless, and as it  
7 proved up in Exhibit 16, where she was making this claim that the  
8 second amendment was invalid, and my advice was right in the  
9 middle of that. And also --

10 BY MR. MEADOR:

11       Q     Let's go there.

12           What document did Wendy Jaksick's lawyers ask for as  
13 part of their 41-page exhibit that you would not have produced,  
14 you would not have been required to produce if they had simply  
15 asked you in one page to produce your entire file?

16           MR. TORVINEN: Objection. Why is this relevant? It's  
17 not relevant.

18           MR. MEADOR: It is relevant.

19           MR. TORVINEN: What -- it's not relevant.

20           THE COURT: Mr. Torvinen, it was his argument that this  
21 was, the subpoena itself, was a request for Judge Hascheff's file,  
22 and that that did not in itself raise the red flag that this was  
23 subjecting Judge Hascheff to malpractice.

24           MR. TORVINEN: Okay. Well, my --

25           THE COURT: I would like to hear the answer,

1 Mr. Torvinen.

2 MR. TORVINEN: Okay.

3 THE WITNESS: Mr. Meador, do you want to repeat the  
4 question?

5 BY MR. MEADOR:

6 Q What document did Wendy Jaksick's lawyers request in  
7 this 41-page subpoena that you would not have been required to  
8 produce if she had simply asked you to produce all of your files  
9 related to the Jaksicks?

10 A So presumably in -- we didn't produce these documents,  
11 the Jaksicks did, because the Jaksicks had the documents, I did  
12 not.

13 So I don't know which ones they produced and which ones  
14 they put on a privilege log.

15 Q Well, that was not responsive to my question, Your  
16 Honor.

17 A When you look at -- when you look at all of these  
18 requests about how they didn't share assets equally, on page 17,  
19 how they wanted all of those documents, there are some documents  
20 in here --

21 MR. TORVINEN: Well, just specifically read that.

22 THE WITNESS: Pardon?

23 MR. TORVINEN: Read that.

24 THE COURT: Okay. So, Mr. Torvinen, you don't get to  
25 advise your client --

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MR. TORVINEN: I understand.

THE COURT: -- how to testify when he's on the witness stand.

MR. TORVINEN: I'll come back to it.

THE COURT: You can go back to it.

The question was, is what would not have been -- you would have had to produce, but you said the Jaksicks produced this, Judge.

THE WITNESS: Correct. They did.

THE COURT: You said you didn't have any of these documents.

So if you didn't have any of these documents, why did the subpoena itself make you believe that you were going to be sued for malpractice?

THE WITNESS: For the things or the matters that I just mentioned. All right? All of these documents, the majority of this documents define the estate plan.

The dispute in the underlying litigation was about the second amendment primarily. That's what I was deposed on and that's what I've testified.

All of these documents, the thrust of all of these documents would show, as indicated on page 17, about why she did not share equally in many of the assets that were subject to the estate plan, the Tahoe property for one, LLCs for others, that she was not -- she was not in any of the business entities, including

1 the Tahoe property, all of which were part of my estate plan.

2 So she would not be asking for these documents and  
3 asking for the second amendment to be set aside unless she was  
4 coming after me or one of the --

5 MR. MEADOR: Objection, move to strike. It's  
6 speculation.

7 THE WITNESS: Well, you asked me. This was the  
8 testimony.

9 BY MR. MEADOR:

10 Q No, I asked what document you would be required to  
11 produce that would be different than if she had served a simpler  
12 subpoena.

13 A And I told you --

14 THE COURT: All right. All right. Move on, Mr. Meador.

15 THE WITNESS: -- they were --

16 MR. MEADOR: Thank you.

17 THE COURT: Judge -- Judge, we're just going to move on.

18 THE WITNESS: Okay.

19 BY MR. MEADOR:

20 Q Please turn to Exhibit 16, and identify for me the  
21 paragraph in which Wendy Jaksick accused you of malpractice.

22 A I don't believe you're going to find any specific  
23 reference to malpractice. However, this is what the whole purpose  
24 of the underlying litigation was.

25 MR. MEADOR: Objection. Move to strike.

1 THE WITNESS: I advised the client -- I was  
2 cross-examined --

3 MR. TORVINEN: My client answered the question. He's  
4 answering.

5 THE WITNESS: I was cross-examined on this over and  
6 over.

7 THE COURT: And he doesn't -- stop, because there's an  
8 objection pending. And he knows the rules. He doesn't get to  
9 keep talking when there's an objection pending.

10 He says that this was nonresponsive and at this point in  
11 time the Court is inclined to strike that as being nonresponsive.

12 All right.

13 BY MR. MEADOR:

14 Q Would you please look at paragraph 4 on page 113. Read  
15 it to yourself.

16 A All right.

17 Q And what was Wendy Jaksick's specific complaint about  
18 the second amendment?

19 A There were many. It was invalid. He didn't have the  
20 requisite mental capacity, among others.

21 Q Well, would you read it out loud then since we seem to  
22 disagree.

23 A All right.

24 MR. TORVINEN: Objection, Your Honor. There's no reason  
25 to read it out loud. You can read it. It's in evidence.

1 MR. MEADOR: Thank you.

2 THE COURT: It is in evidence.

3 MR. MEADOR: I was just confused by the answer, "a lot  
4 of things," when there didn't seem to be a lot of things.

5 MR. TORVINEN: Well, I'd move to strike that. My client  
6 answered that about the subpoena, all the other entities.

7 THE COURT: Well, first of all, that didn't make sense  
8 to me, Mr. Torvinen.

9 Paragraph 4 states that he challenges the validity based  
10 upon the fact that he did not possess the requisite mental  
11 capacity, or that it was executed as a result of undue influence.

12 MR. TORVINEN: Right.

13 THE COURT: It doesn't state that subsection, or the new  
14 2, the third amendment that was dated, that it was improperly  
15 drafted, it doesn't say that.

16 MR. TORVINEN: Right.

17 THE COURT: What it says is that they didn't lack the  
18 capacity or that he was unduly influenced. That's what it says.

19 MR. TORVINEN: Correct.

20 THE COURT: That's what --

21 MR. TORVINEN: And -- but to answer your question, Your  
22 Honor --

23 THE COURT: No, no, no, you don't get to answer my  
24 question, Mr. Torvinen.

25 MR. TORVINEN: Well, I'm trying to point you to the



1 documents.

2 THE COURT: Mr. Torvinen, during your redirect of your  
3 client --

4 MR. TORVINEN: Okay. Fair enough.

5 THE COURT: -- or in your first questioning, because you  
6 chose to let the Court question him instead of you questioning  
7 him, I'll let you flesh that out --

8 MR. TORVINEN: Okay.

9 THE COURT: -- but you're not going to testify for him.

10 MR. TORVINEN: Fair enough.

11 BY MR. MEADOR:

12 Q Judge Hascheff, would you turn to page -- or to  
13 Exhibit 9.

14 A All right.

15 Q Just read it to yourself and let me know when you've had  
16 an opportunity to do so.

17 A All right.

18 Q And you took the position that you had no obligation to  
19 provide me with this information, correct?

20 A No, that's not correct.

21 Q When did you provide me with information about the  
22 current status of the malpractice action?

23 A It was in an email. We told you it was stayed.

24 Q Well, it was stayed in December of 2018. This is a  
25 letter, June 11th, 2020. Did you respond to my request of June

1 11th to tell me the status of that action?

2 A The status of the action did not change.

3 Q And did you respond to paragraph 2?

4 A We didn't know at the time. I think Mr. Torvinen had  
5 told you in May that the equitable claims were stayed, excuse me,  
6 the equitable claims were pending.

7 THE COURT: Mr. Torvinen, could you quit talking to your  
8 client while he's --

9 MR. TORVINEN: I didn't. I wasn't. I didn't say a word  
10 to him. I was just looking at the -- at the exhibit. I was not  
11 -- I didn't say a word.

12 THE COURT: Thank you.

13 BY MR. MEADOR:

14 Q Look at paragraph 4. You would agree that you never  
15 provided me with this information, wouldn't you?

16 A That's correct, we did not provide you with that  
17 information.

18 Q And the same is true with respect to paragraph 5?

19 A Again, having that discussion, there was a concern that  
20 that would lead to --

21 Q I just asked you if you responded to my request.

22 A No, because it was privileged.

23 Q And paragraph 6, you didn't respond to that either?

24 A Privileged.

25 Q And 7, you didn't respond to that either?

1 A Privileged.

2 Q Turn to paragraph 8 -- or Exhibit 8.

3 A All right.

4 Q You've seen this letter before, haven't you?

5 A Yes.

6 Q And, again, it was me requesting the very same  
7 information, isn't it?

8 A What specific information are you referring to?

9 Q Well, for example, if you look at the first full  
10 paragraph on the second page, the basis on which your lawyer made  
11 broad general characterizations and conclusions.

12 A Okay. Again, we had pending equitable claims. You have  
13 to understand when he -- we did this affidavit, this was early on.  
14 Early on, we did not know. We suspected, based on Wendy's claims,  
15 when she asked for \$70 million in the lawsuit, that that would  
16 morph into a malpractice claim.

17 Q When was the lawsuit tried?

18 A If I recall correctly it was in February of 2019.

19 Q It was actually -- right. And when was the decision  
20 rendered?

21 A That -- well, the jury came back on the legal claims, I  
22 think, within two weeks.

23 Q And the date of Todd Alexander's affidavit about which  
24 I'm asking you questions is dated what?

25 A What exhibit is that?

1 THE COURT: April of 2020. Come on, let's move along.  
2 MR. MEADOR: Thank you.  
3 BY MR. MEADOR:  
4 Q Now, I notified you in an email and I notified your  
5 lawyer in this letter that my client was prepared to pay her half  
6 of the costs of defense, correct?  
7 A Are you talking about the underlying malpractice action?  
8 Q Yes. She said she would pay her half of that. Our  
9 dispute was what was covered and what was not covered, right?  
10 A No, it was more than that.  
11 Q Well, look at the second page of paragraph -- of  
12 Exhibit 9, the last paragraph.  
13 MR. TORVINEN: Are you referring to Exhibit 8, Counsel?  
14 MR. MEADOR: Yes, I'm sorry, I'm still on 8. I  
15 apologize, LH 22.  
16 BY MR. MEADOR:  
17 Q And that's the same thing I told you in an email when we  
18 were emailing each other directly, isn't it?  
19 A Yeah, among other things.  
20 Q Now turn to the last page of Exhibit 8.  
21 A We just had a dispute as to what the indemnity covered.  
22 Q I agree.  
23 A I thought everything and you thought it was a couple of  
24 hundred dollars.  
25 Q And turn to the last paragraph of Exhibit 8 and tell me

1 what part, what information you did not receive pursuant to 35.2  
2 that you needed to receive in order to respond.

3 Can you share with the Court what you are looking at.

4 A It's section 35.2. I understand the question, you want  
5 to know what information --

6 Q I understood your argument to be that I didn't comply  
7 with 35.2. I want to know what information you believe you didn't  
8 receive that you needed.

9 A 35.2 indicates that if a party wants their attorney's  
10 fees they're going to have provide the other party at least 10  
11 days prior notice, then meet the requirements which are one, two,  
12 three, four.

13 So we did that multiple times, I believe a total of five  
14 or six times, we kept -- as you kept asking for more information,  
15 we kept providing it. And I can give you the dates when we gave  
16 you 10 days notice.

17 Q She actually kept asking for the same information,  
18 didn't she?

19 A Pardon me?

20 Q What she did was continue to ask for the same  
21 information because you continued to refuse to produce it.

22 A That's not true.

23 Q Okay. Well, the judge will read the exhibits and I'll  
24 trust her judgment.

25 But I'm asking you about if you claim that my client did

1 not comply with paragraph 35.2.

2 A I don't -- if you are asking me, I believe collectively  
3 the answer is no. You may have sent something and we missed it  
4 but I don't recall you ever sending a letter providing 10 days  
5 notice to cure.

6 Q Are you looking at Exhibit 8?

7 A Yes.

8 Q Page 4?

9 A Yes.

10 Q Where it says pursuant to paragraph 35.2?

11 A Correct.

12 Q Okay. I'll move on.

13 Now, look at Exhibit 7. This is a letter from your  
14 lawyer, correct?

15 A Correct.

16 Q You've seen this letter before?

17 A Correct.

18 Q And he insists that you sent me an email on March 1,  
19 2020. Correct?

20 A Sent you an email?

21 Q The bottom of the first page. He refers to your email  
22 of March 1st, correct?

23 A Correct.

24 Q And then turn over to the next page, the last paragraph.  
25 What remedy does your lawyer on your behalf state that he will

1 seek?

2 A Is he will seek enforcement of the MSA.

3 Q Does he say that he'll sue my client for contempt or  
4 file a contempt motion against her?

5 MR. TORVINEN: Your Honor, that statement is misleading.  
6 It's pled in the alternative.

7 MR. MEADOR: Your Honor, I would ask that counsel either  
8 make an objection or not.

9 MR. TORVINEN: It's misleading. It's pled in the  
10 alternative, Your Honor. It's misleading. Go back and look at  
11 the pleading. It's pled in the alternative.

12 BY MR. MEADOR:

13 Q My question is whether your lawyer told me that he would  
14 be filing a motion to hold my client in contempt in this letter.

15 I'll move on since it's admitted.

16 Will you turn to Exhibit D.

17 THE COURT: This would be in Mr. Torvinen's exhibits?

18 MR. MEADOR: Yes, thank you.

19 THE COURT: Are you stipulating to the admission of D?

20 MR. MEADOR: I'll stipulate to the admission of D.

21 THE COURT: Okay. Thank you.

22 (Exhibit D admitted into evidence.)

23 BY MR. MEADOR:

24 Q Judge Hascheff, this is the email to which your lawyer  
25 referred in Exhibit 7; correct?

1           A     I believe so.

2           Q     And, again, you state in your email, "I intend to  
3 enforce," correct?

4           A     You want to direct me to what paragraph?

5           Q     Well, it's all one paragraph.

6           THE COURT:  It's a single paragraph document.

7 BY MR. MEADOR:

8           Q     It's about one, two, three, four, five -- five or six  
9 lines down.  "I intend to enforce the settlement agreement."  That  
10 was your language?

11          A     Yes, that's what I said.

12          Q     And can you show me where you gave her notice that you  
13 were going to seek to have her held in contempt of court?

14          MR. TORVINEN:  Objection, it's irrelevant, Your Honor.  
15 It's irrelevant.  It was pled in the alternative.  It's  
16 irrelevant.  What difference does it make?

17          THE COURT:  You have notice requirements.  You were  
18 trying to have the decree enforced.

19          MR. TORVINEN:  Correct.

20          THE COURT:  What's good for the goose is good for the  
21 gander.  It's not irrelevant.

22          MR. TORVINEN:  The objection is it's in compliance with  
23 35.2, which says he gets attorney's fees if he's got to enforce.  
24 It's irrelevant.  The contempt is irrelevant.

25          THE COURT:  Most people who are found in contempt, sir,



1 do not find it irrelevant.

2 MR. TORVINEN: But it's pled in the alternative, Your  
3 Honor.

4 THE COURT: So are you acknowledging at this moment,  
5 sir, that you do not have a basis to bring contempt because you  
6 didn't provide notice?

7 MR. TORVINEN: No, I am not.

8 THE COURT: All right. Then I'm going to allow the  
9 question to be asked, Mr. Torvinen.

10 MR. TORVINEN: Okay.

11 THE COURT: And I don't find it irrelevant.

12 If you have a requirement for notice and you didn't  
13 provide notice of contempt, then you do have a basis to enforce  
14 but not to have her held in contempt.

15 MR. TORVINEN: And it's pled in the alternative.

16 THE COURT: And it is still part of what it has --  
17 you're not understanding.

18 MR. TORVINEN: I am understanding.

19 THE COURT: There are differences between contempt and  
20 enforcement, sir.

21 Please proceed, Mr. Meador.

22 MR. MEADOR: Court's indulgence, Your Honor.

23 THE COURT: Of course.

24 MR. MEADOR: Your Honor, I won't ask him about that.

25 It's in the file and you can review it in terms of documents that

1 I had requested and information I had requested, to move things  
2 on.

3 BY MR. MEADOR:

4 Q And finally, Judge, will you please look at Exhibit 5.

5 A Okay.

6 Q This email is in response to my email of about March 4th  
7 or 3rd, isn't it?

8 A It is in response to an email, yes.

9 Q And if you turn to LH 16, you advise me that your only  
10 duty was to advise my client that you had been sued and to provide  
11 proof of payment. That's all you had to do?

12 A Could you repeat the question?

13 Q I'll move on.

14 Would you look at -- actually, Your Honor, I'll just ask  
15 you to look at 4 in terms of being able to see that we  
16 consistently --

17 MR. TORVINEN: Objection, this is argument.

18 BY MR. MEADOR:

19 Q -- asked for the same information.

20 MR. TORVINEN: Objection, argument.

21 BY MR. MEADOR:

22 Q Then, Judge, please turn to Exhibit 4. Specifically,  
23 LH 13. Do you recall receiving this email?

24 A Yes, I do.

25 Q And then if you look at Exhibit 5, this is your

1 response.

2 Excuse me. That's not true.

3 Then look at the next page, March 3rd, my response to  
4 you. You received this email?

5 MR. TORVINEN: Under exhibit -- under Exhibit 5, or 4?

6 THE COURT: Exhibit 4.

7 BY MR. MEADOR:

8 Q Under 4, LH 14.

9 MR. TORVINEN: I got it.

10 BY MR. MEADOR:

11 Q You received this email from me, Judge?

12 A Yes.

13 Q Thank you.

14 MR. MEADOR: I have no other questions, Your Honor.

15 THE COURT: Mr. Torvinen.

16 MR. TORVINEN: Your Honor, may I proceed? I just need  
17 to get our exhibits into evidence.

18 THE COURT: Mr. Torvinen, what is on your desk that  
19 moves and it looks more like a flag, as if you were expecting food  
20 to be delivered?

21 MR. TORVINEN: Oh, that's a -- it's Christmas card and  
22 it has nasty words about the Christmas of 2020 because of the  
23 corona virus.

24 THE COURT: Okay. Well, it's really --

25 MR. TORVINEN: Is it bugging you?

1 THE COURT: Yes, it's impeding my ability to --

2 MR. TORVINEN: I'm sorry, Your Honor. It's gone now.

3 THE COURT: Thank you. At times, when you talk to your  
4 client, it looked like you would duck behind it, and I didn't know  
5 what was happening.

6 MR. TORVINEN: I can assure you it wasn't intentional  
7 hide the lawyer, talk to the client.

8 THE COURT: All right. Thank you very much.

9

10 REDIRECT EXAMINATION

11 BY MR. TORVINEN:

12 Q Okay. Mr. Hascheff, would you go to Exhibit A. Thank  
13 you.

14 What's Exhibit A?

15 A Exhibit A is the initial communication I had with  
16 Ms. Hascheff.

17 Q And is it different than the exhibit, the corresponding  
18 exhibit placed by Ms. Hascheff?

19 A It's just missing two pages.

20 Q What pages?

21 A One, the letter, a copy of the letter which was  
22 addressed to her, as well as Mr. Alexander's letter dated October  
23 23rd. Those were included in with the cover letter that I sent  
24 you.

25 Q And you sent this. This is your handwriting?

1 A Yes.

2 MR. TORVINEN: Move to admit, Your Honor.

3 MR. MEADOR: No objection.

4 THE COURT: It's admitted.

5 (Exhibit A was admitted into evidence.)

6 BY MR. TORVINEN:

7 Q What's under B, what is this?

8 A Okay. B. Okay. That is the email I sent to Lucy  
9 Mason. She had made -- on January 24 or 26, I had provided her  
10 some information concerning the claim. She followed up with a  
11 letter on February 4th, which is part of this exhibit. And then  
12 what exhibit -- this first page shows that I delivered everything  
13 she requested except --

14 MR. MEADOR: Objection, testifying from a document  
15 that's not admitted.

16 BY MR. TORVINEN:

17 Q Well, what does the email say?

18 A The email says --

19 MR. MEADOR: Object. Prior consistent statement is  
20 hearsay and inadmissible.

21 MR. TORVINEN: He can testify to what he told -- is this  
22 your statement?

23 THE WITNESS: Yes.

24 MR. TORVINEN: It's your statement.

25 MR. MEADOR: He can't offer that statement for the truth

1 of that statement. It's hearsay. It's a prior consistent  
2 statement.

3 BY MR. TORVINEN:

4 Q Then I'll follow up.

5 What did you send, what, to your recollection, what did  
6 you send Lucy Mason?

7 A Everything that she asked for in her email to me on  
8 February 4th, which included correspondence with the adjuster,  
9 endorsement number five, correspondence, copy of the policy,  
10 correspondence, subpoena -- I don't even think she asked for that  
11 but I sent it anyway -- complaint, copy of the cancelled check.

12 Q What cancelled check?

13 A The amount of \$6,351.80.

14 Q And where was that in this exhibit? It's not -- they're  
15 not numbered. It's about halfway through it, isn't it?

16 A Correct, it's not.

17 MR. TORVINEN: Your Honor, you were asking about that  
18 earlier.

19 THE WITNESS: And then the Jaksick complaint.

20 BY MR. TORVINEN:

21 Q Well, wait, wait. Let's back up.

22 How much is the check for?

23 A \$6,351.80.

24 Q And you provided Ms. Mason a copy of that?

25 A Correct, plus the Lemons Grundy invoice that showed

1 payments that we provided.

2 Q And so you sent this email on February 5 in response to  
3 a request from Ms. Mason?

4 A Yeah, everything she asked for on February 4th, I had to  
5 her by February 5th.

6 Q You responded within the next day?

7 A Correct, in January.

8 Q And go a few pages back. Did she respond to your email  
9 on February 11th?

10 MR. MEADOR: My objection still stands, Your Honor.

11 THE COURT: I don't even know where we're at and what  
12 we're talking about. The first one was his own -- so  
13 February 11th appears to be --

14 MR. TORVINEN: That's further back, Your Honor.

15 THE COURT: So you're asserting this is an email string  
16 between --

17 MR. TORVINEN: Correct.

18 THE COURT: -- and Mr. Hascheff, and Judge Hascheff.

19 MR. TORVINEN: Correct. And you can see the reliability  
20 which gets at the hearsay rule, that my client responded to the  
21 first email asking for X number of documents, and it's in the  
22 email from Ms. Mason. It's the chain.

23 BY MR. TORVINEN:

24 Q What is this set of emails, what are these?

25 A These emails show that whenever they provided or asked

1 me for information I provided it. The only thing I didn't provide  
2 were what we perceived to be attorney-client narratives, and then  
3 eventually those were redacted and sent to Mr. Meador.

4 Q Did, in this chain, did Ms. Mason ask you to provide  
5 redacted bills, do you recall?

6 A She said we could resolve any concern about  
7 attorney-client privilege by redacting the narratives, which we  
8 did.

9 Q Would you go back to the part of this chain, the email  
10 from her dated February 11, 2020?

11 A Yes.

12 Q Would you look at the second paragraph?

13 A Yes.

14 Q Read that, please.

15 A As you acknowledge, no fees are being incurred.

16 Q Well, doesn't she ask you for redacted bills in this  
17 paragraph? About 10 lines down, the "I am entirely" -- do you see  
18 that?

19 MR. MEADOR: Your Honor, it either has to be admitted or  
20 not before he can ask questions --

21 THE COURT: Yes.

22 MR. MEADOR: -- about an email from --

23 THE COURT: I'm just going to admit it over objection.

24 MR. TORVINEN: Okay. Let's just admit it. Fine.

25 THE COURT: I'm admitting it over objection. And I'm



1 also admitting it even though it isn't complete.

2 (Exhibit B was admitted into evidence.)

3 THE COURT: Let's be realistic. On several of the pages,  
4 there are "tap to download information." I have no clue what  
5 information was included in the "tap to download."

6 MR. TORVINEN: Where are you referring, Your Honor?  
7 Just so I understand what you're saying.

8 THE COURT: Okay. Because the pages aren't numbered, it  
9 makes it difficult.

10 All right. Let's go. Exhibit B, page 1, 2, 3, 4. It  
11 says February 5th, to Lucy Mason from Pierre Hascheff. And  
12 there's a PDF and it's there. I don't know what's in that PDF. I  
13 have no clue.

14 THE WITNESS: That was the subpoena.

15 THE COURT: I have no clue what it is. You could tell  
16 me what you want to tell me. I have no clue.

17 BY MR. TORVINEN:

18 Q Okay. Well, let us back up. What was in -- it says  
19 PDF --

20 THE COURT: No. No. No. No. No. No. You either  
21 have to give me it to me -- you go to the next one, the next one  
22 that says PDF, it says Jaksick complaint. I don't know whose  
23 handwriting that is, I don't have a clue about that. So I don't  
24 know what's been submitted or given back to her from this.

25 You state that it is everything that's of importance.

1 The only thing that I can tell is that these -- it's an email  
2 string between them, but what was actually provided, I have no  
3 clue.

4 MR. TORVINEN: Well, my client testified to that, Your  
5 Honor.

6 THE COURT: Okay. I still have no clue. It's not part  
7 of that email. The email doesn't tell me that.

8 THE WITNESS: Although, Judge, I said on February 3rd,  
9 do you have everything that you need? She did not object, saying  
10 I didn't get all the things that I requested. The only thing she  
11 objected to was the fact that I did not want to provide  
12 attorney-client privileged narrative. There was no objection that  
13 she did not --

14 THE COURT: Okay. Okay. I'm not here to argue with  
15 you. I've admitted Exhibit B over objection and I'll read to it  
16 figure out what it is.

17 BY MR. TORVINEN:

18 Q Okay. Did you later provide redacted bills?

19 A Yes.

20 Q To whom?

21 A You did. I provided them to you. You provided them to  
22 Mr. Meador.

23 Q Okay. So let's go to Exhibit C. What is C?

24 A This is my, I believe, my first communication with  
25 Mr. Meador. This is where I correct the original amount that I

1 had in January.

2 Q To what?

3 A To 4675.90, which there was an error in January. I also  
4 corrected it to Lucy, in my emails with her.

5 MR. TORVINEN: I move to admit this one Your Honor.  
6 This is C.

7 THE COURT: I believe C is already in.

8 MR. TORVINEN: I thought it was D. It's C?

9 THE COURT: It's in now, if there's no objection,

10 Mr. Meador.

11 MR. TORVINEN: Okay. D is in I think, right? D is in?

12 THE COURT: Mr. Meador, do you have any objection  
13 related to C?

14 MR. MEADOR: I have no objection to C.

15 THE COURT: Thank you. It's in.

16 (Exhibit C was admitted into evidence.)

17 MR. TORVINEN: Okay. Sorry, Your Honor. D is in?

18 THE COURT: Ms. Covington, is D in?

19 THE CLERK: Yes, Your Honor. D is in with no objection.

20 THE COURT: Thank you.

21 MR. TORVINEN: This is also in Mr. Meador's binder.

22 I -- just to keep it clean -- I offer E.

23 THE COURT: Mr. Meador?

24 MR. MEADOR: I believe E is the same as my 7, so no  
25 objection.

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THE COURT: It's in.

(Exhibit E was admitted into evidence.)

BY MR. TORVINEN:

Q What's F, Mr. Hascheff?

A That was the complaint that I sent on the 24th.

Q To whom?

A Lucy Mason. She wanted a copy.

Q Is this an email string with Lucy?

A Yes.

Q What -- between what dates?

A January 24th, and then on January 29th, I sent her a copy of a page, the MSA, requiring -- it was based on Section 40.

MR. TORVINEN: I move to admit this.

THE COURT: Mr. Meador?

MR. MEADOR: I don't know -- "Here you go, please let me know when I expect payment. Hope all is well." I have no way of knowing what that's about at all. So I do not stipulate. I object, that it's a prior consistent statement, according to his statement.

MR. TORVINEN: Prior consistent statement?

MR. MEADOR: Yeah.

BY MR. TORVINEN:

Q What are you asking Ms. Mason in this email?

A So what I provided her was -- I didn't know if she had a copy of the MSA so I provided her with a copy of the relevant

1 page.

2 THE COURT: Okay. I'm not going to admit this one  
3 because in this particular case it says -- it says that he sent  
4 the complaint again, and that's what he just testified to, that he  
5 sent the complaint --

6 MR. TORVINEN: Well, this is a repeat of the email  
7 that's already in.

8 THE COURT: Whoa. No, it is not, sir.

9 MR. TORVINEN: I'll go back and look at it.

10 THE COURT: Because they repeat that there's no reason  
11 and there's no -- he says he's attached the MSA, and there's no  
12 attachment from the MSA. So it's not even consistent with what  
13 he's testifying to.

14 MR. TORVINEN: Well, if you go to the second page of  
15 this email, go under -- it's under F.

16 THE WITNESS: Okay.

17 BY MR. TORVINEN:

18 Q Okay. What did you write to Ms. Mason on the bottom of  
19 this page? It's under -- right here. I think it's the next page.  
20 That's missing a page. Oh, there it is right there. You've got  
21 it.

22 A So I told her --

23 THE COURT: No, I'd like to get the "here you go" in.  
24 Now you're telling me this is part of a string and the string is  
25 different than you've got it in B. It's a completely different

1 string. How do I know which is right?

2 MR. TORVINEN: Well, I can ask my client. Let me look.

3 THE COURT: Because the first page is already in as part  
4 of B and the second is "Please let Lynda know I dropped your check  
5 in the mail," so --

6 MR. TORVINEN: Right, but this has the two additional  
7 January entries. That's it, Your Honor. They aren't in the other  
8 string. That's all.

9 Are they?

10 THE WITNESS: Yeah, so --

11 THE COURT: So now you're telling me that the first  
12 string that you gave me is not consistent, and this is an  
13 inaccurate string, that it's interrupted.

14 MR. TORVINEN: Hang on. Let me look.

15 THE COURT: I mean, you don't piecemeal the -- are you  
16 cherry picking?

17 MR. TORVINEN: I hope not.

18 THE COURT: Well, it sure feels that way, because if you  
19 weren't and this required the other string, it should have been  
20 part of Exhibit B.

21 MR. TORVINEN: Bear with me.

22 Yeah, Your Honor, my client will address that.

23 THE WITNESS: So this is offered really for two  
24 different purposes. In B, that was to try to show that we timely  
25 provided all information she requested, except the narrative.

1           This should be, I believe, our Exhibit 6 to the hearing.  
2 So this was offered to show the additional information that was  
3 going to her, that we had previously provided information to Lucy  
4 Mason.

5           That's why you see the 24th email in F as well as you  
6 see the --

7           MR. TORVINEN: Does that answer your question, Your  
8 Honor?

9           THE COURT: I'm going to admit it over Mr. Meador's  
10 objection. But I'm going to advise you, Counsel, that it shows me  
11 that Exhibit B is an incomplete document.

12           Move on.

13           (Exhibit F was admitted into evidence.)

14           MR. TORVINEN: All right.

15 BY MR. TORVINEN:

16           Q     G?

17           MR. MEADOR: Is it already admitted as 3, Your Honor?

18           MR. TORVINEN: Is G already in? I know -- I think H, I  
19 and J are in, I think.

20           THE COURT: Ms. Covington, can you confirm that?

21           THE CLERK: Your Honor, I do not show -- G is not  
22 admitted yet. I just show that H and I are admitted.

23           MR. TORVINEN: Okay. So I move to admit G.

24           THE COURT: And it's the same document you have, isn't  
25 that, Mr. Meador?

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MR. MEADOR: Yes, Your Honor. No objection.

(Exhibit G was admitted into evidence.)

MR. TORVINEN: And then move to admit J.

MR. MEADOR: I object to J being offered for the truth.

MR. TORVINEN: I don't know what Your Honor already objected -- I already objected to the objection, because it's a piecemeal job after offering the whole thing.

MR. MEADOR: I never offered it once. I put in it my exhibit binder at a time when I thought we were going to have an evidentiary hearing, in case the Court ruled against my motion in limine and found that it's appropriate for Mr. Alexander to offer conclusions and characterizations while keeping the basis --

MR. TORVINEN: Well, I think it's in evidence, isn't it?

MR. MEADOR: -- of those conclusions secret.

MR. TORVINEN: Well, it's in evidence, right?

THE COURT: It has been admitted --

MR. TORVINEN: Forget it.

THE COURT: -- by stipulation.

And the Court recognizes that Mr. Alexander had been in the waiting room -- he is no longer in our waiting room, which I don't blame him. He has not been called to discuss it and he does have -- the objection has been stated repeatedly that Mr. Alexander's affidavit is, one, after the fact, and two, has broad-based statements contained within it.

The Court is smart enough to analyze this particular



1 situation.

2 MR. TORVINEN: Do you want me to call Mr. Alexander,  
3 Your Honor? We can get him on the phone. Do you want to hear  
4 from him?

5 THE COURT: You're going to be done in about 5 minutes.

6 MR. TORVINEN: Okay. Well --

7 THE COURT: Because I have a judges' meeting at noon  
8 that I can't miss.

9 BY MR. TORVINEN:

10 Q Okay. Would you go to Exhibit 15? Mr. Meador examined  
11 you about this. I think that's the subpoena, isn't it?

12 THE COURT: No.

13 MR. TORVINEN: See what's 15.

14 No, go to 14. Go to 14.

15 Sorry, Your Honor, I miss -- I wrote down the wrong  
16 exhibit.

17 BY MR. TORVINEN:

18 Q And go to page 17.

19 A Okay.

20 Q Now, you started to answer this. What about the  
21 specificity on page 17 alerted you to malpractice risk?

22 A Well, again, all of these files are under the umbrella  
23 of estate planning. Tahoe property, the LLC, all creditor  
24 protections, estate planning advice --

25 Q But isn't she asking you specifically on there for

1 changes in the percentages of the beneficiary interests?

2 MR. MEADOR: Objection, leading, Your Honor.

3 THE COURT: It is leading.

4 BY MR. TORVINEN:

5 Q Is she asking for changes, information about changes in  
6 the beneficial distribution interests?

7 MR. MEADOR: It's still leading.

8 BY MR. TORVINEN:

9 Q I said, is she asking -- or, what on there, is there any  
10 information on there where there's a request for beneficial  
11 changes?

12 A She indicates that they --

13 MR. MEADOR: Leading.

14 THE WITNESS: -- want all documents relating to Sam  
15 Jaksick's intentions, that they would not be treated or benefit  
16 equally in relation to the Tahoe property.

17 And then throughout the subpoena she talks about other  
18 investments, other LLCs, all of which were owned by the trust.

19 BY MR. TORVINEN:

20 Q Okay. Go to Exhibit 16.

21 THE COURT: Mr. Meador, I recognize your objection. And  
22 I allowed the answer in this particular case even though it was  
23 leading.

24 MR. MEADOR: And nonresponsive.

25 MR. TORVINEN: In the interest of time, Your Honor, I

1 apologize. In interest of time --

2 THE COURT: It was nonresponsive as well. It was  
3 nonresponsive as well, so yes, you're correct.

4 MR. TORVINEN: Okay.

5 THE COURT: And it was also speculative. So if you want  
6 to get all the way in, I recognize all the flaws with the answer  
7 that I received.

8 BY MR. TORVINEN:

9 Q Let's see.

10 Oh, go to page two of that, Exhibit 16.

11 A Yes.

12 Q Mr. Meador questioned you about that. Remember, he had  
13 you read photograph four of this, right?

14 A Yes. Yes.

15 Q Why did that mean there was malpractice exposure?

16 A Well, that means that my advice --

17 THE COURT: Whoa. Whoa. Whoa. Whoa. That's, even  
18 without the -- that calls for complete speculation.

19 BY MR. TORVINEN:

20 Q Okay. That paragraph talks about setting aside the  
21 second amendment restatement, does it not?

22 A It does.

23 MR. MEADOR: Leading, move to strike.

24 BY MR. TORVINEN:

25 Q Okay. What does that paragraph do?

1 A Wendy attacks the validity of the second amendment.

2 Q And how was she attacking that validity?

3 A Because in that document particularly she did not get as  
4 much of the estate that she thought she should get.

5 Q What document are you talking about?

6 A The second amendment.

7 MR. MEADOR: I object and move to strike. That's  
8 nonresponsive to his question about paragraph 4.

9 THE COURT: It was nonresponsive, so I sustain the  
10 objection.

11 BY MR. TORVINEN:

12 Q Okay. What caused you concern about paragraph 4?

13 A Well, if I'm the author of the second amendment, I  
14 prepared it, and I did it in a way where Sam Jaksick was not  
15 competent, then I shouldn't have allowed him to execute the  
16 document. These are just a few of her complaints. There were  
17 many more.

18 Q Can you think of any off the top of your head?

19 MR. MEADOR: I object. I object, Your Honor.

20 MR. TORVINEN: What's wrong with that, Your Honor?

21 MR. MEADOR: I specifically, repeatedly requested for  
22 this information over and over again. And it's absolutely a  
23 denial of due process to allow him to testify here today about  
24 information he refused to give me.

25 MR. TORVINEN: You asked about this paragraph.

1 MR. MEADOR: Yes. And you can ask him about Sam  
2 Jaksick's competence.

3 THE COURT: No, you can ask about anything that is  
4 contained within this document, because that's what's been  
5 submitted to me. That's what's --

6 MR. MEADOR: Well, he's on redirect, and I only asked  
7 him about one paragraph.

8 MR. TORVINEN: Paragraph 4.

9 BY MR. TORVINEN:

10 Q Okay. Go ahead.

11 A So Wendy disputed the validity of the second amendment  
12 because she argued that his signature was fraudulent. Fraud -- he  
13 didn't execute the second amendment; therefore, it was invalid.

14 THE COURT: Where does it say in there that the  
15 signature was fraudulent?

16 THE WITNESS: He did not execute the document.

17 MR. TORVINEN: It says that, Your Honor.

18 THE COURT: All right.

19 THE WITNESS: Obviously, my knowledge of the underlying  
20 litigation and also that the grantor executed the document at a  
21 time when he did not possess the requisite mental capacity, and  
22 based on the three grounds that she put here, executed the  
23 documents as a result of undue influence.

24 So if I'm part of this process, I'm the author of the  
25 second amendment, then this is being laid right at my doorstep.

1 because if these things are true, then I would be sued for  
2 malpractice.

3 THE COURT: Let me ask you one question, Judge.  
4 When did you first learn that this lawsuit had been  
5 filed?

6 THE WITNESS: Which one?

7 THE COURT: The lawsuit that's subject in 16, PR17-0446.

8 THE WITNESS: You mean the underlying litigation?

9 THE COURT: The underlying litigation, sir. When did  
10 you first learn of it?

11 THE WITNESS: Yeah, I can't recall. I mean, obviously,  
12 I received the subpoena so I was aware that there was some  
13 litigation. I know it was early on in the litigation, but I had a  
14 receiver -- I received the subpoena, there's a caption, there's a  
15 case number, it was sometime in July.

16 THE COURT: So you didn't know about the underlying  
17 action from October of '17 until you received the subpoena?

18 THE WITNESS: No.

19 THE COURT: No knowledge at all?

20 THE WITNESS: I don't recall. It was the subpoena that  
21 came out of nowhere.

22 THE COURT: Okay. And you have testified to this Court  
23 that the subpoena is what led you to believe that you were going  
24 to be sued for malpractice, correct?

25 THE WITNESS: I thought there was a possibility, yes.

1 THE COURT: You have not testified that the underlying  
2 complaint, which is where the subpoena came from, was the basis  
3 for why you believed you were going to be sued for malpractice; is  
4 that correct?

5 THE WITNESS: The underlying complaint?

6 THE COURT: Well, when you got served with the subpoena,  
7 didn't you go look for the complaint or find out what was going  
8 on?

9 THE DEFENDANT: No.

10 THE COURT: No.

11 THE WITNESS: I turned it over to -- I retained counsel  
12 after I reviewed the subpoena. I did not have the documents that  
13 were in Jaksick's possession. So then I immediately went to  
14 counsel to basically respond on my behalf.

15 THE COURT: So you're testifying here today that when  
16 you saw this, this document, and you've been asked to look at  
17 paragraph 4 repeatedly of this document, that this document led  
18 you to believe that you were going to be sued for malpractice?

19 THE WITNESS: No. I didn't even -- I didn't know this  
20 document existed.

21 THE COURT: All right.

22 THE WITNESS: This is well after.

23 THE COURT: It was the subpoena that led you to believe  
24 that you were being sued for malpractice?

25 THE WITNESS: I'm sorry, could you repeat that, Judge.

1 THE COURT: It was the subpoena that led you to believe  
2 that you were being sued for malpractice?

3 THE WITNESS: I thought, yes, it would be a possibility.

4 THE COURT: And you retained counsel immediately.

5 THE WITNESS: Shortly thereafter.

6 THE COURT: Where's the document that says you notified  
7 your malpractice carrier immediately?

8 THE WITNESS: That's how I got my attorney.

9 THE COURT: Where's the document that said you notified  
10 your malpractice counsel -- carrier immediately?

11 THE WITNESS: I called them up.

12 THE COURT: Okay. And what day did you call them up on,  
13 sir?

14 THE WITNESS: Probably shortly after I got the subpoena.

15 THE COURT: And you well knew that your deductible was  
16 \$10,000.

17 THE WITNESS: I came to learn that later, yes.

18 THE COURT: You didn't look at your malpractice each and  
19 every year when you signed up for it, about what your deductible  
20 was going to be?

21 THE WITNESS: This was tail coverage so I didn't look at  
22 it. I just knew I had protection for five years.

23 THE COURT: Right. So you've now purchased a tail  
24 coverage. It's \$10,000. You've called your malpractice carrier.  
25 They've directed you to Lemons, but you didn't think that it was



1 appropriate to notify your wife, your ex-wife?

2 THE WITNESS: Like I said, Judge, I was --

3 THE REPORTER: I didn't hear the answer.

4 THE WITNESS: I said I -- my initial intent was, for  
5 one, I have a subpoena, I'm obviously concerned. I then had  
6 several discussions with my lawyer about the possible exposure to  
7 a malpractice claim. I thought I would just take care of it.

8 MR. MEADOR: Objection and move to strike. He can't  
9 tell what he had discussions with his counsel about after  
10 insisting that I'm not allowed to know what he had discussions  
11 about.

12 MR. TORVINEN: Your Honor, that's not inconsistent. He  
13 said there was risk. That's all he testified to.

14 THE COURT: I'm going to allow it.

15 MR. TORVINEN: Consistent with what he testified to  
16 before.

17 THE COURT: Hush.

18 MR. TORVINEN: Okay. I will.

19 THE COURT: So you had conversations with your attorney  
20 that there's risk.

21 THE WITNESS: Potential risk.

22 THE COURT: And you still didn't notify your ex-wife?

23 MR. TORVINEN: Your Honor, may I object to the Court? I  
24 mean, that's not what the indemnity clause is there for, it's a  
25 different clause.

1 THE COURT: My question isn't about the indemnity clause  
2 and I don't want to hear from you.

3 I want to confirm that he didn't think it was necessary  
4 to provide notice until January of 2020.

5 THE WITNESS: And part of that, Judge, was -- which you  
6 can appreciate, this is kind of a moving -- yes, I was concerned.  
7 Any lawyer would be concerned whether any allegation of  
8 malpractice has merit or not.

9 It was the process proceeded that it became apparent  
10 that there may -- it could turn out to be a reality. I was just  
11 cautious and obtained counsel to make sure someone would be  
12 representing my interest in the event that I would have to have  
13 conversation with Todd Jaksick's lawyer, or any other lawyer.

14 THE COURT: You were deposed in '18 and you testified in  
15 '19, and you waited almost a year later before you provided notice  
16 and a demand for payment.

17 THE WITNESS: The timeline is correct.

18 THE COURT: Thank you.

19 THE WITNESS: I didn't notify her until January when I  
20 made the decision that it would be fair for us to split it.

21 THE COURT: Unless I have something specific at this  
22 point in time, counsel, I am late for a judges' meeting.

23 MR. TORVINEN: Okay. I'm done, Your Honor.

24 THE COURT: Mr. Meador?

25 MR. MEADOR: Nothing more, Your Honor.

1 MR. TORVINEN: My client wants me to ask you about a  
2 continuance.

3 We need more time for what? They're all in.

4 THE COURT: Well, all but --

5 MR. TORVINEN: Well, it's in under Mr. Meador's package.  
6 That's the affidavit.

7 THE COURT: It's in, but it's in under a different  
8 fashion, yes. Yes.

9 MR. TORVINEN: No, we're done.

10 THE COURT: Okay. All right. Thank you. You'll have  
11 my decision early January. We'll be in recess.

12 (The proceedings concluded at 12:08 p.m.)

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1 STATE OF NEVADA )  
2 WASHOE COUNTY ) ss.  
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5 I, CONSTANCE S. EISENBERG, an Official Reporter of the  
6 Second Judicial District Court of the State of Nevada, in and for  
7 the County of Washoe, DO HEREBY CERTIFY:

8 That I appeared via Zoom videoconference in Department  
9 12 of the above-entitled Court on December 21, 2020, and took  
10 verbatim stenotype notes of the proceedings had upon the matter  
11 captioned within, and thereafter transcribed them into typewriting  
12 as herein appears;

13 That I am not a relative nor an employee of any of the  
14 parties, nor am I financially or otherwise interested in this  
15 action;

16 That the foregoing transcript, consisting of pages 1  
17 through 112, is a full, true and correct transcription of my  
18 stenotype notes of said proceedings.

19 DATED: At Reno, Nevada, this 23rd day of February,  
20 2021.

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/s/Constance S. Eisenberg

CONSTANCE S. EISENBERG  
CCR #142, RMR, CRR

**In the Matter Of:**  
Hascheff vs Hascheff

**STATUS CONFERENCE, AUDIO TRANSCRIPTION**

*September 28, 2022*

*Job Number: 1010598*

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TRANSCRIPT OF AUDIO-RECORDED

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STATUS CONFERENCE

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IN THE MATTER OF HASCHEFF V. HASCHEFF

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CASE NO. DB-13-00656

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SEPTEMBER 28, 2022

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Litigation Services Job Number: 1010598

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1 P R O C E E D I N G S

2 THE COURT: Good morning. We are present on case  
3 number DB-13-00656 in the matter of Hascheff v.  
4 Hascheff. This is the time and place set for a status  
5 conference. This matter is taking place by means of a  
6 simultaneous audio visual transmission in accord with  
7 the current administrative orders of the second  
8 judicial district court, as well as in accord with  
9 Rule 9B of the Nevada State Supreme Court.

10 I'm located in the Washoe County Courthouse,  
11 which makes that the site of today's court  
12 proceedings. May I have appearances, please?

13 MR. KENT: Good morning. This is Stephen Kent  
14 [ph] for plaintiff, Pierre Hascheff. I'm appearing  
15 from Washoe County.

16 THE COURT: Thank you.

17 MR. METTER: Thank you, Your Honor. Good morning.  
18 Shawn Metter [ph] on behalf of Linda Hascheff who's  
19 also with us today. We consent to the video and audio  
20 recording of the hearing. And I'm appearing from my  
21 home office.

22 THE COURT: Thank you. Um, I don't intend to have  
23 the parties sworn in this particular case as this is  
24 really a status conference amongst counsel, which is  
25 why I'm not going to ask Judge Hascheff to make sure

1 that I have video of him on at this particular  
2 occasion.

3 Um, as this matter was presented first by Mr.  
4 Hascheff or Judge Hascheff, sir, I'd appreciate your  
5 position. I did receive this morning your motion to  
6 strike. However it wasn't ex parte nor was it on the  
7 request for submission. I did take a gander at it.

8 Um, so I'm more interested in how we move this  
9 case forward than I am about what we do related to the  
10 statement that Mr. Metter filed. So your position.

11 MR. KENT: Thank you. Um, I think it's fairly  
12 clear from [inaudible] decision that, uh, the court  
13 has to determine the amount of fees that are due, uh,  
14 to Mr. Hascheff for reimbursing the fees that he  
15 incurred after the malpractice lawsuit was filed.

16 The court left open the door for interpreting the  
17 agreement, uh, saying insofar as the indemnification  
18 provision [inaudible]. Uh, so it is unclear what fees  
19 are due [inaudible] the court would take for all  
20 evidence.

21 So, um, it's our position that more than just  
22 paragraph 40 is at issue in, uh, determining what fees  
23 are due. There's other paragraphs that talk about, um,  
24 reimbursement and indemnity. So that's an issue that  
25 has to be determined.



1           And then, um, for that, I think that would  
2     require -- it may require the court to take some  
3     testimony on that. Uh, and then the court has to  
4     determine who is the prevailing party. Um, it seemed  
5     fairly clear to me in looking at the opinion that  
6     neither party, uh, won all of their issues. So I think  
7     that's gonna be difficult.

8           Um, obviously, uh, the court can't award  
9     reasonable fees for work that was conducted on issues  
10    that [inaudible] started preparing a list of what we  
11    believe, uh, Mr. Hascheff is the prevailing party on.  
12    Uh, but the courts might have to sort that out, and I  
13    think go through the fees and determine what was spent  
14    on an issue that that party prevailed on.

15          Um, Mr. Metter says he wants to do discovery. And  
16    I'd just like to know on what. And I think we should  
17    try to limit, you know, that to the issues that  
18    remain. And we should set like a time period for that  
19    so it doesn't just go on and on. Um, I'm not sure we -  
20    - we need to do discovery. But, um, Mr. Metter hasn't  
21    been specific about the discovery he wants to do.

22          And then the court had raised the mediation  
23    issue. And my client is, uh, would like to do with  
24    mediation. We tried to have a mediation with Judge,  
25    uh, Barry [ph]. But, uh, the defendants apparently

1 don't want to mediate with Judge Barry.

2 So those are kind of the issues for us. I think  
3 we have to have some guidance from the court. And  
4 then, uh, set some of these things that are issues.  
5 Thank you.

6 THE COURT: I have one question for you, sir,  
7 which wasn't clear with the Supreme Court. My  
8 recollection, distinct recollection from the hearing  
9 that we ultimately had on this, was that the \$10,000  
10 was paid part -- prior to the malpractice action being  
11 filed. I don't know if that's correct or not.

12 MR. KENT: I -- I can't tell you that off the top  
13 of my head, Your Honor. Um, obviously I think that the  
14 -- the opinion talks about [inaudible] limiting  
15 indemnity to after the, uh, malpractice action was  
16 filed.

17 But, um, I do believe there are other  
18 inconsistent, uh, or contradictory provisions in the  
19 [inaudible] agreement that, um, indicate that, uh,  
20 fees that may be incurred, you know, in a more broad  
21 sense could be recovered. So I think that is an issue  
22 that we'll be inserting, um, that will have to be  
23 resolved.

24 THE COURT: And I also recall that from the --  
25 the original hearing, that the amounts that I had from

1 the billings -- and of course they were not the  
2 unredacted billings, but the amounts that I had were  
3 very limited for the malpractice in that.

4 So do you think it's going to be imperative for  
5 me to see copies as the court of appeals suggested  
6 even in camera related to these unredacted billings?  
7 And I don't know whether Mr. Metter is going to want  
8 to see them. And, uh, we'll get to that in a moment.

9 MR. KENT: Yes. I think the court -- we would  
10 like to submit them to the court either in camera or  
11 we would need a protective order, um, to maintain  
12 their confidentiality and not waive the attorney  
13 client privilege. So, uh, yes, I think the court will  
14 want to see those.

15 I'm not involved in the hearing. So I just want  
16 to be sure that I have those, uh, billings, and that  
17 what I'm presenting to the court is accurate. So, um,  
18 I -- I want to go back to the attorneys and make sure  
19 we have everything. And then we will present that to  
20 court and counsel.

21 THE COURT: My preference, just so that you're  
22 aware, would be that we issue the protective order, so  
23 that everyone has the opportunity to see the actual  
24 billings. Because I think they're going to become, uh,  
25 a major portion of their argument that's gonna be

1 presented to me. And if that's -- if you have comfort  
2 with that, that would be my preference.

3 MR. KENT: I actually already started drafting  
4 the stipulated protective order, Your Honor. We just  
5 want to maintain the confidentiality and the attorney  
6 client privilege so that that's not waived.

7 THE COURT: Mr. Metter, you won't have any  
8 objection to that, will you?

9 MR. METTER: Not to the concept, Your Honor.

10 THE COURT: Thank you. So you're anticipating  
11 then, sir, that we're going to have another hearing on  
12 this matter.

13 MR. KENT: I think we would have a hearing, Your  
14 Honor, and, uh, present evidence that would be  
15 testimony about the various provisions of the  
16 agreement, and the invoices, and then argument and  
17 briefing on who is the prevailing party, specifically  
18 about what fees we believe, you know, are recoverable  
19 or aren't recoverable.

20 Again, I don't think a party can recover  
21 attorney's fees for work that was done on issues that  
22 they were unsuccessful with. We have to find a way to  
23 sort that out.

24 THE COURT: So my question is, is how much time  
25 do you anticipate needing for a hearing in this

1 matter.

2 MR. KENT: Uh, I think it's a little hard to  
3 estimate at this point. But I would think at least a  
4 half a day.

5 THE COURT: Thank you very much. Mr. Metter?

6 MR. METTER: All I hear is continue to create  
7 delay and cause my client to incur yet more fees. I  
8 think the court of appeals order is absolutely clear  
9 and unambiguous, that Pierre must first be sued for  
10 malpractice before seeking indemnification for his  
11 legal fees and costs.

12 And those legal fees and costs must arise from  
13 the malpractice action only. That language could not  
14 be more clear. It does not say once he is sued for  
15 malpractice, he may recover his fees in the collateral  
16 action. The rep- -- the order repeatedly,  
17 consistently, and unambiguously states that the fees  
18 in the collateral action are not recoverable.

19 It is outrageous, in my opinion, that we're  
20 sitting here, September 28th, and none of us, at least  
21 neither me, my client, nor this court, know the fees  
22 that Mr. Hascheff claims were incurred directly in  
23 connection with the malpractice action.

24 I've asked five times since the court of appeals  
25 order was entered, that Mr. Hascheff produce the

1 documents that show what fees were incurred in the  
2 malpractice action that were not covered by insurance.  
3 I have received not a single document nor clear  
4 understanding of what that fee is, exactly the same as  
5 during the litigation with prior counsel.

6 I'm astounded to hear that Mr. Hascheff now wants  
7 to assert claims that he did not make in the initial  
8 motion practice or at the initial hearing, that there  
9 is some now secret claim that there are other terms  
10 that would cover this.

11 That some other motion, this is the motion about  
12 his obligation pursuant to the indemnity clause in the  
13 agreement that was litigated. Not some other claim. So  
14 to suggest that we're now going to litigate some other  
15 claim is completely inconsistent with due process.

16 I outlined the court of appeal's order and my  
17 client's position throughout the litigation. Because  
18 our position is that the issues left to be resolved by  
19 the court are remarkably similar. The first is how  
20 much were the fees that Mr. Hascheff incurred directly  
21 related to the malpractice actions that were not  
22 covered by insurance.

23 The second issue then is who is the prevailing  
24 party entitled to fees and how is that resolved.  
25 Because the court of appeal's opinion is exactly

1 parallel to my client's position, but before  
2 litigation was initiated and throughout the  
3 litigation, she is the prevailing party on all issues.  
4 The only other issue was the contempt motion that Mr.  
5 Hascheff filed that was denied.

6 Therefore we believe the appropriate procedure  
7 with respect to the prevailing party fee clause is a  
8 simple Wilfong [ph] affidavit, not hearings, and  
9 motions, and other expenses that my client is forced  
10 to incur.

11 With respect to the discovery, it is exactly what  
12 we've been asking for for years. The documents that  
13 reflect how much the fees are that Mr. Hascheff  
14 incurred directly out of the malpractice action, not  
15 the collateral action. And the only thing I've ever  
16 been provided is one fee entry for preparing, signing,  
17 filing the stipulation to stay.

18 THE COURT: Which was approximately --

19 MR. METTER: And that is the only work I'm aware  
20 of that was ever done in connection with the  
21 malpractice action.

22 THE COURT: And that was approximately \$300.

23 MR. METTER: That's -- except for I was recently  
24 told an \$800 number without documents, but was not  
25 told whether that was the total fee or half of the

1 fee. Or what it was for or where it came from.

2 THE COURT: So it appears to be the first thing  
3 that should happen is, is that we should sign the  
4 stipulation in regards to the unredacted fees, so that  
5 they can be reviewed by the court, and arguments can  
6 be made by counsel related to that.

7 I'm still not clear whether or not the entirety  
8 of the monies that were paid by Judge Hascheff were  
9 paid related to the collateral action. And even though  
10 the court said I got there in the wrong way, it still  
11 said my ruling stood in regards to the collateral  
12 action.

13 I don't know how you, sir, claim that I'm now  
14 supposed to look beyond the MSA paragraph 40 when  
15 that's the only paragraph that the court of appeals  
16 even looked at. My order also addressed paragraph 35  
17 and some other paragraphs in the MSA in putting its  
18 order out.

19 So I think we are bound by looking at paragraph  
20 40. And I need to know why we would not be, sir.

21 MR. KENT: When you read the opinion, the opinion  
22 talks about chapter 40 -- paragraph 40. But then it  
23 goes on, on page 11. And it opens the door to other  
24 things.

25 Because it says that, uh, further insofar as the



1 indemnification provision contains ambiguous terms,  
2 such that it is unclear which fees and costs are  
3 covered by the provision, the district court is  
4 required to clarify the meaning of a disputed term in  
5 an agreement based degree, and must consider the  
6 intent of the parties in entering into the agreement.

7 I'm not going to read the cite. And in doing so  
8 the court may look through the record as a whole and  
9 the surrounding circumstances to interpret the party's  
10 intent. If the words of the contract are ambiguous,  
11 the court will consider [inaudible] intrinsic evidence  
12 to determine the intent of the parties. The district  
13 court must make the determinations in the first  
14 instance.

15 The marital settlement agreement has other  
16 provisions that talk about recovery of expenses and  
17 fees. And it's not, you know, we just looked at one  
18 paragraph. Uh, and that language to me left open the  
19 door to look at the entire agreement. And we believe  
20 that the entire agreement when read, uh, indicates  
21 that, uh, other fees are recoverable.

22 And we -- we, you know, we want to make that  
23 argument, um, that I think the court needs to, you  
24 know, listen to our argument here and make a decision  
25 about that. Um, you know, it's certainly not our

1 intent to delay things. We attempted for right out of  
2 the box [inaudible] the decision. Because I think the  
3 decision does give a lot of guidance to the parties,  
4 that we go and try to get this case resolved.

5 I told Mr. Metter that we would produce the  
6 billings, you know, in my first communication. Because  
7 obviously how can we expect to recover monies that we,  
8 you know, don't provide the invoices for. But I was  
9 not involved in the original proceeding.

10 So I don't want to just, uh, base what I conclude  
11 on things that were produced before that I don't know  
12 are complete. I want to make sure they're complete and  
13 then provide a demand with backup documents, which I  
14 sent from the beginning when I attempted to  
15 communicate with Mr. Metter.

16 Um, so obviously that has to be done. And I think  
17 it has to be clear. And, uh, you know, we indicated  
18 that, you know, from the beginning of my involvement.  
19 Um, the -- the idea that we don't know that the fees  
20 or they've been a mystery, I don't think that's really  
21 accurate.

22 The -- the redacted invoices were produced. And I  
23 think the court and Mr. Metter are talking numbers. So  
24 there had to be something there. So to say that, you  
25 know, there never was anything there, I don't think

1 that's, uh, very helpful because it's not accurate.

2 So, um, we would like to be able to make the  
3 argument because I think the court did leave that door  
4 open. I know Mr. Metter disagrees. But, uh, just  
5 reading the opinion, tries to make sense of it just  
6 like everyone else.

7 Um, and then, uh, we have to -- the court is  
8 clear, we have to decide on the prevailing party. But  
9 to say that Linda Hascheff prevail on all issues is  
10 also inaccurate. Because she always argued that the  
11 indemnity was unenforceable, and that [inaudible]  
12 prevented its enforcement, that notice was required.

13 You know, so to say, hey, I was willing to pay,  
14 you know, it's not accurate. Uh, she confessed to  
15 that. And it's been these parties disagreeing about  
16 this agreement. And so it's both parties disagreed  
17 about a lot of things. And that's why we're here  
18 today. Not just one party.

19 I think that's -- that suggestion is also  
20 inaccurate. It's not helpful because, uh, it doesn't  
21 focus on how we get the case resolved. Um, and that's  
22 -- that's what my client has told me. He wants to get  
23 the case resolved. Uh, and that has been our focus.  
24 That's where we'd like to concentrate our efforts.

25 Uh, we basically run into a brick wall in those

1 efforts. You know, we -- the court suggested that  
2 [inaudible] to us. Uh, but apart from that we, uh, we  
3 have to determine what fees are due. You know, we have  
4 to produce those fees and backup documents. I agree  
5 with that. We need to get a protective order into  
6 place, so those are protected.

7 And the parties have to agree that we maintain  
8 those as confidential because there's other litigation  
9 ongoing. And that information, you know, could affect  
10 that other litigation, which we don't want. That's not  
11 beneficial to any party.

12 So, um, we would do that. And then we will have  
13 to I think take evidence on what was the party's  
14 intent regarding indemnification. That's what the --

15 THE COURT: And the intent doesn't come into  
16 play, sir. The intent doesn't come into play because  
17 the court was very specific. If you look at page  
18 eight, further Pierre by signing the MSA warranted  
19 that he would not seek indemnification from Linda for  
20 any obligation he incurred post-divorce other than for  
21 malpractice suits as discussed therein.

22 Therefore the first part of the indemnification  
23 and hold harmless provision of MSA paragraph 40 as  
24 written does not permit indemnification from Linda for  
25 the fees and costs incurred in a collateral trust

1 action. Further, because Pierre was not sued for  
2 malpractice in that litigation, he is not entitled to  
3 seek indemnification under the second part of  
4 paragraph 40.

5 MR. KENT: Right. That's talking about paragraph  
6 40. There's another paragraph in the agreement,  
7 including 35, that we have to use also. Those other  
8 paragraphs allow for the recovery of costs and also  
9 help define the indemnity obligation. And that --  
10 that's the -- that's what we are asserting and that's  
11 our argument.

12 You know, we're not making the argument today.  
13 We're in a status conference. But, uh, we will make  
14 that argument, and the court will have to decide  
15 whether the court agrees or not, or you know  
16 [inaudible]

17 THE COURT: The paragraph 35 --

18 MR. METTER: Your Honor, if I may have a moment -  
19 -

20 THE COURT: Just one minute. Paragraph 35 deals  
21 with prevailing party. So the supreme court only spoke  
22 about prevailing party and paragraph 40.

23 MR. KENT: Right. That doesn't mean that those  
24 are the only issues. The court doesn't say that. And I  
25 don't know how else you can interpret the language I

1 read on page 11. It, you know, it talks about the  
2 intent of the parties. You know, and [inaudible] --

3 THE COURT: But it doesn't open it up. It says,  
4 on remand the district court must necessarily consider  
5 whether the fees and costs incurred in the malpractice  
6 action are covered by the indemnification provision.  
7 That's the start of that paragraph that you read to  
8 me.

9 MR. KENT: Right. And then the court goes on to,  
10 what is the intent of the parties, is there any  
11 ambiguous provisions, um, and the necessity of taking  
12 intrinsic evidence [inaudible] --

13 THE COURT: So you're -- you're looking at the  
14 inconsistencies in what the -- the -- the court  
15 ordered from the appellate court, where it point blank  
16 says certain things about paragraph 40. And now you're  
17 trying to open the door for that to be something your  
18 client never filed during the original trial in this  
19 matter.

20 He never asked for anything that related to  
21 paragraph 40. Isn't that correct?

22 MR. KENT: I don't agree with that. We're trying  
23 to enforce the entire agreement, not you know, one  
24 paragraph. And no agreement is just based on one part  
25 of it. It's the whole agreement, Your Honor. And that

1 agreement has other provisions in it.

2 And I don't -- you have to reconcile language on  
3 page 11 of the opinion. I think it is kind of  
4 confusing because [inaudible] you know, I'm -- I'm not  
5 disputing what you're saying [inaudible] about  
6 paragraph 40.

7 But then they go on in page 11 and they say what  
8 they say, which, um, isn't just -- it's opening the  
9 door to other issues as described in those words. So  
10 it allows us to make that argument. And we want to  
11 make that argument.

12 But I would ask of the court not make that  
13 decision today. Uh, we need to [inaudible] and show  
14 the court our position which we're not, you know,  
15 we're not prepared to do that today. Today is a status  
16 conference.

17 THE COURT: But on the motion for order to show  
18 cause, which was filed on July 8th of 2020, Mr.  
19 [inaudible] filed specifically a motion for order to  
20 show cause or in the alternative to enforce the court  
21 orders. And as only Mr. [inaudible] can do, he  
22 actually blocks out that the provision that that  
23 motion was based on was paragraph 40.

24 How do you now expand to say that I have to look  
25 at the whole agreement, the entire MSA, without you

1 having to file a new motion?

2 MR. KENT: Because it's -- he wasn't seeking to  
3 enforce just paragraph 40. He was seeking to enforce  
4 the whole marital settlement agreement, including the  
5 provision on collection of attorney's fees. So you  
6 know, there's more than chapter 40 -- excuse me,  
7 paragraph 40. And there -- you don't look at just one  
8 part of an agreement.

9 The court specifically talked about what were the  
10 parties' intent on what fees should be covered under  
11 the indemnity. It's plain in par- -- in page 11. It  
12 does on for like, you know, three paragraphs. So you  
13 know, it's there and it says what it says. And that,  
14 uh, what else could it be, uh, you know.

15 We're just telling the court that that's the  
16 argument we're going to make. Today is not the day to  
17 make that decision. Perhaps the court will reject that  
18 argument. But we would like to make the argument, and  
19 have the court look at our argument and our authority,  
20 and then make a decision.

21 THE COURT: But the opinion states the court will  
22 only look at the entire agreement if -- and the intent  
23 of the parties and/or extrinsic evidence if the court  
24 finds the terms of the indemnification to be  
25 ambiguous. And then earlier in its opinion it said it



1 wasn't ambiguous.

2 MR. KENT: Well I don't, you know, I write the  
3 opinion. But it -- it says that in the beginning. And  
4 then it goes on and it says, you know, if it's  
5 ambiguous -- and of course the only way to know if  
6 it's ambiguous is to ask the parties, you know, was  
7 this ambiguous or not. And what is ambiguous? You  
8 know, is there a contradictory provision that is  
9 broader?

10 You know, those are all things that have to be  
11 looked at. And the court will have to decide, you  
12 know, given what the court of appeals said, whether or  
13 not, you know, there's other language to be considered  
14 in determining the intent of the parties, and whether  
15 it's ambiguous, and you know.

16 THE COURT: Your client -- your client, a lawyer,  
17 and a judge, is the one that's going to claim that  
18 paragraph 40 was ambiguous. Before I'm going to even  
19 consider that, then I'm going to need an affidavit  
20 from him saying why he believed that this paragraph  
21 was ambiguous.

22 So at this point in time I want the unredacted --  
23 I want the protective order in place and I want the  
24 unredacted receipts provided to us. And then I will  
25 take a short brief about whether or not there's going

1 to be -- and -- and I mean short because I'm trying to  
2 keep Ms. Hascheff's fees down. A short brief, three,  
3 four pages tops, about why you believe that this  
4 marital settlement agreement, paragraph 40, was  
5 ambiguous.

6 Your other alternative is -- and Mr. Metter, this  
7 is up to you -- is whether or not you want to just  
8 present this matter to a senior judge so that there's  
9 no expense to your client.

10 MR. METTER: Well there still would be an expense  
11 to my client, Your Honor. I would -- she would have to  
12 pay me for my time. And here we are --

13 THE COURT: I understand. But I meant no expense  
14 for the mediator --

15 MR. METTER: Here's down the road, we don't know  
16 what his most recent theory is. And he's not prepared  
17 to talk about his most recent theory today. And we  
18 still don't know what number he claims. Why -- under  
19 what possible circumstances would I encourage my  
20 client to go to the settlement conference with that  
21 kind of level of secrecy and ever evolving claims.

22 THE COURT: I don't disagree.

23 MR. METTER: There were obviously other claims  
24 that Mr. Kent made that were untrue. But I -- I don't  
25 need to address them here. You know, Mr. Kent's

1 argument renders the entire court of appeals order  
2 meaningless and irrelevant.

3 There's only one way to read it, and that's the  
4 way Your Honor has, that if Mr. Hascheff can show that  
5 there's some ambiguity about whether all or only a  
6 part of the fees incurred in the malpractice action  
7 are covered by indemnity. It doesn't go outside of the  
8 indemnity.

9 If it did, it would render the entire order  
10 completely meaningless, which is contrary to standard  
11 principles of law.

12 THE COURT: And that's where I'm -- I'm falling  
13 right now. Sir, I need the bills and I need to know  
14 how you believe that this is ambiguous. Because I  
15 don't think -- I read that order three times again  
16 last night to go back through it. And it was clear  
17 that although the court said that I got there the  
18 wrong way, that I was right, that what he incurred  
19 related to the collateral matter, was not part of the  
20 malpractice.

21 And unless you can show that paragraph 40 was  
22 ambiguous, and they sure didn't think it was, they  
23 considered his request for indemnification to protect  
24 his witness, didn't -- didn't even rise to the level  
25 that it was part of paragraph 40. And in denying his

1 request, the court correctly recognized the  
2 indemnification provision did not require that Linda  
3 be notified of the litigation.

4 So she didn't have to be notified at the time. He  
5 could keep this all to himself. He -- but then when he  
6 sent her the bill, the bill he sent to this woman  
7 wasn't for collateral aspects. He sent a bill to this  
8 woman saying that it was for the malpractice action.

9 So I need to see those unredacted bills. So I  
10 want the order signed. Um, can it be done -- are you  
11 almost completed with your stipulation, sir?

12 MR. KENT: No.

13 THE COURT: Okay. How much more time do you need  
14 for the stipulation? How much more time?

15 MR. KENT: I'd like to have a week. And Mr.  
16 Metter will have to look at it, of course. You know,  
17 so --

18 THE COURT: Mr. Metter, that should be  
19 acceptable. I'll be out of town for a few days in the  
20 beginning of October. So we'll give him a week from  
21 today to get it to you. And then I'll be back in the  
22 office as of the 12th. Um, and so if you could get it  
23 to me by that date, that would be great.

24 MR. METTER: Thank you, Your Honor.

25 THE COURT: If there's an issue with the language

1 in it though, guess what, I have no docket. I will  
2 find a clerk. And you may reach out to Ms. Turner and  
3 we'll have a hearing on whether or not there -- we  
4 agree on the nature of that stipulation. Because  
5 that's the most important part right now. I need to  
6 see those unredacted bills. That's what I need to see.

7 And from there I think the best you're going to  
8 be able to do --

9 MR. KENT: [inaudible]

10 THE COURT: Excuse me, sir?

11 MR. KENT: We can -- we can send the unredacted  
12 invoices to you tomorrow. It's, you know, it's the  
13 closing party that we're concerned about. You know, we  
14 -- we have no problem providing it in camera to you,  
15 you know, immediately. So that's not the issue.

16 THE COURT: But Mr. -- but you've already said  
17 that you'll let Mr. Metter have them with a protective  
18 order. He's wanted them. He's wanted them from day  
19 one. So I want that protective order and I want him to  
20 see them. And so we'll get this back to me and we'll  
21 know what we're doing.

22 And then I think at best you're going to give me  
23 a three to four page brief or affidavit about how your  
24 client, the lawyer, the judge, felt that this was an  
25 ambiguous term in his decree.

1 MR. KENT: Remember, Your Honor, that, uh, our  
2 client did argue that section 40 did include pre-  
3 lawsuit fees and the court found that they included.  
4 So if [inaudible] --

5 THE COURT: And the -- the appellate court said  
6 it was wrong.

7 MR. KENT: Okay. But we're -- we have intelligent  
8 experienced lawyers who have a different opinion. So  
9 that to me would indicate some ambiguity.

10 THE COURT: No. I think I went too far down the  
11 rabbit hole, if you want to be realistic.

12 MR. KENT: [inaudible]

13 THE COURT: So I want the exchange of  
14 information. I want the order to me or the stipulation  
15 to me no later than October 12th. And if you can't  
16 have it to me by that date, I want there to be a  
17 status conference on that date.

18 From there I'll give you an additional -- I'll  
19 give you to the 31st of October to file your three-  
20 page document. Mr. Metter, I'll give you two weeks  
21 thereafter to file yours. And there will be no reply.  
22 Acceptable?

23 MR. METTER: Thank you, Your Honor.

24 MR. KENT: Yes. And that is on, uh, whether the  
25 document is ambiguous, correct, Your Honor?

1 THE COURT: Correct. Correct.

2 MR. KENT: Sounds good. Thank you.

3 THE COURT: All right. We'll be in recess.

4 MR. METTER: Thank you, Your Honor.

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I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability the above 26 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.

August 17, 2023

Chris Naaden



(Status conference in re: Hascheff v. Hascheff, 9-28-22)



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**CERTIFICATE OF SERVICE**

Pursuant to Rule 25(b) of the Nevada Rules of Appellate Procedure, I hereby certify that I am an employee of Fennemore Craig, P.C. and that on this date, I served a true and correct copy of the attached document through the Court's electronic filing system to the following registered users:

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DATED this 16th day of November, 2023.

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