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IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD,

Appellant,

vs.

GABRIELLE CIOFFI-KOGOD,

Respondent.
_____/

Case No. 71147

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX
Volume 10

Docket 71147 Document 2017-11537

DOCUMENT	VOLUME	PAGE NO.
Acceptance of Service filed on April 24, 2014	1	14
Acceptance of Service Filed on November 6, 2015	2	394
Amended Notice of Cross-Appeal filed on September 23, 2016	46	9032-9148
Answer to Complaint for Divorce and Counterclaim filed on November 24, 2014	1	19-24
Case Appeal Statement filed on August 23, 2016	44	8590-8593
Case Appeal Statement, filed on December 13, 2016	47	9287-9290
Case Cross-Appeal Statement filed on September 21, 2016	46	9028-9031
Case Cross-Appeal Statement, filed on December 23, 2016	47	9298-9301
Certificate of Service filed on March 2, 2015	1	66
Certificate of Service filed on June 2, 2015	1	85-86
Certificate of Service filed on January 25, 2016	4	712
Certificate of Service filed on June 21, 2016	42	8082
Certificate of Service filed on September 14, 2016	45	8704-8802
Certification of Copy of Exhibits Presented at the 2/23/16-2/26/16 Non-Jury Trial, dated December 8, 2016	10	1876-1894
Certification of Copy Clerks List	41	7980-7983
Complaint for Divorce filed on December 13, 2013	1	1-6
Defendant's Closing Brief filed on August 1, 2016	43	8415-8473
Defendant, Dennis Kogod's, Reply to Plaintiff's, Gabrielle Cioffi-Kogod's, Opposition to Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the deposition of Jennifer Crute Steiner and Opposition to Plaintiff's Countermotion for Attorney Fees and Costs filed on June 25, 2015	1	151-178
Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	1	87-110
Defendant's Exhibits Vol. I:	33	6161-7979

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit D- Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	33	6162-6209
Defendant's Exhibit F- Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	33	6210-6215
Defendant's Exhibit S- Bank of America Joint Checking Account Ending 6446 Statement From December 1, 2015 to December 31, 2015	33	6216-6223
Defendant's Exhibit T- Bank of America Checking Account ending in 0129 Statement from December 1, 2015 to Decemher 31, 2015	33	6224-6229
Defendant's Exhibit U- Wells Fargo Complete Advantage Checking Account Ending 5397 Statement from January 9, 2016 to February 5, 2016	33	6230-6239
Defendant's Exhibit V- Wells Fargo PMA Account ending 8870 Statement from January 9, 2016 to February 5, 2016	33	6240-6242
Defendant's Exhibit W- UBS Trust – Fee Base ending 743 Statement From January 2016	33	6243-6252
Defendant's Exhibit X- UBS Checking ending 745 Statement for January 2016	33	6253-6264
Defendant's Exhibit Y- UBS Trust – PWS/GAM ending 134 Statement for January 2016	33	6265-6282
Defendant's Exhibit Z- UBS Stock Option ending 999 Statement for January 2016	33	6283-6290
Defendant's Exhibit AA- Merrill Lynch Ending 588 Statement from December 01, 2015 to December 31, 2015	33	6291-6360
Defendant's Exhibit BB- UBS Trust – Fee Base ending 43 Statement for January 2016	34	6361-6368
Defendant's Exhibit CC- Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	34	6369-6372
Defendant's Exhibit DD- Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	34	6373-6375
Defendant's Exhibit EE- Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015	34	6376-6378
Defendant's Exhibit LL- UBS Premier Variable Credit Line ending 027 Statement for January 2016	34	6379-6384

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit MM- American Express Centurion Account ending 3005	34	6385-6396
Defendant's Exhibit NN- American Express Platinum Account ending 2003 Statement from January 18, 2016 to February 6, 2016	34	6397-6401
Defendant's Exhibit OO- American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	34	6402-6406
Defendant's Exhibit PP- Master Card Account ending 1588 Statement From January 07, 2016 to February 06, 2016	34	6407-6412
Defendant's Exhibit QQ- Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	34	6413-6419
Defendant's Exhibit RR- Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	34	6420-6423
Defendant's Exhibit SS- Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	34	6424-6427
Defendant's Exhibit TT- Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	34	6428
Defendant's Exhibit UU- Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	34	6429-6431
Defendant's Exhibit VV- Nordstorm Account ending 992 Statement from November 13, 2015 to December 13, 2015	34	6432-6436
Defendant's Exhibit WW- TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016	34	6437-6439
Defendant's Exhibit XX- Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, Filed February 25, 2015	34	6440-6456
Defendant's Exhibit AAA- Email from Eugene to Dennis Dated: February 12, 2012	34	6457-6459
Defendant's Exhibit BBB- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: House	34	6460-6464
Defendant's Exhibit CCC- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: Misc.	34	6465-6467
Defendant's Exhibit DDD- Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	34	6468-6470
Defendant's Exhibit EEE- Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	34	6471-6473

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit FFF- Various Checks from Gabrielle to Stephanie Cioff Re: Stephanie's Birthday	34	6474-6476
Defendant's Exhibit GGG- Check from Dennis to Escrow of the West Re: 128 N. Edinburch	34	6477
Defendant's Exhibit HHH- Various Checks from Gabrielle to Cash	34	6478-6496
Defendant's Exhibit III- Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	34	6497-6507
Defendant's Exhibit KKK- Notice of Entry of Stipulation and Order Filed on August 12, 2015	34	6508-6513
Defendant's Exhibit LLL- Email from Dennis to Gabrielle Dated: December 8, 2011	34	6514-6515
Defendant's Exhibit NNN- Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	34	6516-656
Defendant's Exhibit OOO- Gabrielle Kogod's Resume	34	6561-6564
Defendant's Exhibit PPP- Plaintiff's Response to Defendant's First Set of Interrogatories Dated May 18, 2015	35	6565-6589
Defendant's Exhibit QQQ- Plaintiff's Response to Defendant's Second Set of Interrogatories Served on October 20, 2015	35	6590-6597
Defendant's Exhibit RRR- Plaintiff's Response to Defendant's Third Set of Interrogatories Served on October 29, 2015	35	6598-6603
Defendant's Exhibit SSS- Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	35	6604-6683
Defendant's Exhibit TTT- New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	35	6684-6706
Defendant's Exhibit UUU- Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	36	6707-6906
Defendant's Exhibit UUU- Continued Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	37	6907-7034
Defendant's Exhibit VVV- Davita Power Point Regarding 2015 Long Term Incentive Program	37	7035-7041

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit XXX- Davita Cash Performance Award Agreement, Exhibit B	37	7042-7048
Defendant's Exhibit YYY- Email from Radiology Partners regarding 2014 Tax Compliance	37	7049-7059
Defendant's Exhibit ZZZ- Radiology Partners Member Equity Statement Dated: July 31, 2015	37	7060
Defendant's Exhibit AAAA- Radiology Partners Practice Update, Dated July 31, 2015	37	7061-7067
Defendant's Exhibit FFFF- Kogod Equity Analysis of Dennis' outstanding Long-term incentives (Equity Bases and Cash-Based) and Explanation	37	7068-7070
Defendant's Exhibit GGGG- Thomasina Distribution Agreement	37	7071-7126
Defendant's Exhibit HHHH- Pray for Ukraine Agreement Dated: October 16, 2014	37	7127-7132
Defendant's Exhibit IIII- UBS Resource Management account Ending 899 Statement for February 2016	37	7133-7134
Defendant's Exhibit JJJJ- 2015 W-2 issued to Dennis L. Kogod	37	7135-7137
Defendant's Exhibit KKKK- Principle Life Insurance Company Statement for February 18 2016	37	7138-7139
Defendant's Exhibit LLLL- Email from Denise to Dennis Kogod	38	7140
Defendant's Exhibit MMMM- Filing with US Security and Exchange Commission	38	7141-7142
Defendants Exhibit NNNN- Email 2/23/16 Re: Award of 76,766 Shares And Sale of $33,290 Shares for Tax Purposes	38	7143-7144
Defendant's Exhibit OOOO- Assets & Debt Chart	38	7145-7148
Defendant's Exhibit PPPP- Martial Balance Sheet	38	7149-7151
Defendant's Exhibit QQQQ- Costs & Fees Through 1/31/16	38	7152-7174
Defendant's Exhibit RRRR- Jimmerson Fees	38	7175-7340
Defendant's Exhibit SSSS- Depo of Eugene Cioffi February 05, 2016	39	7341-7450
Defendant's Exhibit TTTT- Depo of Stephanie Cioffi February 05, 2016	39	7451-7467
Defendant's Exhibit UUUU- 9716 Oak Pass Appraisal	42	8042-8061

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit VVVV- Jennifer Bosco Resume	42	8062
Defendant's Exhibit WWWW- Hollywood Hills Escrow	42	8063
Defendant's Exhibit XXXX-_February 2016 UBS account summary statement	39	7468-7474
Defendant's Exhibit YYYY- February 2016 UBS account statement for Accounts ending 743	39	7475-7484
Defendant's Exhibit ZZZZ- February 2016 UBS account statement for Accounts ending 134	39	7485-7500
Defendant's Exhibit 5A- February 2016 UBS account summary statement	39	7501-7508
Defendant's Exhibit 5B- February 2016 UBS account statement for accounts Ending 745	39	7509-7522
Defendant's Exhibit 5C- February 2016 UBS account statement for accounts Ending 899	39	7523-7532
Defendant's Exhibit 5D- February 2016 UBS account statement for accounts Ending 746	39	7533-7540
Defendant's Exhibit 5E- February 2016 UBS account statement for accounts Ending 027	39	7541-7546
Defendant's Exhibit 5F- February 2016 UBS account statement for accounts Ending 575	39	7547-7552
Defendant's Exhibit 5G- UBS Account Summary for account ending 17, Showing no value As of February 26, 2016	39	7553
Defendant's Exhibit 5H- February 2016 UBS account statement for accounts ending 75	39	7554-7559
Defendant's Exhibit 5I- May 2016 UBS account statement for accounts ending 76	39	7560-7567
Defendant's Exhibit 5J- May 2016 UBS account statement for accounts ending 43	39	7568-7577
Defendant's Exhibit 5K- May 2016 UBS account statement for accounts ending 45	39	7578-7587
Defendant's Exhibit 5L- May 2016 UBS account statement for accounts ending 34	40	7588-7603
Defendant's Exhibit 5M- Wells Fargo PMA Package account ending 5397 Statement from February 1, 2016 through February 29, 2016	40	7604-7613

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit 5N- Wells Fargo Checking account ending 8870 Statements from February 6, 2016 through March 7, 2016	40	7614-7616
Defendant's Exhibit 5O- Wells Fargo Visa account ending 1032 statements From January 16, 2016 through February 12, 2016	40	7617-7620
Defendant's Exhibit 5P- Wells Fargo Visa account ending 1032 statements From February 13, 2016 through March 15, 2016	40	7621-7625
Defendant's Exhibit 5Q- American Express Platinum account ending 9008 Statements from January 16, 2016 through February 23, 2016	40	7626-7636
Defendant's Exhibit 5R- American Express Platinum account ending 9008 Statements from February 24, 2016 through March 25, 2016	40	7637-7645
Defendant's Exhibit 5S- American Express Centurion account ending 3005 Statements from January 16, 2016 through February 14, 2016	40	7646-7659
Defendant's Exhibit 5T- American Express Centurion account ending 3005 Statements from February 15, 2016 through March 16, 2016	40	7660-7668
Defendant's Exhibit 5U- American Express Optima account ending 2003 Statements from January 19, 2016 through February 16, 2016	40	7669-7680
Defendant's Exhibit 5V- American Express Optima account ending 2003 Statements from February 17, 2016 through March 18, 2016	40	7681-7685
Defendant's Exhibit 5W- Master Card Black Card account ending 1588 Statements from February of 2016	40	7686-7691
Defendant's Exhibits 5X- Principle Life Insurance Company Statement of Coverage as of February 26, 2016	40	7692-7693
Defendant's Exhibits 5Y- Voja DaVita Retirement Savings Plan statement From 01/01/16 through 03/31/16	40	7694-7696
Defendant's Exhibits 5Z- DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016	40	7697-7699
Defendant's Exhibit 6A- Cigna Health Savings Plan account balance of April 24, 2016	40	7700-7703
Defendant's Exhibit 6B- DaVita Stock Award Grant Statement, exercisable as of 06/01/16	40	7704-7705
Defendant's Exhibit 6C- Documents regarding sale of Ferrari	40	7706-7707

DOCUMENT	VOLUME	PAGE NO.
Detailed Financial Disclosure Form filed on February 25, 2015	1	28-44
Detailed Financial Disclosure Form filed on February 27, 2015	1	45-65
Detailed Financial Disclosure Form filed on May 29, 2015	1	67-84
Detailed Financial Disclosure Form filed on February 16, 2016	4	721-738
Detailed Financial Disclosure Form filed on February 19, 2016	4	819-835
Discovery Commissioner's Report and Recommendations filed on January 11, 2016	2	421-424
Discovery Commissioner's Report and Recommendations filed on January 22, 2016	4	707-711
Discovery Commissioner's Supplemental Report and Recommendations filed on February 22, 2016	4	843-846
Errata to Pre-Trial Memorandum filed on February 22, 2016	4	841-842
Errata to Notice of Filing Cost Bond for Appeal filed on August 30, 2016	44	8603-8606
Ex-Parte Motion to Enlarge Time for Service of Summons and Complaint filed on April 4, 2014	1	7-11
Ex-Parte Order to Enlarge Time for Service of Summons and Complaint filed on April 10, 2014	1	12-13
Ex Parte Request for Leave of Court to File Supplemental Pleading (With Notice) Filed September 21, 2016	45	8914-8944
Joint Preliminary Injunction filed on May 15, 2014	1	15-16
Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015	2	207-274
Motion to Compel Discovery and for Attorney's Fees and Costs filed on December 23, 2015	2	407-420
Motion in Limine to Exclude Updated Real Estate Appraisals and Newly Disclosed Rental Values Submitted by Plaintiff filed on February 19, 2016	4	836-840
Motion in Limine to Exclude Defendant's Witness Disclosed After Deadline to Disclose witnesses and Request for Attorney's Fees and Sanctions filed on February 22, 2016	4	847-858

DOCUMENT	VOLUME	PAGE NO.
Motion to Stay Enforcement of Decree of Divorce and for Other Related Relief filed on August 24, 2016	44	8594-8600
Motion for Attorney's Fees and Costs filed on September 13, 2016	44	8607-8703
Notice of Appeal filed on August 23, 2016	44	8588-8589
Notice of Appeal, filed on December 13, 2016	47	9280-9286
Notice of Cross-Appeal filed on September 21, 2016	45	8823-8940
Notice of Cross-Appeal, filed on December 23, 2016	47	9291-9297
Notice of Entry of Order filed on August 12, 2015	1	205-206
Notice of Entry filed on November 30, 2015	2	395-399
Notice of Entry of Order filed on December 3, 2015	2	400-404
Notice of Entry of Order filed on May 6, 2016	42	8064-8065
Notice of Entry of Order filed on May 11, 2016	42	8068-8069
Notice of Entry of Order filed on June 29, 2016	42	8086-8089
Notice of Entry of Findings of Facts, Conclusions of Law and Decree of Divorce filed on August 22, 2016	44	8474-8587
Notice of Entry of Order filed on October 24, 2016	47	9272-9275
Notice of Entry of Order from October 18, 2016 Hearing filed on December 5, 2016	47	9276-9279
Notice of Filing Cost Bond for Appeal filed on August 29, 2016	44	8601-8602
Objections to Plaintiff's proposed deposition Testimony and Submission of Additional Deposition Testimony filed on March 25, 2016	40	7721-7739
Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015	2	287-335
Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner, and Countermotion for Attorney's Fees and Costs filed on June 23, 2015	1	111-150

DOCUMENT	VOLUME	PAGE NO.
Opposition to Motion to Compel Discovery and for Attorney's Fees and Costs and Countermotion for Protective Order filed on January 11, 2016	3	425-579
Opposition to Plaintiff's Motion for an Order to Show Cause why Defendant Should not be Held in Contempt of Court for His Multiple Violations of the Joint Preliminary Injunction, for an Order Limiting Access and Payments from Community Accounts, and for Sanctions, Attorney's Fees and Costs; and Countermotion for Attorney's Fees and Costs filed on February 8, 2016	4	713-720
Opposition to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's fees and Costs; and Countermotion for Sanctions, Attorney's Fees and Costs filed on July 8, 2016	42	8090-8153
Opposition to Motion for Attorney's Fees and Costs filed on October 13, 2016	46	9167-9174
Order to Show Cause filed on February 24, 2016	4	859-860
Order filed on May 6, 2016	42	8066-8067
Order from April 6, 2016 Hearing filed on May 11, 2016	42	8070-8071
Order filed on June 28, 2016	42	8083-8085
Order From October 18, 2016 Hearing, filed on December 5, 2016	47	9278-9279
Plaintiff's Closing Brief filed on August 1, 2016	43	8242-8414
Plaintiff's Ex Parte Motion with Notice for Extension of Time to File Motion for Attorney's Fees and Costs filed on September 15, 2016	45	8803-8822
Plaintiff's Motion for the Issuance of an Order to Show Cause why Defendant Should not be Held in Contempt for his Multiple Violations of the Joint Preliminary Injunction; Plaintiff's Motion for an Order Limiting the Access and Payments from Community Accounts filed on January 19, 2016	4	647-706
Plaintiff's Pre Trial Memorandum filed on February 19, 2016	4	780-818
Plaintiff's Exhibit 1- Financial Disclosure Form Filed on February 16, 2016	10	1896-1912
Plaintiff's Exhibit 2- Financial Disclosure Form Filed on February 16, 2016	10	1913-1930
Plaintiff's Exhibit 3- Detailed Financial Disclosure Form Filed on May 29, 2015	10	1931-1951

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 4- Detailed Financial Disclosure Form Filed on February 27, 2015	10	1952-1972
Plaintiff's Exhibit 5- 2014 Individual Income Tax Return	10	1973-1980
Plaintiff's Exhibit 6- 2013 Individual Income Tax Return	11	1981-2241
Plaintiff Exhibit 7- 2012 Individual Income Tax Returns	12	2242-2378
Plaintiff's Exhibit 8- 2011 Individual Income Tax Returns	13	2379-2427
Plaintiff's Exhibit 9- 2010 Individual Income Tax Returns	13	2428-2456
Plaintiff's Exhibit 10- 2009 Individual Income Tax Returns	13	2457-2489
Plaintiff's Exhibit 11- 2008 Individual Income Tax Returns	13	2490-2515
Plaintiff's Exhibit 12- 2007 Individual Income Tax Returns	13	2516-2542
Plaintiff's Exhibit 13- 2006 Individual Income Tax Returns	13	2543-2572
Plaintiff's Exhibit 14- 2005 Individual Income Tax Returns	13	2573-2595
Plaintiff's Exhibit 15- 2004 Individual Income Tax Returns	13	2596-2612
Plaintiff's Exhibit 16- 2003 Individual Income Tax Returns	13	2613-2627
Plaintiff's Exhibit 18- Text messages between the parties	14	2629-2772
Plaintiff's Exhibit 19- Emails between the parties	14	2773-2813
Plaintiff's Exhibit 20- Text messages between the parties	15	2814-2921
Plaintiff's Exhibit 21- Text messages between the parties	15	2922-2925
Plaintiff's Exhibit 22- Emails between the parties	15	2926-2962
Plaintiff's Exhibit 23- Emails between the parties	15	2963-3040
Plaintiff's Exhibit 24- Text messages between the parties	15	3041-3048
Plaintiff's Exhibit 25- Text messages between the parties	15	3049-3061
Plaintiff's Exhibit 26- Proposed Community Property Distribution Worksheet	15	3062-3063
Plaintiff's Exhibit 54- Jenny Allen's Curriculum Vitae and List of Cases	16	3064-3066
Plaintiff's Exhibit 55- Index of documents in Support of Spreadsheets in Anthem Forensic's Reports	16	3067-3121

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 56 Anthem Forensics' Expert Witness Report	16	3122-3232
Plaintiff's Exhibit 57- Anthem Forensics' Supplemental Expert Witness Report	17	3233-3368
Plaintiff's Exhibit 58- Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report	17	3369-3402
Plaintiff's Exhibit 59- Email from Joe Leauanae to Daniel Marks, Esq.	17	3403-3404
Plaintiff's Exhibit 60- Auto Related Exhibits listed on Exhibit 6	17	3405-3409
Plaintiff's Exhibit 61- Transactions that comprise the "adjusted" column on Exhibit 6	18	3410-3549
Plaintiff's Exhibit 62- Withdrawals and checks written to cash - Gabrielle Kogod	18	3550
Plaintiff's Exhibit 63- Anthem Forenscics' Response to Rebuttal Report	18	3551-3578
Plaintiff's Exhibit 65- Anthem Forensics' Supporting Documentation for Facts set fourth in The February 5, 2016 Report	19	3579-3640
Plaintiff's Exhibit 69- Joint Preliminary Injunction Order	19	3641-3642
Plaintiff's Exhibit 71- Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California	19	3643
Plaintiff's Exhibit 72- Spreadsheet showing expenses for Khapsalis and children From May 2014	19	3644-3674
Plaintiff's Exhibit 73- Spreadsheet showing updated Outflows greater than $10,000 Since Anthem's December 15, 2015 Report based on updated statements provided by Dennis	19	3675
Plaintiff's Exhibit 74- Spreadsheet showing Outflows more than $10,000 Since May, 2014	19	3676
Plaintiff's Exhibit 75- Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	19	3677-3678
Plaintiff's Exhibit 76- Spreadsheet showing payments to Jennifer Steiner since September, 2014	19	3679-3682
Plaintiff's Exhibit 77- Email from Bob Gehlen dated November 25, 2015	19	3683-3685
Plaintiff's Exhibit 78- Email from Dennis to Robert Gehlen dated December 8, 2015	19	3686-3690

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 79- Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis Not adding Gabrielle to the UBS Account dated December 2, 2015	19	3691-3696
Plaintiff's Exhibit 80- Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	19	3697-3720
Plaintiff's Exhibit 87- Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents From DaVita dated October 1, 2015	19	3721-3725
Plaintiff's Exhibit 88- Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock Options dated June 12, 2015	19	3726
Plaintiff's Exhibit 89- Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options Dated August 14, 2015	19	3727-3729
Plaintiff's Exhibit 90- Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing Dennis' position dated September 2, 2015	19	3730-3731
Plaintiff's Exhibit 91- 2008 Annual Proxy Statement	19	3732-3807
Plaintiff's Exhibit 92- 2009 Annual Proxy Statement	20	3808-3873
Plaintiff's Exhibit 93- 2010 Annual Proxy Statement	20	3874-3959
Plaintiff's Exhibit 94- 2011 Annual Proxy Statement	21	3960-4081
Plaintiff's Exhibit 95- 2012 Annual Proxy Statement	21	4082-4202
Plaintiff's Exhibit 96- 2013 Annual Proxy Statement	22	4203-4298
Plaintiff's Exhibit 97- 2014 Annual Proxy Statement	22	4299-4432
Plaintiff's Exhibit 98- 2015 Annual Proxy Statement	23	4433-4526
Plaintiff's Exhibit 100- Radford J. Smith, Chartered's Billing Statements	23	4527-4560
Plaintiff's Exhibit 101- Marc Herman's Billing Statements	23	4561
Plaintiff's Exhibit 102- Anthem Forensic's Billing Statements	23	4562-4627
Plaintiff's Exhibit 103- Clark Barthol's Billing Statements	23	4628
Plaintiff's Exhibit 107- Nadya Khapsalis' Facebook printout	24	4629-4691
Plaintiff's Exhibit 111- Plaintiff's Third Set of Interrogatories to Defendant	24	4692-4709

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 113- Plaintiff's Fourth Set of Interrogatories to Defendant	24	4710-4717
Plaintiff's Exhibit 116- Plaintiff's Sixth Set of Interrogatories to Defendant	24	4718-4761
Plaintiff's Exhibit 118- Summary of emails prepared by Plaintiff	24	4762-4765
Plaintiff's Exhibit 119- 2011 Tax Return	24	4766-4767
Plaintiff's Exhibit 120- 2012 Tax Return	24	4768-4772
Plaintiff's Exhibit 121- 2013 Tax Return	24	4773-4780
Plaintiff's Exhibit 122- 2014 Tax Return	24	4781-4784
Plaintiff's Exhibit 123- Kogod equity analysis	24	4785
Plaintiff's Exhibit 124- Dist. Comm prop as of February 2016	24	4786-4788
Plaintiff's Exhibit 125- 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	25	4789-5065
Plaintiff's Exhibit 125- Continued 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	26	5066-5170
Plaintiff's Exhibit 126- 9/15/15 Deposition of Patricia Murphy	27	5171-5305
Plaintiff's Exhibit 127- 9/26/15 Deposition of Mitchell Kogod	28	5306-5498
Plaintiff's Exhibit 128- 9/25/15 Deposition of Marsha Kogod	29	5499-5592
Plaintiff's Exhibit 129- 9/25/15 Deposition of Sheldon Kogod	29	5593-5745
Plaintiff's Exhibit 130- 9/26/15 Deposition of Dana Kogod	30	5746-5832
Plaintiff's Exhibit 131- 12/10/15 Deposition of Jennifer Crute Steiner	31	5833-6019
Plaintiff's Exhibit 132- Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016	32	6020-6023
Plaintiff's Exhibit 132-2- Marc Herman's Curriculum Vitae	41	7984
Plaintiff's Exhibit 132-5- Gabrielle's expert, Mr. Marc Herman's updated Appraisal dated January 30, 2016	41	7985-8021
Plaintiff's Exhibit 132-6- Dennis' expert, Ms. Jennifer L. Bosco's appraisal Dated March 7, 2016	41	8022-8041
Plaintiff's Exhibit 133- Gabrielle's Banana Republic Luxe X4713 Dated March 4, 2016	32	6024-6026

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 134- Gabrielle's Discover Card X5161 dated February 11, 2016	32	6027-6029
Plaintiff's Exhibit 135- Gabrielle's Discover Card X5161 dated March 11, 2016	32	6030-6033
Plaintiff's Exhibit 136- Gabrielle's Kohl's Card X2557 Dated January 7, 2016	32	6034-6036
Plaintiff's Exhibit 137- Gabrielle's Kohl Statement X2557 dated February 5, 2016	32	6037-6039
Plaintiff's Exhibit 138- Gabrielle's American Express Statement X9677 dated February 12, 2016	32	6040-6042
Plaintiff's Exhibit 139- Gabrielle's Nordstrom X992 dated February 11, 2016	32	6043-6048
Plaintiff's Exhibit 140- Gabrielle's Nordstrom X992 dated March 13, 2016	32	6049-6052
Plaintiff's Exhibit 141- Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016	32	6053-6058
Plaintiff's Exhibit 142- Bank of America Merrill Lynch X6446 Statement Dated February 29, 2016	32	6059-6066
Plaintiff's Exhibit 143- Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)	32	6067-6124
Plaintiff's Exhibit 144- Gabrielle's UBS account FN-20329 GM Dated March, 2016	32	6125-6132
Plaintiff's Exhibit 145- Gabrielle's UBS account FN 13134 GM Dated March, 2016	32	6133-6146
Plaintiff's Exhibit 146- Gabrielle's UBS account FN 12743 GM Dated March, 2016	32	6147-6160
Plaintiff's Motion to Compel Discovery, For Sanctions, and Attorney's Fees and Costs filed on June 21, 2016	42	8072-8081
Plaintiff's Opposition to Defendant's Motion to Stay Enforcement Of Decree of Divorce and for Other Related Relief and Countermotion for Attorney's Fees filed on October 12, 2016	46	9149-9166
Reply to Counterclaim for Divorce filed on December 5, 2014	1	25-27

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DOCUMENT	VOLUME	PAGE NO.
Reply in Support of Motion for an Order to Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs; and Opposition to Countermotion for sanctions and Attorney's Fees filed on October 12, 2015	2	336-345
Reply in Support of Defendant's Motion to Compel Discovery and for Attorney's Fees and Costs, and Opposition to Plaintiff's Countermotion for Protective Order filed on January 13, 2016	3	583-586
Reply to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's Fees and Costs and Opposition to Countermotion for Sanctions, Attorney's Fees and Costs filed on July 13, 2016	42	8154-8192
Reply in Support of Motion to Stay Enforcement of Decree of Divorce and For Other Related Relief; and Opposition to Countermotion for Attorney's fees filed on October 14, 2016	46	9175-9180
Reply to Opposition to Motion for Attorney's Fees and Costs filed on October 17, 2016	46	9181-9186
Stipulation and Order filed on August 10, 2015	1	201-204
Stipulation and Order filed on December 15, 2015	2	405-406
Summons filed on May 15, 2014	1	17-18
Supplemental Billing Statements of Attorney's Fees and Costs filed on March 11, 2016	40	7708-7720
Supplement to Plaintiff's Motion for Attorney's Fees and Costs filed on September 21, 2016	46	8945-9027
Transcript Re: All Pending Motions (Hearing on June 26, 2015) filed on July 9, 2015	1	179-200
Transcript Re: Motion to Stay (Hearing on Wednesday September 21, 2016) filed on December 29, 2016	2	275-286
Transcript Re: All Pending Motions (Hearing on Wednesday October 14, 2015) filed on December 29, 2016	2	346-393
Transcript Re: All Pending Motions (Hearing on Friday January 15, 2016) filed on December 29, 2016	3	587-646
Transcript Re: All Pending Motions (Hearing on Wednesday, February 17, 2016) filed on December 29, 2016	4	739-779
Transcript Re: Non-Jury Trial (Tuesday, February 23, 2016) filed on April 28, 2016	5	861-1037

DOCUMENT	VOLUME	PAGE NO.
Transcript Re: Non-Jury Trial (Wednesday, February 24, 2016) filed on April 28, 2016	6	1038-1222
Transcript Re: Non-Jury Trial Vol. I (Thursday, February 25, 2016) filed on April 28, 2016	7	1223-1399
Transcript Re: Non-Jury Trial Vol. II (Thursday, February 25, 2016) filed on April 28, 2016	8	1400-1592
Transcript Re: Non-Jury Trial Vol. I (Friday, February 26, 2016) filed on April 28, 2016	9	1593-1766
Transcript Re: Non-Jury Trial Vol. II (Friday, February 26, 2016) filed on April 28, 2016	10	1767- 1875
Transcript Re: Status Check (Hearing on Wednesday April 6, 2016) Filed on April 28, 2016	40	7740-7808
Transcript Re: Hearing (Hearing on Wednesday May 4, 2016) Filed on December 29, 2016	41	7809-7979
Transcript Re: All Pending Motions (Hearing on Wednesday July 13, 2016) Filed on December 29, 2016	42	8193-8241
Transcript Re: All Pending Motions (Hearing on Tuesday October 18, 2016) filed on December 29, 2016	47	9187-9271

TRANS

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CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD, Plaintiff, vs. DENNIS L. KOGOD, Defendant.	CASE NO. D-13-489442-D DEPT. Q **(SEALED)**

BEFORE THE HONORABLE BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON-JURY TRIAL - VOL. II

FRIDAY, FEBRUARY 26, 2016

APPEARANCES:

The Plaintiff:	GABRIELLE ROSE CIOFFI-KOGOD
For the Plaintiff:	RADFORD SMITH, ESQ. GARIMA VARSHNEY, ESQ. 2470 St. Rose Parkway, Suite 206 Henderson, Nevada 89074 (702) 990-6448
The Defendant:	DENNIS L. KOGOD
For the Defendant:	DANIEL MARKS, ESQ. NICOLE YOUNG, ESQ. 610 South Ninth Street Las Vegas, Nevada 89101 (702) 386-6812

INDEX OF WITNESSES

	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
FRIDAY, FEBRUARY 26, 2016					
PLAINTIFF'S WITNESSES					
Joseph Leauanae (Rebuttal)	343	347	353	--	344
DEFENDANT'S WITNESSES:					
Robert Teichner (Surrebuttal)	356	359	361	361	

* * * * *

INDEX OF EXHIBITS

	ADMITTED
FRIDAY, FEBRUARY 26, 2016	
PLAINTIFF'S EXHIBITS:	
64 - Rebuttal report	344
65 - Chart	345
108 - Bank Statements	304
123 - Bills	332
124 - PCPD	321
125 - Transcript	339
DEFENDANT'S EXHIBITS:	
F - Surrebuttal report	230
S - Bank of America statements	303
T - Bank of America statements	304
U through EE - Accounts statements	305
MM through WW - Account statements	306
SSS - NEA documents	307
TTT - NEA documents	307
WWW - DaVita documents	307
YYY - Radiology Partners documents	308
ZZZ - Radiology Partners documents	309
GGGG - Movie	311
HHHH - USB statement	311
IIII - Unidentified	311

INDEX OF EXHIBITS (CONT.)

	ADMITTED
DEFENDANT'S EXHIBITS:	
JJJJ - W-2s	311
KKKK - Life Insurance information	312
MMMM - Options information	297
NNNN - Options information	297
OOOO and PPPP - Marital balance sheet	329
QQQQ - Jimmerson fees	330
RRRR - Jimmerson fees	331
SSSS and TTTT - Transcripts	334

THE COURT: All right. We are back on the record in the Cioffi-Kogod matter.

MR. MARKS: Your Honor, Court's indulgence for a second.

THE COURT: Okay. I believe we'll have Mr. Teichner take the stand, though.

MR. MARKS: Yeah, that's fine.

THE COURT: Well, okay. Please, go ahead.

(COUNSEL CONFER BRIEFLY)

MR. MARKS: Your Honor, I just was handed a proposed sheet by counsel, and he's dealing with this same issue regarding the stock that there was some testimony on, and he's added a bunch of other stock there was no testimony on. It's like I have a real concern if you use a sheet in which there's no testimony. Is that where we'll deal with that in closing or --

THE COURT: Well, I have no idea what you're referring to, so --

MR. MARKS: All right. Is this in evidence, Counsel? You just handed it to me.

MR. SMITH: No. The -- and again, I don't want to use any up of my time if that's what we're doing here. The testimony --

THE COURT: Well, it's going on someone's time.

MR. SMITH: Well, the testimony was that it was on Form 4 of the United States Security Exchange Commission filing. That's what Mr. Kogod testified about, 110 shares (sic). The form, which is a public record the Court can take judicial notice of actually indicates 120,000 shares, and it lays out all of the information that we've now added to the PCPD.

There's no -- on the PCPD from defendant, there's no reference to this stock holding. So -- and I think he testified that it's all in a accountant UBS, and we don't have access to these accounts, and it's only happened in the last few days. So we don't know what happened to it. But we do know it's on the Form 4. And again, that's a public record. So --

MR. MARKS: But --

THE COURT: Has that form been admitted?

MR. SMITH: No, but we certainly could.

MR. MARKS: But Your Honor, here's the problem. I think my client testified that, on certain SEC documents, it would have the total sale, but it wouldn't take into account on certain documents that there was a strike price --

THE COURT: Right.

MR. MARKS: And he testified --

THE COURT: In terms of the option --

MR. MARKS: -- and then they just ignored that in this form. So I just want the Court to be aware, we're trying to finish, we're trying to do things quickly. He never asked questions about other restricted stock, other unvested.

MR. SMITH: Well, is this --

MR. MARKS: And he's added on a chart. I don't know what he's going to do. He never asked my client any questions about it.

MR. SMITH: What's that suggestion, here, that these things don't exist? He did this two days before the trial, and it's in a Form 4 that --

MR. MARKS: The numbers are wrong.

MR. SMITH: -- we filed with the United States Securities Exchange Commission.

MR. MARKS: But the numbers are wrong. Simply, the numbers are wrong.

MR. SMITH: Well, look, the numbers are contained in Form 4 if you would have contested. But what are you going to say, that we're going to leave that asset out because he did it two days before trial? I mean, I don't even understand the argument.

THE COURT: Yeah, I'm not sure what you're asking me to do.

MR. MARKS: We sent them --

THE COURT: If there's --

MR. MARKS: -- the statements. There -- we are -- my client testified that it would say he sold shares at a price, but not, in that document, give the strike price. We sent them UBS documents, showing the exact amount that went into the account after the trade.

MR. SMITH: But it didn't show the stock. It's 120,000 shares that haven't been realized. How do you show the stock? Where's the statement that shows the stock?

MR. MARKS: We gave them the -- we gave them all of the documentation. And they have access to Bob Gable, who was their broker for both of them.

MR. SMITH: This is silly. They --

MR. MARKS: It's not silly.

MR. SMITH: -- this happened two days -- okay.

MR. MARKS: They're trying to say there's money that we don't have. He had a window; he, on the stand, testified that he had that window or could lose it.

MR. SMITH: On the stand, he testified he had 110,000 shares. It actually turns out that the document he filed with the SSC (sic), through his attorney in fact, says 120,816. I'm not making this stuff up.

MR. MARKS: Is this in evidence yet?

MR. SMITH: If it doesn't exist, it doesn't exist.

He's here, he can explain it to us.

MR. MARKS: All right. Then --

MR. SMITH: But here's the form.

MR. MARKS: I have a document; we'll just introduce it, Your Honor, please.

THE COURT: Okay. All right. I remind you you're still under oath.

MR. MARKS: Can we have a time check, Your Honor, before we start?

THE COURT: You've used 390 minutes.

MR. MARKS: What do I have left?

THE COURT: One hundred and fifty minutes.

MR. MARKS: What does Rad have left?

THE COURT: Thirty-five minutes.

MR. MARKS: So 150 is 2 hours.

THE COURT: Yeah.

MR. MARKS: Because I want to save a half.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q Okay. So we're going to try and go quickly, Mr. Teichner. Are you on Exhibit D, which is your report --

A Yes.

Q -- that's in evidence.

On Page 2 of your report, you say there's a lack of

basis for JLL's opinion on potential community waste. Can you turn to that page?

A Yes.

Q Why do you think there's a lack of basis for JLL's opinion on potential community waste?

A Well, I think he did not take into consideration -- well, him and Anthem did not take into consideration, first of all, as -- as it was brought out regarding Exhibit 6, there is no basis for most, if not all, of those items on that exhibit. There's no underlying documentation that shows that -- those items of community waste. In fact, there are loan payments, there are capital expenditures, there's cash that Mr. Kogod used as a number -- a variety of things that they included on that schedule, so there was no basis for that.

In addition, they -- I don't think they took into consideration, or they did not apparently, based on the report, Anthem's report, is that the Kogods were living apart for much of the time. And it goes back to 2004, maybe a little -- 2003; And that, in 2010 is where they were completely separated. So that wasn't taken into account, that they were living their own lives. So there's personal expenses that each one had. And it did not take into account Ms. Kogod's expenditures in relation to Mr. Kogod's.

There's -- they made a number of assumptions

regarding the yacht expenses. They -- they even made assumptions based on what they included for Nadya. There were -- not only were there a number of items that Mr. Kogod had eliminated based on his deposition and some -- to some extent, before and after his deposition, but also, there are expenditures, undoubtedly, that benefitted both Mr. Kogod and Nadya and the children, and they didn't do an allocation as to those expenses that would be attributed only to Ms. Kogod and the -- I'm sorry, Mrs. Nadya and the children.

And then, also, I don't -- they did not take into account, which I know is a very contested issue, the fact that the expenditures that Mr. Kogod had -- had made over the period of time that we're talking about, and primarily, based on my observations, from 2008 through around November -- mid-November 2015, didn't take into account the fact that his expenditures, normal living expenditures were still a very small percentage; normal living expenditures, including expenditures for Nadya, which could have been made -- if he wasn't with Nadya, it could have been for somebody else. He could have gone out with his friends, whatever. Those total expenditures, in relation to his income, was relatively very small; much, much smaller than all the statistical information out there.

Q Now, did mister -- did Anthem have any definition of

"waste" contained in their report?

A I did not see any definition of waste, no.

Q Was there any explanation as to any objective standard that you could see as to what Anthem considered waste, versus non-waste?

A No.

Q If there's no standard regarding waste, how can one actually conclude something is potential community waste if there's no standard?

A Well, I don't know what standards they may or may not have used, but they certainly didn't indicate what those were in the report.

Q From your experience in reports -- and you've done reports where you're alleging potential community waste, correct?

A Correct.

Q What are -- what factors, in your experience, are usually present for a claim of potential community waste?

A Well, generally, it's reckless spending; what we call "reckless spending," where spending is made on all kinds of things, like maybe alcohol, drugs, gambling, particularly excessive gambling, and especially in relation to what somebody earns or their net worth. So if they're basically just paying their estate or -- or their income that they earn,

then that certainly is a strong consideration for waste.

Q Normally, do -- is there an element of financial misconduct, in your experience?

A Yes. I mean, reckless spending, I think -- inherent and reckless spending is financial misconduct.

Q Normally, in your experience of community waste, is there a diminution or diminishment of the estate?

A That's one -- certainly -- that's certainly what you have to look at, as well as, again, how much of the earnings are being wasted, as well.

Q Did the Anthem report take into account anything to do with Dennis' earnings, *vis-a-vis* his spending?

A No.

Q Did Anthem take into account anything to do with Dennis' net worth or the community net worth as it related to the spending?

A No.

Q You then -- also, on Page 2 of your report, you indicate that there's no explanation of analyzing the 27,200 transactions. Can you elaborate on that?

A Well, again, I didn't see any definition of "analyzed," and I'm still not sure what was done to analyze, since I haven't seen where they have substantiated or otherwise supported most, if not all, of the transactions that

they listed and considered as potential waste.

Q You were at Mr. Leauanae's deposition, weren't you?

A Yes.

Q Where he was asked about the report?

A Yes.

Q Did he explain adequately what he did regarding analyzing the transactions, in your opinion?

A Well, he did give a general explanation, but when you started pinning him down, particularly on the items on Exhibit 6, he said he didn't know what most of those were, and that he would provide backup later on.

Q And do you know when he provided the backup?

A It was shortly after his deposition testimony. It was -- it was at the end -- I believe it was the end of the week, by Friday of that week, that he was deposed.

Q Now he was deposed on February 9th, so that's a mere couple of weeks ago. Do you recall that?

A Yes.

Q And do you recall, at the end of the week -- so I think it was the 13th -- he provided the backup that we were dealing with this morning?

A I recall that was the date that I received it from the office, yes.

Q Do you believe that is sufficient backup to it for

him to analyze the alleged community or potential community waste that he referenced?

A No, it was just mainly a listing of the -- of the expenditures in some other format, but it still didn't organize it by Buckus, and it didn't give the explanation why any of those were potential waste.

Q Now you hear Ms. Allen's testimony this morning, correct?

A Yes.

Q Okay. And you hear her explain they were primarily looking for whether Dennis spent money on third parties, correct?

A Yes.

Q Okay. And specifically, Nadya, correct? They were looking at expenditures to Nadya, primarily.

A Well, I -- I don't know if it was just Nadya, only because I'm not sure whether they were saying some of the expenditures on Exhibit 6, which are the unallocated expenditures, were also, you know, fall in -- fell into that category. But I know that the expenditures for Nadya was being -- it was a focus.

Q Okay. On Exhibit 6, the unallocated, did they --

MR. SMITH: Let me just note for the record. There's no -- in Exhibit 6, there is no reference of any word

"unallocated." This is something that's -- the objection is it mischaracterizes the document.

MR. MARKS: On Exhibit 6, the --

THE COURT: The document speaks for itself, but the objection is overruled.

MR. MARKS: I'll just rephrase.

BY MR. MARKS:

Q The assessment of potential community waste, not elsewhere classified.

A Yeah, I'm just -- I was using the word "unallocated" because that's been used in the testimony today.

Q Okay. Using the assessment of potential community waste not elsewhere classified, that we discussed with Ms. Allen, I think you heard her answer that she was concerned about whether any of that went to third parties, correct?

A Yes.

Q Okay. Is there anything about the backup that was sent by Anthem that you reviewed that suggested any of the assessment of potential community waste not elsewhere classified went to third parties?

A No.

Q Now, if you --

A I mean, when you say it "went to third parties," if there was a payment for Starbucks, or whatever it was, that's

a third party. But for the benefit of a third party, no.

Q Okay. Now if you'd go to Page 3 of your report.

A Yeah, I'm there.

Q Okay. The second full paragraph, you write:

"JLL states that Anthem was specifically asked to 'provide observations about the spending and potential waste,' yet, he offers Anthem's opinion that potential community waste is approximately 6.2 million."

And you say:

"There is no basis on which JLL can offer such an opinion by Anthem."

Can you elaborate on that?

Q Well, again, I don't see where he has come up with anything meaningful as potential community waste of being $6.2, especially in light of the fact that so many of these expenditures, particularly on Exhibit 6, which is 3.6 million and change of the 6.2, are not expenditures at all. They're -- there's capital expenditures -- I mean capital investments, there's loan repayments; there's all kinds of items that were brought out today that have no basis for being even called potential community waste, in my opinion.

Q Okay. Let's go to Exhibit 6, the Anthem report. Do you have that? We have your report, and I think your report has a schedule that deals with Exhibit 6.

A I'm -- which -- under which tab --

Q Exhibit 57 in the books in front of you. They've marked Exhibit 57 as Exhibit 6 of the Anthem report.

(COUNSEL CONFER BRIEFLY)

THE WITNESS: I'm sorry. What letter tab is it under?

BY MR. MARKS:

Q You're in the --

A Exhibit -- if I --

THE COURT: It's in there. It's in the black binders, not the white ones.

THE WITNESS: Okay.

(COUNSEL CONFER BRIEFLY)

MR. SMITH: Are you looking for Joe's report or -- you found it.

MR. MARKS: Yeah.

MR. SMITH: Oh, you got it?

MR. MARKS: I got it.

MR. SMITH: It's 57, actually.

MR. MARKS: Right. 57 is the December 15th report in Exhibit 6.

MR. SMITH: Are you looking at 56 or 57?

MR. MARKS: 57.

MR. SMITH: 57.

MR. MARKS: Exhibit 6 of 57.

MR. SMITH: Okay.

BY MR. MARKS:

Q Mr. Teichner, are you in Exhibit 6 of 57?

A Yes.

Q Okay. And then, if you have your report open, which is Exhibit D, specifically, Page 4 of your report.

A Okay.

Q And in the middle of the page, you have a category, "Expenditures After Deletions From JLL's Report;" Exhibit 6, titled "Assessment of Potential Community Waste not Elsewhere Classified." Do you see that?

A Yes.

Q Okay. Can you tell the Court what you did as it related to Exhibit 6 of the Anthem report?

A I went through various line items in the adjusted column, which is the far-right column on Exhibit 6, and deleted a number of those items that I -- well, that either, obviously, not items that should not be -- that should not be considered as potential waste, such as, again, capital investments that were assets.

Q So let's go through it.

A Yeah.

Q Did you do a Schedule 1 to your report?

A Yes.

Q And is -- in Schedule 1 to your report, did you make certain deletions?

A Yes.

Q Can you tell -- if you turn to Schedule 1 in your report, can you tell the Court what deletions you made and why?

A Well, do you want me to go through each one?

Q Yeah, why don't you go through and -- just as quickly as you can, the deletions and why you did it.

A Okay. I went through -- there were a number of expenditures for automobiles, and one of the ones that's in the adjusted column is -- it says "GMAC Cadillac, $273,300," and I deleted that one because, again, either the car -- either this expense -- expenditures for an automobile or the cost of an automobile. And if it's the cost of an automobile, again, that would be -- have been as asset, and if that asset was traded in, sold, eventually, that would wind up in other assets.

Q When you got the backup from Mr. Leauanae, and you went through GMAC Mortgage, did you see what appeared to be mortgage payments?

A As far as the -- as far as the GMAC payments, there was a mortgage loan on the house. And I'm not sure, by the

way, whether these -- this particular GMAC, all of this GMAC payment is mortgage payments, but certainly, it appears -- and again, I don't have the backup for all this. But it appears that, based on the round amounts that were shown here, those -- those could be a combination. I -- they're round amounts, so I don't where the round amounts came from.

But there were mortgage payments on a residence, and that was GMAC, that was later refinanced; that loan was later refinanced with B of A, Bank of America. And so, whether these are all mortgage payments or a combination of mortgage payments and auto payments, I don't know. But in any event, either way, it's either for maintenance of an auto, for the cost of an auto that was either sold or traded in, or for the mortgage payments.

Q Okay. Did you see the backup provided by Mr. Leauanae that said "GMAC Mortgage"?

A Mr. Leauanae?

Q Yeah.

A From his -- no.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q If you'd hold your spot and go to Exhibit 60.

MR. MARKS: May I approach the witness, Your Honor --

THE COURT: Yes, you may.

MR. MARKS: -- so I can speed this along?

THE COURT: Yes, you may.

BY MR. MARKS:

Q Are you on Exhibit 60?

A Yes. I was going to go to the next --

Q Before we go to the next one, did you want to look at Exhibit 60, the backup? Before you go to that. Can you turn to Exhibit 60, is's in the (indiscernible).

A Exhibit 60?

Q Correct. Page 3 of Exhibit 60. I don't know if we have a sticker.

(COUNSEL AND CLERK CONFER BRIEFLY)

MR. MARKS: Thank you very much.

BY MR. MARKS:

Q On Exhibit 60, Page 3, you were sent that from -- you were sent that from my office after we received in on the Friday after Mr. Leauanae's deposition?

A Correct.

Q Okay. And did you see a bunch of GMAC Mortgage payments?

A Yes. The GMAC, that says "auto-related, Cadillac," was paid to GMAC Mortgage Company.

Q Yeah.

A At lease these -- these items that they listed. And I -- and I don't know if those total the amounts, but they appear to be plenty close --

Q All right.

A -- if not -- yeah.

Q All right. Let's go back to your report, which is Exhibit D. I think I put a Post-It in there. Do you have your report?

A Yes.

Q Okay. If you go back to your report, did you make another deletion?

A Yes.

Q The next one, I think, is 466,649 for a luxury -- auto-related luxury, not elsewhere classified. Can you explain to the Court what you did there?

A Yeah. The $466,000 of the total of a million-three was placed in the adjusted column. And again, mister -- my understanding is Mr. Kogod was, basically, an auto collector to -- I mean, he had a number of automobiles. And that was, I guess, one of his hobbies or, you know, one of his -- one of the things he liked to do, was to have a number of automobiles. And they weren't all, necessarily, at the same time because he had leased them, he had traded -- he had bought some, traded them in for other automobiles. But it

appears from here -- from this schedule, that they included both expenses and -- and the cost of automobiles, which again, were either sold, traded, or retained, and -- and in some form, reported in the marital balance sheet as an asset.

Q Okay. So the cars would be on the marital balance sheet. Is that right?

A The cars, or if they were sold and a new car was bought or traded.

Q Okay.

A Yes.

Q At Mr. Leauanae's deposition, I think he said he used 3,700, a figure as a car allowance. Do you recall that testimony?

A Yes, uh-huh.

Q Do you believe that's a proper -- that an accountant like Mr. Leauanae has a right, in a family law matter, to just arbitrarily set a car allowance?

A No.

Q Okay. The next deletion you have is 25,000 capital -- I think it says "for capital call."

A Yes.

Q Why did you delete that?

A Well, capital call is usually -- well, it is additional money for an investment that you have, so it's

certainly an asset.

Q On the next page of -- or I think Item 57, you deleted 60,000 or so for art work. Why did you do that?

A Because that was art work in Mr. Kogod's home and his house that he bought out of the money that was allocated to him as separate property. And so it's an asset of his, but it's also included -- it's also part of the cost of his home, or it's a furnishing. And art, usually, that costs that much money is -- has some retained value.

Q Did you --

A It could even go up in value.

Q Did you also -- Item 68, loan payment B of A, 249,000. Why did you delete that?

A Those -- those were loan payments -- well, I -- again, I got -- I eliminated virtually all the loan payments because the loan payments were either on a mortgage -- they were either mortgage payments or loan payments or payments on money that Mr. Kogod borrowed. And if -- whether it's a line of credit or whatever -- for whatever reason he borrowed it, if he can make more money investing, or a greater return on an investment than what he pays interest on a borrowing, then it makes sense, economic sense, to borrow money and then invest it.

Now this particular B of A -- I think this was -- I

believe, but I'm not certain, that it's all related to mortgages.

Q So you deleted all of the mortgages.

A Yes.

Q Because did you believe that Mr. Kogod was a reasonably prudent investor, based on his portfolio?

A Yes.

And let me just add that the -- that the homes that Mr. Kogod had bought all went up in value. I mean, my understanding is they've all gone up in value from the time he purchased them. So, if anything, that benefits the community.

Q And you deleted 172,000, saying you need canceled check. Why did you do that?

A Because I don't have any idea, whatsoever, what those checks were for. And to assume that all those canceled checks of 172,400 is a waste is a unfounded assumption that -- it's certainly something I would never do.

Q And is it -- in your experience, is it common that it's difficult to get records going back more than seven years or seven years or more, right now, from banks?

A Often, yeah. And sometimes, even less period than that.

Q Okay. So you made these deductions from Exhibit 6, correct?

A Yes.

Q From their Exhibit 6.

A Yeah.

Q And then the remaining amount, you have an opinion regarding whether the remaining amount of 1.8 is reasonable living expenses for somebody at Mr. Kogod's level.

A Yes. But just let me qualify that there are other items on this schedule, now, that I have since found out that also are not -- should be -- should be eliminated from this schedule, as well.

Q Okay. Explain to the Court what you're talking about.

A There is -- there is -- line -- it's on the second page, and it's Reference Number 173, "Withdrawals and Cash Advances."

Q Okay.

A Three hundred fifty thousand, five hundred dollars.

Q Okay.

A Now, again, my understanding is those cash withdrawals and advances were for either normal living expenses or for cash advances; cash that had to be taken out for travel, whether domestic or foreign, and again, just normal -- normal, I guess, cash expenditures.

Q You heard --

A And to -- excuse me. And to assume that cash advances are -- without having any backup, is community waste, again, is -- is an assumption that -- that there's no proof that -- that it is waste.

Q You heard Ms. Allen's testimony this morning.

A Yes.

Q Did she classify, other than Nadya, every other item of cash that Dennis spent over the last eight years to be potential waste; is that the three fifty number?

A I believe so. Now the only -- the only qualification to that is, on that line item, 173, the total cash was 629,500, and this 279,000, that is not included in there.

Q Right.

A But that two seventy-nine, my understanding is that's what they added in on the Exhibit 9, where they compiled or summarized all of the items of community waste. So that two seventy-nine is also included in the total amount that they claim is community waste. So that makes -- I'm pretty sure that's what that two seventy-nine is because it's the same amount, and it's cash paid out.

So -- so, to answer your question, the 350,000 then would be the other cash expenditures that Mr. Kogod -- withdrawals that Mr. Kogod made. And again, to assume that

those are potential community wastes, I think, is -- is just an assumption that they made with no -- no basis whatsoever.

Q If you deduct the three fifty from that amount, and look at it over an eight-year period, what is the average yearly expenditure?

A Less -- I guess, less than -- less than 200,000 a year.

Q Okay. And did you recall what Mrs. Kogod was spending during the same period, the plaintiff?

A Well, I believe it was 13,000 and change per month.

Q And that's about 180,000 a year?

A It's close; not quite, but yeah.

Q A hundred and eighty --

A Twenty-six and -- let's see. Twenty-six and one thirty, a little less than that, yeah.

Q One eighty. And if you multiply that over eight years, do you know what that number comes to?

A It's like a million -- a million-four, something like that.

Q Yeah, it's over a million-four.

A Yeah.

Q And if you deduct the three fifty from the one eight four two, aren't you at about a million-four and change?

A Yes.

Q So aren't -- isn't that the same level of spending?
A Yes.
Q All right. You had some comments, I think, regarding the yacht or the boat. Did you -- would you like to go back to your report and -- which is Exhibit D? And on Page 5 of your report, you analyzed the Anthem report, Schedule 3, which dealt with yacht expenditures. Do you -- are you familiar with that?
A Yes.
Q You've reviewed Schedule 3 to the Anthem report --
A Yeah.
Q -- regarding yacht expenditures?
A Yeah, yes.
Q Okay. And do you have any criticism of the way they've added up what they're claiming is potential community waste?
A Yes.
Q Can you explain it to the Court.
A Yes. Included in their figure for the -- for the yacht expenses, which is about -- oh, gosh. Let's see. I have to look at the report. But it's five hundred and something thousand dollars, five forty-five, somewhere in that neighborhood.
They've included a few things that don't belong

there. First of all, they included equipment for the -- for the yachts that are really part of the yachts. It certainly would increase the value of the yachts. And so -- so I did take out all of those expenditures.

And then what I -- what I disagree with is the fact that they include, also, in the -- in the total amount of potential community waste relative to the yacht, is that they're including the -- a net loss on what the total yachts yielded during this, I think it's a two-and-a-half year period, more or less.

And that's -- you know, I mean, some yachts go up in value, some go down in value. And it's one -- it's -- you can look at it as another investment besides being a hobby. But the fact that there was a loss, you know, that -- they include that as a waste. But if it had gone up in value, if the yachts had gone up in value, I'm sure they would have not, you know, shown that otherwise.

So, also, it's -- to me, it's just cherry-picking because Mr. Kogod had all kinds of real estate investments and other investments that all appreciated. So, to take one asset like a yacht, and include a loss and call it community waste, to me, is -- is not appropriate.

Q Okay. I want to clarify that the yacht transaction in the Anthem report is Exhibit 5 to their report.

A Yes.

Q And then you made deletions to Exhibit 5 in your Schedule 3, correct?

A Correct.

Q And in your Schedule 3, you eliminated certain expenses?

A Yes.

Q As you just testified?

A Yes.

Q Okay. And can you -- on Page 5 of your report, you indicated that, after eliminations, there were expenditures of 145,000.

A Right.

Q And that's over, approximately, a three-year period.

A I believe a little bit less, yes.

Q Okay.

A Yeah.

Q And you say in here that -- do you believe the mere fact that Dennis had a yacht constitutes community waste, just because it's an expensive item?

MR. SMITH: To the extent, it's calls for a legal conclusion, I object.

THE COURT: Noted for the record, but the witness may answer.

BY MR. MARKS:

Q Do you believe that, just because you have a yacht, it's community waste?

A That a yacht expense could be community waste?

Q No, that, in this case, they're saying it's potential community waste, I guess, just because he had a yacht. Do you agree with that?

A No.

Q Okay. You've done cases for wealthy individuals over the years, correct?

A Yes.

Q What types of hobbies, toys, do they usually have?

A Expensive cars, boats.

Q Do they have planes?

A Planes, some have airplanes. Yes.

Q Other than this boat and car, did Dennis have expensive or extensive hobbies in your -- based on your experience of other cases of forensic accounting?

A Based on my experience of high-income earners, yes, other -- well, I'm not sure if I should answer yes. Ask the question again.

Q Do you have experience with high-income earners?

A Yes.

Q How did the -- Dennis' he had three cars, I think,

and the yacht for a short period of time. How did that compare with your experience of other high-income earners?

A Again, it's not unusual at all.

Q Okay. You did a chart that compared the percentage of each year's expenditures to total expenditures from 2008 to 2015, correct?

A Yes. Schedule 5 to the report.

Q That's Schedule 5 to your report, and I think it's at -- it's at your report D037, correct?

A Yes.

Q Can you explain what you did?

A Yes.

Q Tell the Court what you did.

A What I did was try to take all the living expenses, including the expenditures from Nadya and Jennifer, the yacht expenses; again, just the expenses, not the loss on -- not the cost of the equipment, and money is paid to the family, Mr. Kogod's family. And in Exhibit 6, as -- as modified -- and I have a schedule on how I modify that Exhibit 6, but again -- or how I allocated it, I should say, the expenses among the years -- because the total -- if you go out to the total column of -- for Exhibit 6, you come up with the one million, eight forty-two, that was the total on my Schedule 2.

Q Okay.

A And so I took all -- all the expenditures, living expenditures, basically -- by the way, that million-eight probably includes -- and I think I qualified this in a footnote, but the -- that -- the modification, we already, I think, established that, at least I did, that 350,000 -- that should be reduced by $350,000.

And there's probably some business expenses in there, as well. But assuming they're all living expenses, if you take the living expenses of all the -- all his living expenses that we have taken from these other schedules, and add them up year by year, and compare that with the income that Mr. Kogod earned, then take a percentage of the expenses in relation to the income, those percentages are down towards the bottom of the page, based on total income and after-tax income.

And so you can see there's variations throughout the year, but they're all relatively very small. Maybe 2008, 2009 are certainly higher than -- than the other years. But if you take an average over the eight-year period or almost-eight-year period, the total expenditures in relation to his income, total income, is 5.3 percent; and in relation to his after-tax income, is 9.8 percent.

Q And in your experience, how does it -- how do those numbers compare to other individuals?

A Well, you know, it's certainly very, very low. Most -- you know, because I do quite a bit of divorce work, most of the time, the expenditures are 50 percent or more of someone's income; sometimes the expenses are more than their income. But even with higher-net-worth individuals, I found -- I found high -- much higher expenses.

Also, if you compare this with the Bureau of Labor Statistics data, which, again, that's a whole different level of income, but if -- but anything over $150,000 of -- 150,000 or more of earnings, the expenditures were something like -- pre-tax, were 54.3 percent, I believe, and after tax was 64.9 percent. Those are the -- those are 2014 figures, by the way.

So this is for people earning $150,000 or more. Those are the percentages of personal living expenses to income. So -- so, you know, of course the expenses -- the percentage of expenditures on this schedule is greatly lower than those percentages.

Q And do you think Anthem should have considered the percent of expenditures versus total income in making a waste or potential waste analysis?

A Yeah, I think they got to look at that the expenditures in that context. Yes, absolutely.

Q All right. And then, you also looked at Exhibit 2 to the Anthem report, the expenditures for Nadya and the

children?

A Yes.

Q Did you look at that schedule?

A Yes, I did.

Q Okay. And did you make certain deductions based on Dennis' deposition testimony?

A (No verbal response)

Q Did -- Dennis, in his deposition, was he asked by Mr. Smith about certain expenditures?

A Yes.

Q Okay. And did you rely on his statements under oath to make deletions or corrections to that Exhibit 2 to the Anthem report?.

A Yes.

Q In general, was Exhibit 2 to the Anthem report giving any credit to Dennis for food, CVS Pharmacy, items for the home that he shared with Nadya, et cetera. Were they giving him any credit at all?

A It didn't appear that they did. They certainly included expenditures that Mr. Kogod had indicated were solely for him.

Q You also did a surrebuttal report in this case?

A Yes.

Q And I think that's contained in Exhibit F. Is that

right?

A Yes.

Q And that's based on your rebuttal to the -- I guess the surrebuttal report that Anthem produced after your report, correct?

A Correct.

MR. MARKS: All right. I move the admission of Exhibit F.

MR. SMITH: No objection.

THE COURT: Exhibit F is admitted.

(DEFENDANT'S EXHIBIT F ADMITTED)

MR. MARKS: Your Honor, I'll pass the witness.

THE COURT: Any cross examination?

CROSS EXAMINATION

BY MR. SMITH:

Q I'm going to ask you a series of yes-and-no questions, Mr. Teichner. Okay?

The -- tell me -- I'm going to show you a copy of the transcript of your deposition.

A Sure.

Q Tell me if I read this portion of the deposition correctly.

A Sure.

Q "Question: Okay. So is it fair to say, then, all

of the deletions that are contained in your expert report are deletions that you were identified to" --

MR. MARKS: Can I have the page? I'm sorry, Your Honor.

MR. SMITH: Yes. Page 61, Line 19.

MR. MARKS: Okay. I know you want to hurry, but can I just get it, pull it out so I can follow? What is it?

MR. SMITH: It's 61, 19.

MR. MARKS: Okay. Hold on.

(COUNSEL CONFER BRIEFLY)

THE COURT: All right. Go ahead.

BY MR. SMITH:

Q Okay.

"So it's fair to say, then, all the deletions that are contained in your expert report are deletions that were identified to you by Dennis, either at his deposition or in his subsequent conversation?

"Answer: Yes, or even prior conversation. I wasn't really -- well, I wouldn't say it was a conversation. He actually went through each item and line, deleted it with a yellow marker.

"Question: Once you received that information, either in the form of the yellow deletions, or testimony at the deposition, or a conversation subsequent to the deposition

with Mr. Kogod, did you do any independent analysis of the expenditures to verify information that was provided to you by Mr. Kogod?

"Answer: No.

"Question: Why not?

"Answer: Because when you say 'verify,' I'm not sure what you mean by verify, first of all. But no, why not?

"Question: Let me break that down because you said that you don't understand the question, essentially. So it's my understanding, as a forensic accountant, when someone indicates they expend money in a particular way, one of the things to do is to look at, for example. receipts or other information about the expenditure. That would include bank statements, receipt statements, information from other depositions in the like. Did you do any kind of that kind of analysis whatsoever on any of the expenditures that you identify that Mr. Kogod deleted from the report of Mr. Leauanae and Ms. Allen as potential community waste?

"Answer: No.

"Question: Why not?

"Answer: For the same reason I didn't look at all of the -- at any of the expenditures that mister -- or that Anthem included. That was not something I was asked to do."

Is that -- did I accurately read that testimony?

MR. MARKS: Well, that's not the whole answer, Your Honor. Doesn't he have to read the whole answer? It goes on for like three more paragraphs, four paragraphs.

MR. SMITH: Oh, okay. That's fine. Let's read it. I've highlighted it, as well.

BY MR. SMITH:

Q Now in the answer it says:

"That I was asked to do. I'm not going to question mister -- Dennis' testimony as being untrue, nor am I going to question his other deletions as being untrue. As a forensic accountant, we don't always verify everything. I didn't think it was necessary, particularly in light of my -- the general concepts of my report that none of the expenditures are justifiably potential community waste, based on all the reasons I gave. So there was no -- there was really no reason to do that. I just went ahead and did this for what it's worth.

"It really -- I don't know if it has any bearing, one way or another, these deletions, because, if it turns out that none of the expenses are considered potential community waste, it's a moot point."

Okay. And then the next question -- all right.

So did I read those questions and answers correctly, Mr. Teichner?

A Yes.

Q You -- what is the amount of money somebody can spend on a girlfriend without it being community waste?

A What amount?

Q Yeah, what amount.

A Well, I don't think there's any threshold amount. I think it's you got to take it, again, in context as to whether those expenditures are -- would have been made otherwise. That's -- you know, you got to take into -- take into account how much was expended, what the person's earnings were, how -- whether or not that person is living -- is apart from their normal spouse and for how long.

It doesn't -- you got to take it in a -- you got to take the expenditures in context, and then say, what's reasonable, are these living expenses expenditures that -- that Mr. Kogod would have spent anyway, had he not had a girlfriend, or are they a little bit more. And if they're a little bit more, then still, is it that -- is he dissipating the marital estate by doing this, while his income is going up, while his net worth is going up. I think you have to take this all into context.

Q Mr. Leauanae and Ms. Allen's report, Anthem's report, addressed expenditures that could be for the benefit of Nadya and the children. You would agree?

A Yes.

Q Those expenditures were based upon the notion that, when you spend money without the consent of the other party, on a girlfriend, a mistress, including things like in vitro fertilization, trips aborad, mansions, Ferraris, Bentleys, that those things are community waste. You don't agree?

A Again, I think you have to put into context how much was spent, whether those amounts would have been spent, elsewhere in some other fashion, and what impact, if any, does that have on the dissipation on the marital estate.

Q So, if the marital estate is large enough, or if I make enough money, I can have as many girlfriends as I want.

A Well --

Q Is that your testimony?

A I think, if you've lived a part from your spouse for a long period of time, I think you're entitled -- yes, I think -- I mean, you've asked me -- you're not asked me a legal opinion, obviously, because I'm not a lawyer, but --

Q I'm asking the fundamental basis of your finding that there was no community waste because he didn't spend enough money to make it community waste. That's what you're saying, correct?

A Yeah, in effect, it -- he didn't spend enough in the context that I just gave you.

Q Right. So, if I'm a rich guy, I leave my wife, I can spend as much as the community earnings on a girlfriend as I please, correct?

MR. MARKS: Assumes facts is not in evidence. No foundation. That's not what he's saying.

THE COURT: Overruled.

BY MR. SMITH:

Q Is that right?

A Well, as much as the community -- of the community earnings, depending on how -- two things: It depends on how much the community earnings are, and it depends how much -- what the expenditures of the other spouse are because the other spouse -- if the other spouse is spending as much money on something else, what difference does it make what one spouse spends the money on?

If one spouse spends money on a girlfriend, and another spouse spends money on entertainment in the same amount -- I'm just giving you a hypothetical now -- the same amount, then why should one spouse be hit with community waste and the other not?

Q Did miss -- are you aware of any facts in this case that suggests that Ms. Kogod spent money that Mr. Kogod was unaware of?

A I -- no.

Q Are you aware of whether or not Mr. Kogod actively concealed both his spending and earnings in this case from Mrs. Kogod; do you know whether that happened?

A I know that, for a period of time, she was not aware.

Q Oh, no, no. That's not what my question was. My question was: Did he actively conceal, did he mislead her in regard to both his earnings and his assets?

A Oh, I -- not that I know of. I -- did he mislead her? No, not that I know of.

Q Did he tell her about the yacht, to your knowledge?

A Well, how is that misleading? I mean, he didn't tell her -- did she ask him if he had a yacht, and he said, no, I don't have a yacht? That -- you're asking me if he misled her. I don't know if -- I have not seen anything where he's misled her.

Q You said that there was no backup for this information. If you look to the charts in your report -- let's look at those together.

A Which charts?

Q The charts in the report. Exhibit 2. In any of the exhibits, because they're essentially Mr. Leauanae and mister -- Allen's charts. You've just put them into a different form, haven't you?

A Pretty much, yes.

Q Right. And this -- you said there was no backup. But in every chart that's provided in Mr. Leauanae's report and Ms. Allen's report, every chart that they submitted in terms of the backup, not only is -- the identification of the date, the type of expense, the account number, and the amount, it's all identified in the backups, right?

A It's a listing of expenditures. That doesn't --

Q Wait, wait, wait.

A That doesn't mean it's waste.

MR. MARKS: He said -- he won't --

BY MR. SMITH:

Q Look at look at Exhibit 60.

MR. MARKS: He's trying to finish, and the -- and you're cutting him off.

MR. SMITH: I've only got limited time. That wasn't --

MR. MARKS: I know, but you can't come --

THE COURT: Move on, move on.

MR. SMITH: Move to strike as nonresponsive.

THE COURT: Stop. Let's move along.

BY MR. SMITH:

Q Exhibit 60. Look at it, please.

A Tell me which -- what exhibit that is again, because

I -- what -- under what tab?

MR. SMITH: You know, I'll pass the witness. I'm done. I pass the witness, Your Honor.

THE COURT: Any redirect?

MR. MARKS: Yes.

REDIRECT EXAMINATION

BY MR. MARKS:

Q Did you look at when there was a diminution, meaning a dissipation, of assets in this case?

A Yes.

Q And there was no dissipation, correct?

A Correct.

Q You don't know whether Dennis had access or was monitoring anything that Gabby was spending money on, do you?

A Say it -- say that again.

Q Did Dennis monitor what Gabby was spending money on over, let's say, the last five years?

A I don't know. But I don't think -- not that I know of.

Q Okay. Counsel asked you, if you spend money on a girlfriend, do you -- is it waste or not waste. What if Dennis just had a friend who was not romantically involved; would that be waste?

A Again, I -- if -- I mean, again, you've got to take

everything into context. If he's living apart from his wife, he's got his own life, she's got -- the wife has her own life. Yes, I think you're entitled to go out and have friends, have girlfriends, you know, have some entertainment, enjoyment in your life. That's -- that's --

Q And would that apply --

A Again, that's not a legal opinion, obviously.

Q Would that apply to Gabby, as well as Dennis?

A Yes.

Q And do you -- did you -- did Anthem, in their report, ever consider that the parties were living separate and apart for at least five years in their analysis?

A No.

Q Did they ever consider it?

Did they ever consider the -- how much Dennis spent versus his income for all of those years; did they look at it --

A No.

Q In other words, if he spent 200,000 a year that they claim is unallocated, and over eight years, he spent 1.6 million, let's say, and during that same period of time, he spent 50 million -- he earned 50 million, did they take any sort of proportionality rule into effect?

A No.

Q In fact, in their report, they say if you spend a dollar that they think is incorrect, they should get their 50 cents back, in spite of the fact that the Court said we should look at 5,000 or more, correct?

A They said that, in -- essentially, in so many words, yes.

Q And do you believe you have to look at the proportionality of what someone earns versus what someone spends in any forensic divorce case?

A When there's waste involved, you mean?

Q Yeah, a large waste.

A Yeah. Yes.

Q Okay. Did they show any asset that (indiscernible) both sides of the marital balance sheet of about $40 million, correct?

A Yes.

Q In your experience of community waste -- and you've had other cases where you and Mr. Leauanae are on opposite sides, right?

A (No verbal response)

Q You and he have been on opposite sides, where he's saying no waste and he's saying waste, correct?

A One case, yes.

Q Okay. In those instances, isn't there money,

literally, disappearing, gone, so that there's not an equal division?

A Money is -- yes. Money is gone, cannot be found, and it's a huge part of -- in fact, it dissipated the -- the -- the -- if you -- the case you're talking about, it essentially dissipated the entire community, as far as we know, but we don't know what happened to the --

Q Well, talking in general. But one party says the estate should be 500,000; the other part is saying, oh, there's only 100,000. And the person accusing of waste is saying, where did that other money go, it should be back in the pot, correct?

A Right.

Q In this case, both are saying the estate is 40 million, right?

A Yes.

Q And all -- and what they're saying is, we don't like the way you were living over the last eight years, and we want 3 million back.

MR. SMITH: Leading.

BY MR. MARKS:

Q Isn't that what they're really saying?

MR. SMITH: Leading, Your Honor.

THE COURT: Overruled.

BY MR. MARKS:

Q Isn't that really what they're saying? We don't like how you live over the last eight years, we don't like what toys you had or cars you had or dinners you had or girlfriends you had, and we think we should get the money back, even though we both agree this is a forty-million-dollar estate. Isn't that what they're really saying?

A That's my view, yes.

Q And in your experience of doing this for 30 years and going up against Mr. Leauanae on both sides, where -- there are cases where he says there's no waste at all, right?

A Yes. I've been doing this type of work all -- about 20 years.

Q Okay. There were cases where Mr. Leauanae says, there's no waste, even though it's a diminution case where there's no -- the parties don't agree on what the net worth is, correct?

MR. SMITH: Objection. Foundation.

THE COURT: Sustained.

MR. MARKS: Your Honor, I'm laying foundation.

BY MR. MARKS:

Q You've been against Mr. Leauanae, where the parties disagree on what the net worth to be divided is, correct?

A Well, just -- just to clarify that, in the case we

had, we really didn't address net worth. We addressed -- earnings were addressed, but not net worth.

Q Okay. But there was money allegedly gone.

MR. SMITH: Objection.

THE WITNESS: Yes.

MR. SMITH: Vague and ambiguous. Money allegedly gone here or there?

BY MR. MARKS:

Q Not to be divided. Is that right?

MR. SMITH: I have an objection, Your Honor. The questions is vague and ambiguous.

MR. MARKS: I'll rephrase.

MR. SMITH: I don't know which -- what case he's referring to.

MR. MARKS: I'll rephrase. I'm not --

THE COURT: Sustained.

MR. MARKS: -- referring to any case. I'll rephrase it.

BY MR. MARKS:

Q In your experience in doing this for 30 years --

A Twenty years.

Q -- or 20 years --

A This type of work.

Q -- of doing forensic, the normal waste claim is

where there is missing money or assets, correct?

A Missing or knowing where it went, such as gambling, let's say; it's missing because somebody gambled the money away, let's say, just for an example.

Q And is less money to be divided, so there has to be an unequal division to equalize it, correct?

A Yes.

Q And that's not this case, is it?

A Correct. It's not.

MR. MARKS: I'll pass the witness.

RECROSS EXAMINATION

BY MR. SMITH:

Q Mr. Teichner, you didn't provide any accounting whatsoever, correct?

MR. MARKS: Objection. Asked and answered this morning.

THE COURT: Overruled.

BY MR. SMITH:

Q You didn't provide any independent accounting of the spending of Dennis Kogod or Ms. Khapsalis or anyone else, correct?

A I didn't do -- make a listing of -- when you say "accounting," we've got to clarify this because I didn't make a list, go through the expenditures and make a listing. The -

- the -- the nature of my accounting was going through the expenditures with Mr. Kogod, and also asking questions about certain items and what the reasonableness is.

And when I -- for example, on -- and for the yacht, just to give an example, yeah, I did accounting. I -- I eliminated the -- like I said, the equipment. I eliminated the loss on -- on the sale of the yacht, and just took into account those expenditures that were for maintaining the yachts during the period of time that they were held.

Q You --

A Not saying that they're even potential community waste.

Q You have not provided a single, underlying document, independent of your citation to the report of Mr. Leauanae, correct?

A Well, the only -- as far as -- when you say "underlying document," I mean, I -- certainly, I looked at the -- the answers to the --

Q No, no, no. I'm saying have you recorded --

A Those are under oath.

MR. MARKS: He's answering.

BY MR. SMITH:

Q I'm sorry.

A I mean, we've got depositions --

MR. SMITH: He's not --

MR. MARKS: The question was non -- I mean the answer was nonresponsive.

THE COURT: Correct.

BY MR. MARKS:

Q Have you provided a single, independent document to prove these accountings you said you did, other than the -- these charts that were provided to you by Mr. Kogod -- or mister -- or Anthem's report?

A Again, it you've got the depositions. If you want the -- if you want the schedules that Mr. Kogod --

THE COURT: No. You need to -- you need to answer the question Counsel is asking.

WITNESS: I'm not sure what --

BY MR. SMITH:

Q Have you provided a single, independent document to verify your accounting, other than your review of the charts that were provided to you by the Anthem report?

A No, I did not -- no, I did not provide the listing that Mr. Kogod had yellow-lined.

Q In fact, your charts that are on your report reference the exact same references that were referenced by mister -- or Anthem's report because you didn't look at any underlying documents, correct?

A Correct.

Q Okay.

MR. SMITH: That's all.

THE COURT: Any redirect?

FURTHER REDIRECT EXAMINATION

BY MR. MARKS:

Q When you were at Mr. Leauanae's deposition with me and we went through his Exhibit 6, and we tried to find out where he made all of these adjustments, he said, I'll send you -- he didn't know, correct?

MR. SMITH: This is the improper use of a deposition. If he's going to put words in the mouth of Mr. Leauanae, he should use the deposition, Your Honor.

MR. MARKS: It's just foundational.

BY MR. MARKS:

Q Did Mr. Leauanae say he was going to send backup to explain the adjustments on Exhibit 6?

A Yes.

Q Do you recall that?

A Yes.

Q Okay. And did Mr. Leauanae actually send backup, or just send more schedules; did he send any underlying backup?

A No

Q Okay. So you didn't get any backup from them when

you had questions regarding Exhibit 6 to their report, correct?

A Correct. And in fact, I -- you wrote a letter. I saw a copy of a letter that you wrote, I guess it was addressed to Mr. Smith, about we want the backup and I've -- we've never seen it.

Q Okay. So all you got -- all we got is more, just schedules, listings that didn't have any backup, correct?

A Correct.

MR. MARKS: All right. I'll pass the witness.

THE COURT: All right. You may step down.

THE WITNESS: Thank you.

MR. MARKS: Your Honor, can we take a five-minute break?

MR. SMITH: How many minutes do I have left?

THE COURT: You have used nine minutes this afternoon.

MR. SMITH: So I've got 30 -- 26 left?

THE COURT: Yeah.

MR. SMITH: Twenty-six left.

(COUNSEL CONFER BRIEFLY)

THE COURT: All right. Let's take a break.

MR. SMITH: We took a short lunch. Can you give us each another seven and half minutes? What? Right.

MR. MARKS: How much time do I have left?

THE COURT: You have used -- I'll look at the time allocations when we come back and look at our --

MR. SMITH: Thank you, Your Honor.

THE COURT: The goal is to be -- I have to dismiss my staff by 5, so if that means any extra time, I'm happy to give it out. I just don't know if the numbers add up, so I'll take a look at that.

(COURT RECESSED AT 14:20:21 AND RESUMED AT 14:33:46)

THE COURT: We're back on the record in the Cioffi-Kogod matter.

Your next witness?

MR. MARKS: I need a time check.

THE COURT: You have used 473 of 540 minutes. That's just over an hour.

MR. MARKS: And what is Mr. Smith at?

THE COURT: Oh, wait a second. Hang on. Mr. Smith has used 514 minutes.

MR. MARKS: So he has 26 minutes; I have 73 minutes.

THE COURT: Correct, 67 minutes.

MR. MARKS: 540 minus --

THE COURT: Oh, wait a second. Yeah. Hang on.

MR. MARKS: Seventy-seven minutes.

THE COURT: Right.

MR. MARKS: Okay. I have 77; Mr. Smith has 26?

THE COURT: I believe that's correct. Let me just --

(COUNSEL CONFER BRIEFLY)

THE COURT: That's correct. All right.

MR. MARKS: Okay. I'm going to call Mr. Kogod back.

THE COURT: Okay. Please remain standing and raise your right hand to be sworn.

THE CLERK: Do you solemnly swear that the testimony you're about to give in this action will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE COURT: You may be seated.

DENNIS KOGOD

having been called as a witness on his own behalf as Defendant, having been first duly sworn, testified as follows on:

DIRECT EXAMINATION

BY MR. MARKS:

Q Mr. Kogod, you're familiar with the supplemental expert report, the December 15th report?

A I am.

Q Okay. And you reviewed the schedules, I think, with Mr. Smith during his -- during your deposition, correct?

A As well as Mr. Teichner and yourself, yes.

Q Okay. So I'd like to quickly, because we have limited time remaining, first going to Exhibit 2 of that --

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q Exhibit 57 is their report, and Exhibit 2 of Exhibit 57.

A Okay. I've got Exhibit 57.

Q And then the attachment is Exhibit 2, I believe, is the expenses for Nadya and Rachel.

A Okay.

Q All right. And you heard the -- you've heard the testimony in court from Ms. Allen as to how she did the calculation of the expenses of Nadya and the children?

Q I have.

Q Okay. And she's concluding that you spent 1.6 million over an eight-year period for Nadya and the children, correct?

A Correct.

Q All right. And did you go over those expenses with Mr. Smith at your deposition?

A I did, line item by line item.

Q Okay. And did you, therefore, essentially account by telling him your opinion as to each line item on that

exhibit?

A I opined on who they should be allocated to and took out those that were clearly mislabeled.

Q Okay. On Exhibit 2, are there items that clearly were not for Nadya and the children, or were in another way were for you, your benefit?

A In the original report before I pulled them out at my depo or since getting a revised report back?

Q Let's say the original report, before you pulled them.

A There were several things on there. We talked about dry cleaning yesterday. We talking about a lot of clothing stores that are clothing stores for men, and there were clothing stores that were for men and women that Nadya would buy me work clothes; a lot of medication that I paid cash for, so a lot of charges at CVS. I think there were some car payments. There were a host of things that clearly didn't belong ascribed to Nadya.

Q And did you honestly answer those?

A I did.

Q And from that 1.6 million, how much did you believe was for your benefit and not for Nadya and the children; how much did you deduct?

A I think we deducted -- was it 586,000, roughly?

Q Roughly, or five sixty.

A Five sixty, I'm sorry.

Q And that was contained in some -- that number, approximately, was contained in Mr. Teichner's report, correct?

A Correct.

Q Okay. And from that number, did that include food that you would have shared with Nadya and the girls?

A If I'm not mistaken, we then went back and attributed a value to food, if I'm not mistaken.

Q Okay.

A So, rather than taking it out on just saying every grocery bill was for me, we tried to do it proportionally.

Q Okay. And what -- so explain to the Court, what do you think you spend for Nadya and the girls at -- including cash, over the eight-year period.

A I think your opening statement said it correctly. Between expenses, the children, their care, Nadya, and all of her care, and her books and cash to her and her family, and groceries that were associated with Nadya and the kids and the nanny, I think the 1.5 million that you talked about, clearly, clearly, reflects what I've spent over eight years.

Q Now when they say you didn't do any accounting, when you take cash out of an ATM, do you write down what you're

spending it for?

A No, I don't.

Q Would you have been doing expenditures such as that for an eight-year period?

A No, I don't. I haven't.

Q They had every single transaction, 23,000 or so, transactions of -- wasn't that -- weren't those transactions coming out of your bank statements, credit cards, et cetera?

A They were coming from a every available source, yes.

Q And did you prevent the plaintiff from getting those documents?

A No, not at all. We provided everything we could, and those at the bank required subpoenas. I think they went ahead and subpoenaed -- subpoenaed those.

Q And the documents that they didn't get, is that because if you or because of a banking issue?

A It's because the banks stopped keeping records or they only keep them for so many years. Going back before 2008 was just impossible.

Q And did they ever file, from your knowledge, a motion to compel discovery, claiming that you didn't cooperate?

A No, they didn't.

Q Okay. So, when they keep saying you didn't do an

accounting, what more could you have done than what you did in cooperation with them, in terms of just giving your honest opinion of what you spent on Nadya and what you spent on yourself?

A I think, between the two days of deposition, the financial disclosures, which highlighted myself and for somebody else, and all the bank statements including those that have Nadya's name on there, are attributed to Nadya. I think we did a pretty thorough accounting of her expenses.

Q Okay. And you recall that we got their supplemental report on December 15th, 2015, correct?

A I do.

Q And we had agreed that Mr. Teichner's report, I think, would be due in late January for this February trial, correct?

A I think we even asked for a week extension, correct.

Q Okay. But when you go the December report, prior to getting the December report, did you have any idea that there would be 3.6 million in alleged on allocated or unclassified expenses that were not in a category?

A I was shocked when you called me and told me that was the number, and even more surprised when I looked through and saw what the entries were that made up that 3.6.

Q So would there be any way to account for the 3.6,

I'm going to call it "unallocated," on their Exhibit 6, prior to December 15th?

A Can you ask the question again, please?

Q Would you have in any way anticipated that there would be a plaintiff's claim for 3.6 million on unallocated expenses prior to December 15th.

A No, not at all.

Q Okay. So, in terms of -- I'm going to come back to Exhibit 6. Let's -- let's talk, staying on Exhibit 2.

If you weren't living with Nadya and the girls, and you're just living in LA for the past eight years, essentially, on your own, do you have an opinion as to what you would spend on yourself for entertainment, food, clothing, et cetera?

MR. SMITH: Foundation, Your Honor.

THE COURT: Sustained.

BY MR. MARKS:

Q You've lived in LA since when?

A Other than a two-year period that I was going back and forth between LA and Denver, clearly, from 2010 -- actually from 2004, when I was in Overland, a very small time in Las Vegas, 2010, none in Vegas, splitting a year -- two years in Denver and LA; so, effectively, since 2010.

Q Form 2000 to 2004, you were also in the Orange

County area, which is the suburb of LA, isn't it?

A Yes, we -- yeah.

Q Okay. From --

A 2003.

Q From all your time in Southern California, did you -- were you able to observe the cost of living there?

A It is a significantly high place to live, and LA County even more so than Orange County.

Q Okay. So, in their report, they're basically saying 1.6 million on Nadya and the girls, which is 200,000 a year, for eight years. Isn't that correct?

A That's what they're alleging, yes.

Q Okay. So, if you weren't living with Nadya and you didn't have two girls, in terms of your living expenses, do you have an opinion, as to during that eight years, whether you expenses would have been higher or lower than 200,000 a year?

A I think, at minimum, they would have been the same. If I hadn't gone out to dinner with Nadya -- and you can separate the in vitro, I get that. But I would have gone out with friends, I would have probably gone out on other dates, I would have -- I would have taken some trips. I would have found things to occupy my time. I was literally living a different world, apart from Gabrielle. So the thought that I

was going to sit home in the house and do nothing for five years, and not have any social life -- so the cost of living with Nadya is probably less than the cost of me living with a guy who's going to go out and drink equally. So, at minimum, the same; more likely, more.

Q You understand that they're saying it's community waste because it's a girlfriend.

A I do.

Q You understand that. Do you think that's realistic based on your lifestyle and Gabby's lifestyle over the eight years?

A No, I don't. And then I think, when you look at her FDF and you say fifteen to 21,000, I think the amounts we spent over that eight years were remarkably close. I think what's at issue here is the girlfriend versus, I have life, I had to eat, I had to go out. And I think what we're just getting entangled is, is it just -- it happened to be the emotional issue of it's Nadya and a girlfriend.

Q So do you have an issue with Gabrielle spending 180,000 a year on whatever she spends during the same period; do you have an issue with that?

A I not only had -- I didn't have an issue, I didn't have any visibility either. The checking account has always been in her name, her credit cards are in her name, she gets

the bills, she gets the statements. I have no idea how much she was writing checks to her family to keep up the Brooklyn home. So it didn't matter to me. But at the end of the day, the amounts are remarkably consistent over that eight-year period.

Q On their Exhibit 2, do they include things for the home like some small furniture, sheets, pillowcases; things like that?

A Yeah, there were -- there were costs in there, particularly to furnish Edenberg and Oak Pass from Crate & Barrel, too, which is not a high-end store by any means. Ross, where laundry and linen things or -- and sheets are purchased. So there were a bunch of entries that had to do with furnishing a home that was my primary residence in Los Angeles.

Q Do they also have expenses for Mo in -- under Nadya.

A Yeah, they did. And I've heard the testimony back and forth this morning. And at the end of the day, that was my investment. Nadya, other than going to one trade show and then getting frustrated that it did -- there just wasn't anything for her to do, and she knew that. This was an investment decision similar to, I iChiII and Radiology Partners, where you bet on people.

Radiology partners, I bet on my former CFO and our

Chief Operating Officer that they're good people; the same thing with iChill. I met two remarkable designers that were highly qualified, had a lot of credentials, and just thought it was either -- like I said, it was either going to be really big, or we'll lose a little bit of money and -- "we," meaning the portfolio, and that's when I -- when I refer to "we," I think about the portfolio and Nadya. I read her -- I heard her testimony, and it's just wishful thinking.

Q Okay. But the portfolio is you and Gabby, correct?

A When I say "we," I think -- yes. The portfolio, as the money sitting in the account that was going to fund it.

Q And you understood that if Mo had taken off an become another John Varvatos, that it would have been a community asset, correct?

A No question about it.

Q Okay. Also on Exhibit 2, there are car payments. Do you see those; BMW?

A I do.

Q Do you believe those should have been considered waste?

A No, I don't at all. I've had multiple cars over the years at the same time. Other times, where I actually had a car in Denver, as well, because I was going back and forth. I don't think that should be community waste at all.

A Those BMWs were owned by you, or leased by you?

A They were -- they were leased by me, correct.

Q Okay. But Nadya could only drive a car because you allowed her to drive a car, correct?

A That's correct.

Q And you've had multiple cars before Nadya, and you had multiple cars after Nadya. Isn't that right?

A We had multiple cars in North Carolina, we had multiple cars in Orange County, we had multiple cars in Las Vegas. I -- all the way back from 1993, I've had multiple cars, and nice cars.

Q So, whether you have a girlfriend or not, you always have multiple cars.

A I have; I just enjoy driving them.

Q All right. The next item I wanted to talk about was the cash. They have on Exhibit 3 -- they're claiming, one way or another, all of the cash that you withdrew from ATMs over an eight-year period as community waste. Do you understand that?

A I do.

Q And tell the Court what your use of cash in LA is.

A It's not just Los Angeles, it's domestically and internationally. I just -- I use cash a lot. I'm on the go, you pull up a car in Los Angeles, and it's a twenty-to-twenty-

five-dollar valet. I typically -- you come out of a restaurant, you give your ticket, and you don't want to stand their handing credit cards to guys that are running back and forth.

I tip when I walk in restaurants. That's particularly beneficial when you're trying to get a nice reservation at a restaurant because you're entertaining a group of physicians or hospital executives.

Over the years, I've paid for private lessons just for health and fitness, and krav maga and others and mat fees and coaches.

And you know, my lifestyle is just based on cash. So much of what I do, when I fly, I tip the baggage handlers, the limo drivers or the -- I just -- my system is just based on one of cash. I'm moving too quickly to hand credit cards to every single person. And it's just so easy to reach into my pocket and pay the valet, and pay the gardener, and pay everyone else that I can possibly pay in cash because it's just quicker.

Q And when you do foreign travel, explain what -- how do you use American cash?

A Yeah. Only recently, the -- literally, the last three or four trips, I've tried to buy currency in the U.S. before I've left, my most recent two trips, one to Brazil and

one to Germany. But prior to that, you take cash and you shop around for the best exchange rate.

I mean, typically if you exchange dollars at the airport here, you take a terrible beating. They just -- your arbitrage between buying and selling, it's terrible, but they rely on the fact that you're in a hurry. So you take cash and you find out the best place when you land there, where to convert cash in the local currency, and -- and there you go.

Q In your experience, if you had American dollars, cash American dollars, did you get a better rate than if you were dealing with credit cards and paying fees and all of that?

A If you are buying things from vendors, yes, the dollar is -- is much coveted around the world; the strength of the dollar, so, yes.

Q So, when reviewing the chart, what accounting would you have every kept regarding your use of cash for eight years? What could you have done; do you know?

A I can't think of a single thing I could that would be any more scientific than what's been done.

Q But over an eight-year period, they are claiming all of the cash you spend is in this unallocated potential community waste column. Is that realistic?

A No, it's not realistic at all.

Q And how much cash do you think, over eight years -- they're saying it's three fifty in cash in your column, that's about 40,000 a year in cash.

A And I think that's a pretty close number to what I probably spend over eight years, for myself, for business, for things where I didn't charge my company. You know, I look at my income. And I stop at Starbucks in the morning and you spend $20 in a different country or at a nice hotel. I would never, in a million years, think of sticking a receipt back to company that's rewarded us nicely, saying, here's my morning breakfast. So I think the number is a very reasonable accounting of what I've spent over that eight years.

Q And when you lived with Gabby, did she also utilize cash a lot?

A Gabrielle always had cash in her bedroom drawer, stuffed in one of her -- yes, she did.

Q The next issue the yacht. Tell the Court, in your -- how -- what kind of work day and hours have you worked over, let's say the last five years.

A Yeah. On average, I work five and a half to six days a week. My mornings start sometimes at six o'clock in the morning. The only time I can talk to my European and middle operations -- Middle East operations are six, seven, eight o'clock in the morning because, after that, we're nine,

ten hours difference. They're closing down for the day.

I then work a normal day, domestically, with my domestic responsibilities, which could include travel, could be including recruiting physicians, doing state and village (sic), meeting hospital administrators, visiting clinics, doing town halls, et cetera.

Then, when I get home, my Asian operation is just opening; six, seven o'clock at night, Singapore is just opening the next day for business.

On top of that, by example, in the last four weeks, I've taken two international trips. I went to Germany for three days, and I went to Brazil for three days. Out of those three days, I took a red eye going on a commercial flight, spent all night in an airplane, got to the country, worked, had one night in the hotel, and flew red eye back the next day, only to return to work domestically at Healthcare Partners.

The number of times I've taken trips to places like India and Dubai and Saudi, 22 hours each way for a meeting with the Minister of Health. You get an hour, and that's all you get. You know, there's nothing lavish about that lifestyle. At the end of the day, it is another long flight where you're not even going to get -- you don't even bring clothes with you because you're not going to be at a hotel.

So five and half, six days a week. Conference calls routinely on weekends with my boss, with the senior staff, et cetera. I work really hard.

Q Okay. So, in your peer group, what type of recreational opportunities do people in your peer group have.

A I think what you said, the majority of people --

MR. SMITH: Foundation, Your Honor.

BY MR. MARKS:

Q Are you --

THE COURT: Sustained.

BY MR. MARKS:

Q Are you familiar with other high-level executives in your company and other healthcare or other companies?

A I can readily recognize the people in my peer group at DaVita and what they've done.

Q And what have they done?

A Mostly, more than anything else, real estate. And you know, my boss has --

MR. SMITH: Objection. Foundation, Your Honor. How does he know this?

THE COURT: Sustained.

BY MR. MARKS:

Q Do you have communications with your peer group regarding what toys, perks they have?

A I have been physically in many of their homes, outside of their primary residences, to be able to tell you firsthand; ski chalets, beach houses, lake houses.

MR. SMITH: The foundation, Your Honor, as to who, when, where, what he saw.

MR. MARKS: This is just for foundation of the yacht. I don't want to kill all my time talking about everybody's beach house or ski chalet.

MR. SMITH: Well, you can't just, generally, say everybody owns a yacht.

MR. MARKS: I'm not saying everyone owns a yacht. I think he's very frugal compared to what his peers --

THE COURT: Well --

MR. SMITH: That's an opinion, not an argument --

THE COURT: Well, listen. The objection is sustained. From a time standpoint, just so you're aware your time was actually at 445. So I want to correct that. You, actually, starting this examination, had 95 minutes remaining, not 77, so --

MR. MARKS: Okay.

THE COURT: But the objection is sustained.

MR. MARKS: Okay. Let me rephrase it.

BY MR. MARKS:

Q Tell us a little about you love of boating growing

up.

A My grandfather had a sixty-foot Chris Craft, all wooden, at the Chesapeake Bay. We lived in Baltimore, Maryland until I was 17 years old. And for a majority of those years, every weekend, my mother and my father would go down to the Chesapeake, and we'd go -- we'd go around Annapolis.

I didn't touch a boat for many, many years, A, because I couldn't afford it; B, I wasn't really living in a place that was accessible to the water. And then, somewhere around 2013, when I had to give up the two things I loved doing the most for myself, which were --

Q Tell the Court about that.

A Playing golf and -- and mixed martial arts, competing at a national level. I gave up -- I tore two rotator cuff, and I -- I tore -- I herniated a disk in my neck to go along with two in my lower back. So I, literally, gave up the things that I enjoyed doing.

And as it turned out, I was taken back to the water. It brought me, there, some peace and serenity. As you mentioned the other day, it was a -- it was a good vehicle to take people that worked for me out on -- four, five, six hours into the ocean, out to Catalina. You talk about a captive audience. There's not many places that they can go, and say,

hey, we can't stay in this meeting anymore, we're going to go elsewhere, it's not that big of a boat. So it simply replaced two other hobbies that I had a real passion for going into boating.

And when I took up boating, I -- honest to God, I could be sitting out there, and it didn't matter what happened the other six days of the week, those hours were mine.

Q What was the -- how expensive was golf in LA?

A Yeah. There are very few public courses in LA. You're really talking about Pacific Palisades, going down to Trump National, and there may be one or two other courses up in Malibu, and then you go down to Newport Beach and Pelican Bay. And we're talking about two to $350, depending on the time of the year and the season, just for greens fees. Forget golf balls, forget the snack cart, forget the parking, forget the gas, forget, you know, I broke a club, I'm going to buy a shirt, et cetera. So, easily, just on average, 250 to $300 a day to play a round of gold in Los Angeles or Orange County.

Q And is that for one person?

A Yes, just for one person.

Q That's not bringing anybody.

A No, no.

Q Okay. And what about mixed martial arts; how expensive was that?

A You know, I was taking about 100 and -- I don't know. When I had time, 180 hours -- 180 minutes of lessons a week. So I paid mat fees, I paid trainer fees. I was competing in a lot of local contests. I competed in two of the senior tournaments in Brazilian jujitsu, the North American Open. You know, by the time you finish the week, by paying gym fees and your trainers and the coach and the mat, equipment, clothing, et cetera, you could easily spend $500 a week on mixed martial arts, as a serious practitioner. I'm not talking about someone who goes to the gym once, but someone who truly enjoys the sport and competes.

Q So, in terms of the yacht, could you trace, briefly, the purchase of the yacht and -- the two yachts and the sail?

A Yeah. I think we -- 2012, November, December, we were down in San Diego at the -- it wasn't the American Society of Nephrology. We were down at meetings staying at the Marriott, at the waterfront, at that marina. And looking out over the water, it was just like when I went to Lake Las Vegas, I was struck by the beauty of the water, the boats.

I went downstairs, I found a broker. There were a bunch down there because there were a lot of charter companies. And I purchased a fifty-six-foot 2007 cruiser for about $580,000.

I went down for X number of weekends to get

certified by a captain, where an insurance company would actually grant me a license or insurance to take the boat off property, passed all the Coast Guard requirements, et cetera, and transported the boat up from San Diego up to Marina Del Rey.

Q Okay.

A And I think I traded that boat somewhere around June of 2014 for a smaller boat, but one -- a little bit more modern, the electronics, it was safer to handle, et cetera. And I bought a fifty-foot -- actually a fifty-eight-and-a-half-foot Marquis.

Q Okay. And then, ultimately, what happened to the Marquis?

A Sold the boat roughly July 2015 to a private individual.

Q Okay. And in that -- and the Anthem report is claiming potential community waste of some $626,000 plus. Do you believe that's --

A I don't --

Q -- legitimate?

A No, I don't believe it at all. First of all, they put the acquisition prices in, and as Richard said, they put some equipment in there that allowed for a better trade-in on the boat, so I don't agree.

And I don't agree that the operating expenses are waste. They're no different than any other hobbies. They're no different than maintaining a house and have a garden, and a pool, and replacing a wall and painting the exterior. It's just the cost of something you enjoy doing, so I don't agree with it.

Q And was that your only hobby during that period of time?

A Once I gave up golf and mixed martial arts, the boat was pretty much it, yes.

Q And when you sold the boat, did the proceeds go into a UBS account?

A They did.

Q So there was -- there would be nine ninety that's back in the UBS account.

A I would hope, since -- that would be a little bit more, since it was July, that it's done something, even if it generated some normal interest from just being in a -- in a --

Q Okay.

A -- saving's account.

Q So do you think you should be charged any community waste for owning the yacht for the three years?

A No, I don't.

Q The next issue is relating to what we're calling

Exhibit 6, that I'm calling "unallocated," and they have the long phrase of "assessments of potential community waste not elsewhere classified." I hope I can use the word "unallocated" because it's shorter. And the -- just so you know, that's Exhibit 6. And the backup that we received on February, I think, 12th from Anthem would be exhibit --

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q Would be exhibit -- in Exhibit 60 and 61. And I think you've reviewed Exhibit 60 and 61. I have a loose copy. Isn't that right?

A I have a -- yes. Multiple times.

Q Okay. And so, if you can keep Exhibit 6 open and Exhibit 60 and 61 both open, so I can refer back and forth.

A I'll do my best, yes.

Q Okay. You reviewed Exhibit 6, which is the assessment of potential community waste not otherwise elsewhere classified, correct?

A I have.

Q And you couldn't review that in full until we got the backup on February 12th of 2016, correct?

A Correct.

Q So was there any accounting you could have done?

A Not in that short time frame, no.

Q Okay. And in fact, wasn't that the discovery cut off that day when we got there?

A That was my understanding, yes.

Q Okay. So I'm going to go through some items. The first, in the far-right-hand corner, those adjust -- where it says "Adjusted," that will add up to the 3.6 million. Do you understand that?

A I do.

Q Item 7, auto-related, GMAC Cadillac, 273,300. After you reviewed the backup in Exhibit 60 and 61, what did you determine that charge was?

A I think I determined what anyone would. When the word "mortgage" is following it, and ascribing that a Cadillac Escalade, which is an eighty-five-to-ninety-thousand-dollar vehicle is $273,000, when Cadillac lease payments are captured otherwise, that it -- that it was a mistake. That was the mortgage, the first mortgage for Edenberg.

Q And Edenberg was rolled into Oak Pass?

A Yes. And on my side of the balance sheet.

Q Okay. So you don't believe that should be potential community waste?

A Not at all.

Q The next item is 466,694.86, auto-related, luxury, not elsewhere classified. You heard how Ms. Allen gave you a

car allowance of a certain amount of money and looked at your FDF and your depo testimony, and I guess, determined 466,694 is -- they want to consider waste. Should that be waste in your opinion?

A Not at all. And I think Richard did a good job of this category. But arbitrarily assigning an auto allowance of $3,700, I don't even know how they arrive at that.

Q Are you taking the cars on your side of the column?

A Taking the cars and the depreciations on my side of the column.

Q Do you have an exotic car hobby; would you classify yourself as a lover of exotic cars?

A I love driving nice cars, yes.

Q Okay. And would you have nice cars whether you were married or not married, have a girlfriend or not have a girlfriend?

A I would have nice cars, and that is a habit that began back in 1991, living in Philadelphia, with a purchase of our first Infinity QX56, which was a high-end luxury car, in 1991.

Q The next item, 17, is bank fees, cash advance. Do you know why -- do you believe that bank fees should be considered waste?

A I don't. You know, I can't, every time I need cash,

ride around town. I don't have the luxury of working three days a week, at leisure, and trying to find a Bank of America ATM. Sometimes, you just accept what you have if you need cash, and you pay the 3.95 or the 4.95 associated with the transaction.

Q Do those -- in other words, they have bank fees, finance charges, foreign transaction fees. Why would Nadya or some community waste issue relate to foreign transaction fees?

A You know, the only thing I can think of, if Nadya -- she made one tip to Kazakhstan to visit her family, and I think one trip to Germany. I may, directionally, be off during the years. But I think that was captured on all of her credit cards. I think the foreign transactions were charges on my credit card, and the fees associated with the credit cards charging an arbitrage between kind of local currency and conversion.

Q They're saying you -- loan interest, that I guess you shouldn't have had any interest over eight years. You had 26,000 in interest. Can you explain that?

A I don't know how you have a loan to finance things that end up adding value, in most cases, not all, and not have any interest associated with those.

Q You're pretty debt-free, though, aren't you?

A Yes, I am debt-free. The home in Oak Pass is paid

for, Carlyle is paid for, and my parents' condo and my brother's condo are all paid for --

Q But you --

A -- so --

Q But you have a UBS line of credit.

A I do.

Q And why do you use that; for what?

A Yeah. There are times when a capital call will come in, and as Richard said, a capital call is you make a pledge to a fund to commit X number of dollars, let's just say $500,000. They don't take it all at once; they, periodically, will send an email saying, you have a capital call due tomorrow or the next day. And when you look at your portfolio and you start moving things around, you, literally, make a business decision.

My line of credit is somewhere about 1.4 percent. You know, there are not a lot of rates you can access with that. So you just say, rather than take money or liquidate something that's generating three or four or five percent, access a line of credit. It -- it's not free money, but it's less-expensive access to capital than taking something out of a fund that's performing higher.

Q Now has Gabby --

MR. SMITH: Foundation, Your Honor. I don't know

where any of those numbers came from.

THE COURT: Sustained.

BY MR. MARKS:

Q What -- in terms of your line of credit, is your interest rate on your line of credit?

MR. SMITH: Foundation, Your Honor. Where's --

MR. MARKS: He would know his own interest rate, wouldn't he?

MR. SMITH: Well, I don't know. You'd have to look at a document, which he's never provided, in terms of --

MR. MARKS: No, but do you know what the -- he could know what the rate is on his line of credit.

THE COURT: The witness may answer the question.

THE WITNESS: 1.4 -- 1.4 percent, the last time I checked.

BY MR. MARKS:

Q Is your dealings in your portfolio with your line of credit, was that helping or hurting Gabby?

A It was, ultimately, helping.

Q The next item they have is "Capital Call Mutual Fund." Do you know what that is?

A It's the same concept. You -- you sign up to participate in a fund; and rather than taking all of your money up front and sitting on it, they only take money, as

needed, to purchase something in their portfolio. That benefits you. Otherwise, your money is sitting there, not doing anything at all, in terms of interest. So any capital call -- and there's a whole bunch throughout the -- since 2011, since we had UBS, so that's what that capital call is.

Q Then they have "CC Payments," I guess all the credit card payments. Why would those be community waste?

A I -- I don't have any idea.

Q Do you use your personal card both for personal and business?

A Up until very recently, I used my personal cards for business, primarily, get the AmEx points. Certain hotels, with AmEx, will give you late checkout, upgrade to a higher room, free internet. So yeah, yes, I use my personal cards a lot.

Q Then they have dues and subscriptions, 23,000.

A Yeah.

Q Do you see that on Line 43?

A I do. I -- dues and subscription. I'm sorry. Which line, Dan?

Q 43.

A Yeah. I don't know what the cost is of Equinox, and I'm assuming -- you know, I'm entitled to a health club membership; I work out a lot. In a stressful job, staying

healthy is not a bad idea. I don't know if that's all of Equinox or if it's my share of Equinox because I think Nadya's is in her categories.

The idea that I can't -- Gabriel goes to the gym; she has a membership that I paid for since we lived in California, at 24 Hour Fitness. I continue to pay for it. So the idea that I can't go to a gym that has better hours, is closer to my home -- it's literally in walking distance of my home, Equinox. I can walk there. The idea that I shouldn't be able to have one, I -- I don't quite understand.

Q They have insurance, 126,269. Did you look at the backup to that?

A No, I've not had a chance to look at the backup to that, but it goes all the way back. And up until this day, I have paid Chubb Insurance, which I think has been the primary insurance company for Lake Las Vegas. A period of time that I paid State Farm, which was the insurance carrier for the cars in Lake Las Vegas. I don't know up until what point, but I'm --

Q And you --

A And even on my own, protecting assets, as Richard said, you know, given the price of these homes and the cars, of course you want good insurance on them; it would be silly not to.

Q Do you believe that's waste, having insurance?

A No. I think it's a smart investment.

Q Okay. And I think meals and entertainment, they're saying 201,000 over eight years is community waste. Do you agree with that?

A Not at all.

Q Did you look at their backup for meals and entertainment?

A No, I haven't seen any.

Q How much is 201,000 over eight years?

A Oh, my goodness. What is it, $25,000 a year. So it's $2,000 a month.

Q Do you believe that's excessive, based on your lifestyle?

A Not at all, and remarkably consistent with Gabrielle's $1,500 a month.

Q And who do you normally take out?

A Business colleagues, friends, my parents; Nadya and the kids, obviously, at time, but a variety of people.

Q All right. I think, on the insurance -- well, before I get to insurance, did you -- under "Lodging," do you see the amount they have for lodging? And that's Item 75. And did you go back and -- and I think it's Exhibit 60 and 61 -- to look at the lodging?

A I did, and I noticed that there are a lot of trips on there to Singapore and dates -- first of all, no one -- I've never taken anyone to Asia. Again, I think Nadya went to Germany and to Kazakhstan, which I didn't go to. There were trips to Amsterdam, there were trips to Singapore. There are a lot of domestic trips to Texas, New York, places I absolutely can tell you were business-related.

And then there were some times when Nadya and I did go somewhere together; to Las Vegas, to Palm Springs for meetings, where I took two rooms, one for the nanny and the girls. And since I was there on work, I, legitimately, expensed my room because I would have had to be there, anyway. But everything was put in this bucket, with no consideration for business or business reimbursement or just the ability to take a couple of days, and go away for a few days.

Q Did they give -- in terms of your travel, do you get checks back from your -- the travel agency, Concur?

A Yes, we use Concur as our system.

Q And did they -- in looking at their -- at the chart, their backup, did they credit you all the checks that came back?

A Yeah. Given that I don't have the number for Concur -- I tried to get it during the lunch break -- I can't opine on the number that they put out there this morning.

Q But did they credit -- when you look at Exhibit 60 and 61 --

A I understand --

Q -- that's their backup.

A -- the question now. There is no reconciliation at all for being reimbursed for any of these expenses from my company.

Q And if you look at Exhibit 60 and 61, for instance, they have Chubb. Who's -- what has -- this is Chubb insurance.

A Chubb is an insurance for homeowners.

Q And what house was it?

A It was -- I know it's been Lake Las Vegas for a period of time; and at some point, we also insured -- or I insured Oak Pass with Chubb because of the value of the home.

Q They also have -- they've listed, if you look at Number 67 through Number 73, all those loans. Do you see -- do you recall all those community loans?

A I do. Washington Mutual, which is ironic, 45,980.60 for two years in a row. They went out of business in early 2008. The last time we used Washington Mutual was when we lived in Coto de Caza. It was the first bank loan we took out (indiscernible) parkway. When we moved to Lake Las Vegas in 2003, we switched our business to Bank of America. So I don't

even know what it is. I mean, I know they went out of business many years ago, and I know we have used those once in our lifetime, just once, when we bought our first house in Coto de Caza. We got private financing when we bought the second home in -- in Coto de Caza.

Q When you look at loan payment, for instance, B of A, if you took out a loan with B of A, would that have been community waste?

A It all rolls up into the real estate, which I'm taking credit for.

Q So do you believe any of those payments, from 67 to 73, should be community waste?

A Without any backup on things like Chase, where I look at 4,000 and I have no idea what it is, and the twelve or 13,000 for Wells Fargo, which I don't know what it is. But certainly, the ones associated with the house, I -- I, unequivocally, say they're not waste. They're all reflected in the value of the real estate.

Q And on 64, they have legal fees not related to the divorce, I think. And they -- they're saying 38,597. Did you hire lawyers regarding your real estate and other transactions?

A I hired lawyers on our real estate, I hired lawyers to set up the trust, I hired real estate -- I hired lawyers to

look through real estate agreements. I hired lawyers to establish promissory notes to my parents and my brother. I -- I've used lawyers throughout my life, for the last 10 years.

Q And would those have benefitted the community, if it was relating to the real estate, because you're taking the real estate?

A I believe so, yes.

Q If you go to item -- Page 2, there was payments to individuals, you, for 46,000, on Item 84.

A I -- I don't know how to -- I don't know how to comment on that.

Q But anything to you would have not -- do you believe that payments to you would have been considered waste?

A No. On -- on the surface, I don't.

Q There's "need canceled check," 172,000. Do you believe that's waste?

A I'm in the same category. Without knowing what's in that, I -- I couldn't begin to opine.

Q They have property management, 8,000. Do you think that's waste?

A No, I don't. I think some -- some homes require some level of property management, so I don't.

Q They have shopping, 192,732, over eight years. What kind of shopping do you generally do?

A I buy a lot of clothes. I travel, I go through wear and tear on suits and shoes and luggage and raincoats and jackets. I mean, if you look at my lifestyle and the number of airplanes and the number of hotels; the number of climates, tropical, cold, et cetera, it a very reasonable number. If you look at 192,000, we're back to roughly $2,000 a month in kind of clothing.

Q Is that similar to what Gabby would spend?

A I'm not aware of her -- I think she was somewhere around $1,200 a month, if I recall her FDF.

MR. MARKS: Okay. Court's indulgence.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q If you go to 114, "Uncategorized," they're saying it's 55,224 for waste. Do you know what that is?

A I don't know how to even respond to "Uncategorized." I -- I couldn't even opine on what's in that category.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q On Number 31, "Cellular, AT&T."

A Yeah. Up until recently, I have paid Gabrielle's AT&T bill. I think she would tell you that, literally, in the last couple of months, she asked me to get the account out of my name and in her name, so she could take it on herself. I'm

sure there is some aspect, over the years, of Nadya being T-Mobile or AT&T. But since 2003, when we moved to -- to Lake Las Vegas, I've been paying her AT&T bill. And -- yeah, and that's cellular. Yes. Okay.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q If you go in -- I think it's Exhibit 60 -- well, first, they have payments to individuals on Item 82 of 65,839.

A Yeah.

Q And then I think it's in 61.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q In 61, there's a chart they've prepared, it's Page 100. If you start at -- if you'd go in 61, and look at Page 100.

A You know, the -- the ring is right through the numbers. All I see is 144. Am I looking at the right --

Q Yeah. It's 100 and 101 --

A Yeah, I know, I got that. But they've got the hole punched right through that, and all you see on every page --

Q So everything is in -- everything is in alphabetical order.

A Okay. So give me some reference --

Q So, for instance, there's a "Black Box,

Audio/Video." Would that be something for home?

A Yeah. Black box, audio/video was actually for a car.

Q There's, for instance -- there's --

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q On payments to individuals, if you look at Item 5267 --

A 5267?

Q On the left-hand side, there's a payment to Ken Heuer.

A I'm trying to go as fast as I can.

Q Fifteen -- sixty -- $400?

Q Three hundred.

A Yes.

Q Do you know what that was?

A Yeah. Sometimes, if some executives or a family member, either had a birth, and we didn't put it on the expense account, would call and say, so-and-so had a baby, I'm going to order something from me, would you like your name on the card, and I send a check, yes.

Q And then --

A Or pay in cash, when I see them the next time.

Q And then you see there's -- they're including

cleaning and cleaning service. Do you see that?

A Point me, please.

Q Under "Notes" to the right of (indiscernible).

A Okay.

Q There -- do you recognize any of these other individuals?

A Yeah, some of the names on here, I do. Robert Lewis, literally, when I wasn't home in Denver, because I wasn't there four days a week, would make sure there's some food in the refrigerator and my car got turned on once a week, so he just did little errands around the house when I wasn't there, picked me up at the airport when I came in. Some of these -- so there's a lot of "Robert Lewis" over a year-and-a-half period.

You know, Ronda Shelton works for DaVita. You know, Zelda Richardson, my ex-wife, I don't know why I ever wrote her a check. So I recognize, periodically, a couple of these.

Q Then, on the next page, 5314, there's a forty-thousand-dollar Federal Funds to somebody at Swift.

A So it's a capital call. You know, it was one of our mutual funds.

Q Then, under --

A I saw Swift a lot in there.

Q Under that is Federal Funds to Chase.

A What line item, please?

Q The next, it would be Item 5317.

A Yeah, I don't know what the fifteen -- just the Chase, I don't --

Q 5317.

A Yeah, but it says "To Lisa Urich." I don't know, Dan.

Q Okay.

A I couldn't tell you who Lisa Urich is.

Q All right. Without, I guess, blowing the rest of my remaining time by going line by line through Exhibit 60 and 61, do you believe that Exhibit 6 accurately reflects potential community waste?

A No, not at all.

Q And is Exhibit 6 part of your reasonable and regular business expenses or -- living expenses, as well as some business expenses, over the eight-year period?

A I think it is a very reasonable reflection of reasonable living, personal, business expenses over an eight-year period.

MR. MARKS: Okay. I want to move some exhibits in. Let's see if we can do that.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q You -- there was a comment made by Mr. Smith about the trade that happened this week.

A Yes. I'm anxious to explain that.

MR. MARKS: Your Honor, I'd like this marked next in order. Your Honor, would you like a copy of it?

THE COURT: Once it's admitted.

MR. MARKS: Okay. I'll leave it up here.

THE COURT: Okay.

THE WITNESS: Can I have a copy to walk you through? Because we're talking about the 250,000 SARs.

MR. MARKS: Well, do you want -- are you waiting for the original, or do you want to just move --

THE COURT: You can proceed with that.

THE WITNESS: We're talking about the 250,000 SARs that were traded --

THE COURT: What has this been marked as?

THE CLERK: It's 4-N.

(COUNSEL AND CLERK CONFER BRIEFLY)

THE COURT: 4-M and 4-N?

THE CLERK: Yeah.

THE COURT: Okay.

THE WITNESS: Can I walk you through the transaction?

BY MR. MARKS:

Q Sure. For the Form 4, for the United States Securities and Exchange Commission.

A At some point in my career, I was issued 250,000 stock options that had a vesting period between April 15th and May 15th of 2015. As I testified the other day, regretfully, at the time that they vested on the 15th of April and May of last year -- and they had been the same -- the stock was trading somewhere between 80 and $85 a share. We were in a blackout because we had knowledge of some government subpoenas coming as it related to Medicare Advantage. So, by the time my block blackout, as a Section 16 officer, ended, the stock had depressed to as low as, you know, 64 or 65, $66.

So what we ended up doing was deciding the stock was so deeply depressed, if I had traded it the first day that I could start trading again, which was last Monday, that the stock price was at $62 and change per share.

So here's the way to think about it. I had 250,000 options at a weighted price of $43.35 a share. So here's the way the calculation goes because you can't sell options, you can only trade shares. So you have to convert options to shares. So you take 250,000 options.

Q Okay.

A You take the difference between the price you sell that day; in this case, a weighted average of sixty -- $62.56.

Q Okay.

A Okay? And so you subtract 62.56 from 43.35, and you get roughly -- let's just say you get $19 a share.

Q Okay.

A You have $19 times 250,000 options, which is -- I don't know -- let's say roughly four and a half, $5 million.

Q Okay.

A Gross dollars.

Q Okay.

A You then say, the stock at that day was trading at $62 a share, you've got $5,000 worth of options, you divide it by 62.

Q Uh-huh.

A And then you come to a share number --

Q Uh-huh.

A -- because you can't trade options; you can only trade real shares.

So we had -- that day, when they made the trade, we had -- our gain was 76,766 gain shares.

Q What is "gain shares"?

A A real share, a real DaVita share.

Q Okay.

A But we owe taxes on this; you don't -- you don't get this -- you're taxed at the time of the transaction --

Q Okay.

A -- at my effective tax rate.

So what they ended up doing was selling enough of those 76,000 shares to cover the tax liability only. So they had to sell, at that price, 33,290 shares, to cover the tax liability. There was no escaping that, you got to pay the taxes.

Q Right.

A So, at the end of the day, we, in our portfolio, inherited 43,476 real shares of DaVita stock, valued that day at, roughly, $62 and change.

Now, to put it in perspective, because it's a moving target, was that a good investment, as opposed to selling it at a depressed time, and they were going to expire in another 30 to 45 days, totally off the table; and we're getting ready to enter another blackout because we're getting to the end-of-quarter earnings and earnings prep?

Q Okay.

A And I have some knowledge of -- so we're going to be in another blackout. So my window was two weeks. I had to require clearance from our general counsel, chief accounting officer, which I did. Then you have a seven-day window to trade, that's it; then you have to reapply.

So we ended up taking into the account 43,476

shares, valued that day at -- post -- this is after-tax gains of $2,716,000. To put it in perspective, was it a good decision? We bought the shares at $62 that day. Today, they're up about $66 a share. Now they could go back down; that is the market. But we would have left a ton of money if we took that narrow window we had, and traded, and just cashed the option out instead of buying shares. This was a good business decision.

Q So those shares are now in your UBS account.

A They're in our UBS account.

Q And you did this in consultation with Bob Galen. Is that right?

A Bob Galen only executes the trade. You get permission from your company to trade, which is required. I did that. The order then goes to Bob that says, Dennis has 250,000 shares. They convert options, they converted into shares. And they tell Bob that, Dennis, today, has 76,000 shares, and before we give you those, you got to pay the tax bill, so you -- so yes.

MR. MARKS: I move the admission of these two exhibits.

THE COURT: 4-M and 4-N, any objection?

MR. SMITH: No objection.

BY MR. MARKS:

Q And Mr. Smith keeps using a seven --

THE COURT: M and N are admitted.

MR. MARKS: Sorry, Your Honor.

(DEFENDANT'S EXHIBITS MMMM AND NNNN ADMITTED)

BY MR. MARKS:

Q Mr. Smith keeps using a seven-million-dollar figure. Do you know where he's getting that from?

A You know, I don't. And I think this is what's confusing for a lot of people that aren't in the corporate world, that aren't issued options. When options are typically reported, they will say, Dennis traded X, and it is the stock price that day, without any consideration to you don't own that share, you only own the strike price, the delta between the strike price and the -- the stock.

So I have no idea where the 7 million -- it was 9 million during his opening. I have no idea where that came from.

Q Okay.

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q On Mr. Smith's chart, he has other options or potential monies that you'd be getting in the next potential year or two. I'd like to go through that, and just clarify that with the Court.

He has on his chart, I think, and LTIPs -- let me see where his chart is. Do we have our chart?

(COUNSEL CONFER BRIEFLY)

BY MR. MARKS:

Q If you turn, Dennis to exhibit 4-F.

A In whose binder, Dan?

Q It would be in our binder; it would be in Binder 4.

A In F?

Q 4-F, as in Frank. All right. Do you have that? This is going to be the breakdown.

A No, I've got 2-H, I'm sorry.

THE COURT: 4-F.

THE WITNESS: I'm still looking.

BY MR. MARKS:

Q So it would be in Volume 4, which is probably the next -- no, Volume 4.

A Okay. All right. I've got 4-F.

Q Okay. Can you walk the Court through what this exhibit is, in terms of your -- what you have remaining, in terms of stock options and LTIPs.

First, do you want to explain what's the difference between a SAR, an RSU, and a PSU?

A Yeah. A SAR is an option; it's the exercise we just went through. You're granted -- SARs are another way of

saying options. You're granted X number of SARs the day the compensation committee awards them. Whatever the stock price is at the close of that day, that's your strike price.

Q Okay. And what's a "PSU"?

A Before I do that, let me do an RSU.

Q Okay.

A It's easier to transition. A restricted share that you're giving is, at the point it vests, you just own a share of DaVita stock. It's -- there's no -- there's no strike price. If you're given 5,000 RSUs, when they vest, if you're still there -- there is no pro rata -- if you're still there, you get 5,000 shares of DaVita stock.

Q And if you're not there, you get nothing.

A You get nothing.

Q Okay. And what's a "PSU"?

A Companies have gotten more sophisticated, and they've decided executives like myself that have benefitted from the overall stock price doing well, they've gone to what's a PSU, where they arbitrarily assign some very specific goals on your relevant business units, and they put targets around there.

So, in my case, my PSUs, which is a performance share unit, is based on the performance of Healthcare Partners California and Nevada, the markets I've been running, and

DaVita Healthcare Partners International. So they're -- they're almost like SARs, but rather than based on a strike price, they're based on an artificial financial objective that you have to achieve.

Q And what are cash LTIPs are part of the award, they're literally cash. You're given a target over a four-year LTIP. The measurement period is typically year three of that four-year LTIP. And if you hit your target, which is based on operating income or EBITDA or discretionary to the compensation committee, you know, if you hit it at a hundred percent, and your cash LTIP is a million dollars, you'd get a million dollars. If you hit it at 150 percent of target, you'd get a hundred and fifty. And typically, below 90, you just drop. So from 90 to 100, you might get some pro rata, but below a certain cutoff, you just get nothing.

Q Okay. So what do you have remaining, right now, for DaVita?

A I've got a share of some -- Kidney Care LTIP, I think, was issued to me in 2012 and '13, where half of it will vest on April 15th or 16th, maybe 17th, of 2016, half, and half will vest in the same time period in 2017.

Q Okay. And then what do you have left, in terms of RSUs, PSUs, and SARs?

A Yeah. I can't read the writing on here, again, it's

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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE ROSE CIOFFI-KOGOD, Plaintiff,	CASE NO. D-13-489442-D DEPT. Q
vs.	SEALED
DENNIS L. KOGOD, Defendant.	

FINAL BILLING OF TRANSCRIPTS

The Office of Transcript Video Services received filed transcripts for **RADFORD J. SMITH, ESQ.**, for the following proceedings:

FEBRUARY 23, 2016; FEBRUARY 24, 2016; FEBRUARY 25, 2016

FEBRUARY 26, 2016

Original transcript and one copy were requested. The transcript total is 1112 pages, for a final cost of $4,300.60. Delivery charge from outsourcing firm to court is $75.00. A deposit in the amount of $3,480.00 was received on 03/29/2016, leaving a remainder of $820.60. Please make **Law Firm check, Cashier's check or Money-order** payable to **VERBATIM REPORTING & TRANSCRIPTION, LLC.** **NO PERSONAL CHECKS OR CASH ACCEPTED.**

Dated this 28th day of April, 2016.

Kim Gurule',
Transcript Video Services

Balance of 820.00 Paid by Check# 13505 CLERK

Received by _____ this 11 day of May, 2016

Eighth Judicial Court - Family Division- Transcript Video Services 601 N. Pecos, Las Vegas, NV 89101

Certification of Copy

STATE OF NEVADA)
) §:
COUNTY OF CLARK)

Steven D. Grierson, Clerk of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct reproduction of the hereinafter stated photocopies of exhibits presented at the 2/23/2016 – 2/26/2016 Non-Jury Trial in the case noted below.

PLAINTIFF EXHIBITS: VOL. I: #1 - #16
VOL. II: #18 - #56
VOL. III: #57 - #91
VOL. IV: #92 - #97
VOL. V: #98 - #124
INDIVIDUALLY: #125 - #131
VOL. VI: #132 - #146

DEFENDANT EXHIBITS: VOL. I: "D" – "TTT"
VOL. II: "UUU" – "TTTT"
VOL. III: "XXXX" – "CCCCCC"

In the action entitled:

GABRIELLE ROSE CIOFFI-KOGOD

vs Case No. : D-13-489442-D

DENNIS L. KOGOD
Dept. No. : Q

now on file and of record in this office.

IN WITNESS WHEREOF, I hereunto set my Hand and affixed the Seal of the Eighth Judicial District Court at my office, Las Vegas, Nevada, the 9th day of DECEMBER, 2016.

STEVEN D. GRIERSON, COURT EXECUTIVE OFFICER

By: Elizabeth Ely
, DEPUTY CLERK

DEC 09 2016

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CASE NO. D-13-489442-D

DEPT. NO. Q

GABRIELLE ROSE CIOFFI-KOGOD
PLAINTIFF,

VS

DENNIS L. KOGOD
DEFENDANT,

TRIAL DATE: 2/23/16 - 2/26/16

JUDGE: BRYCE C. DUCKWORTH

CLERK: KATHLEEN BOYLE

REPORTER: JAVS

RADFORD J. SMITH
COUNSEL FOR PLAINTIFF

DANIEL MARKS
COUNSEL FOR DEFENDANT

TRIAL BEFORE THE COURT

PLAINTIFF'S WITNESSES:

1.	DENNIS L. KOGOD	2:52:06 PM 2.23.16	7.	JENNIFER ALLEN	8:33:32 AM 2.26.16
2.	DENNIS L. KOGOD	1:45:52 PM 2.24.16	8.	JOSEPH LEAVANAE	4:14:09 PM 2.26.16
3.	DENNIS L. KOGOD	9:07:13 PM 2.25.16	9.		
4.	GABRIELLE ROSE CIOFFI-KOGOD	10:27:13 AM 2.25.16	10.		
5.	GABRIELLE ROSE CIOFFI-KOGOD	1:33:43 PM 2.25.16	11.		
6.	JENNIFER ALLEN	4:35:27 PM 2.25.16	12.		

DEFENDANT'S WITNESSES:

1.	RICHARD M. TEICHNER	11:37:28 AM 2.26.16	7.		
2.	DENNIS L. KOGOD	2:37:22 PM 2.26.16	8.		
3.	RICHARD M. TEICHNER	4:28:13 PM 2.26.16	9.		
4.			10.		
5.			11.		
6.			12.		

REBUTTAL WITNESSES:

1.

2.

SUR-REBUTTAL WITNESSES:

1.

2.

Kogod v. Kogod (D-13-489442-D)
DEPARTMENT: Q

PLAINTIFF'S EXHIBITS

			OFFER	ADMIT	
✓	1	Plaintiff's Financial Disclosure Form February 19, 2016	2/25/16	2/25/16	✓
✓	2	Defendant's Financial Disclosure Form February 16, 2016	2/23/16	2/23/16	NO OB
✓	3	Defendant's Financial Disclosure Form May 29, 2015	2/23/16	2/23/16	✓ " "
✓	4	Defendant's Financial Disclosure Form February 27, 2015	2/23/16	2/23/16	✓ BY STIP.
✓	5	2014 Individual Income Tax Return	2/23/16	2/26/16	✓
✓	6	2013 Individual Income Tax Return	" "	" "	✓ "
✓	7	2012 Individual Income Tax Return	" "	" "	✓ "
✓	8	2011 Individual Income Tax Return	" "	" "	✓ "
✓	9	2010 Individual Income Tax Return	" "	" "	✓ "
✓	10	2009 Individual Income Tax Return	" "	" "	✓ "
✓	11	2008 Individual Income Tax Return	" "	" "	✓ "
✓	12	2007 Individual Income Tax Return	" "	" "	✓ "
✓	13	2006 Individual Income Tax Return	" "	" "	✓ "
✓	14	2005 Individual Income Tax Return	" "	" "	✓ "
✓	15	2004 Individual Income Tax Return	" "	" "	✓ "
✓	16	2003 Individual Income Tax Return	" "	" "	✓ "
	~~X~~	Income Chart	✓		
✓	18	Text messages between the parties from May 14, 2010 through March 7, 2014	2/24/16	2/24/16	✓
✓	19	Emails between the parties from February 3, 2012 through October 14, 2012	2/24/16	2/24/16	✓
✓	20	Text messages between the parties from August 24, 2011 through November 1, 2013	2/24/16	2/24/16	✓
✓	21	Text messages between the parties from November 20, 2012 through November 22, 2012	2/25/16	2/25/16	✓
✓	22	Emails between the parties July 12, 2011 through December 19, 2011	2/25/16	2/25/16	✓
✓	23	Emails between the parties from July 7, 2011 through June 27, 2011	2/24/16	2/24/16	OBJ.
✓	24	Text messages between the parties from October 10, 2010 through October 20, 2010	2/25/16	2/25/16	✓
✓	25	Text messages between the parties from July 1, 2010 through October 11, 2010	2/25/16	2/25/16	✓

DIVISION OF COMMUNITY AND SEPARATE ASSETS AND LIABILITIES OF PARTIES			
✓ 26	Proposed Community Property Distribution Worksheet dated February 16, 2016	2/26/16	2/26/16 DGJ ✓
~~25~~	System's 8 Fight Club, LLC – Chase X5665 statement dated October 30, 2015		
~~26~~	System's 8 Fight Club, LLC – Chase Statement dated October 30, 2015		
~~27~~	USB Financial Services Inc., X27GM statement dated January 31, 2016		
~~28~~	UBS Financial Services Inc. X75GM statement dated May 31, 2015		
~~29~~	Dennis Kogod – Chase Cigna Fund Health Savings X1626 statement dated November 1, 2015		
~~30~~	Teleflex Pension		
~~31~~	Pray for Ukraine October 16, 2014		
~~32~~	Radiology Partners Investment (July 31, 2015)		
~~33~~	Investment with iChill		
~~34~~	Marc Herman – Curriculum Vitae		
~~35~~	Marc Herman – Retainer Agreement		
~~36~~	Settlement Statement for 321 South San Vincente Boulevard, Beverly Hills, California		
~~37~~	Appraisal report dated January 30, 2016 for 321 South San Vincente Boulevard, Beverly Hills, California		
~~38~~	Settlement Statement for 9716 Oak Pass Road, Beverly Hills, California		
~~39~~	Appraisal report dated January 30, 2016 for 9716 Oak Pass Road, Beverly Hills, California		
~~40~~	Settlement Statement for 434 South Canon Drive, Unit 405, Beverly Hills, California		
~~41~~	Appraisal report dated January 30, 2016 for 434 South Canon Drive, Unit 405, Beverly Hills, California		
~~42~~	2015 Ferrari		
~~43~~	2015 Bentley		
~~44~~	2015 Bentley		
~~45~~	21 Augusta Canyon Way, Las Vegas, Nevada 89141		
~~46~~	Life Insurance – (whole, Nadin and Kids)		
~~47~~	Dennis Kogod Wells Fargo VISA X4727 dated April 14, 2014		
~~48~~	Gabrielle Kogod – Kohls X2557 dated December 7, 2015		

~~50~~	Gabrielle Kogod – Loft X5363 dated November 23, 2015			
~~51~~	Gabrielle Kogod – Neiman Marcus X2808 January 29, 2015			
~~52~~	Gabrielle Kogod – Saks Fifth Avenue X688 July 10, 2015			
	GABRIELLE'S CLAIM FOR MARITAL WASTE			
~~53~~	Joseph Leauanae's Curriculum Vitae and List of Cases			
✓ 54	Jenny Allen's Curriculum Vitae and List of Cases	✓	2/26/16	2/26/16
✓ 55	Index of documents in support of Spreadsheets in Anthem Forensic's Reports	✓	2/26/16	2/26/16
✓ 56	Anthem Forensics' Expert Witness Report dated November 17, 2015	✓	2/26/16	2/26/16 OBJ.
✓ 57	Anthem Forensics' Supplemental Expert Witness Report dated December 15, 2015		2/26/16	2/26/16 OBJ
✓ 58	Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report dated December 15, 2015	✓	2/26/16	2/26/16
✓ 59	Email from Joe Leauanae to Daniel Marks, Esq. dated February 9, 2016	✓	2/26/16	2/26/16
✓ 60	Auto Related Exhibits listed on Exhibit 6	✓	2/26/16	2/26/16
✓ 61	Transactions that comprise the "adjusted" column o Exhibit 6	✓	2/26/16	2/26/16
✓ 62	Withdrawals – Gabrielle Kogod	✓	2/26/16	2/26/16
~~63~~	Mr. Richard Teichner's Rebuttal Expert Report dated January 25, 2016		NOT PROVIDED.	
✓ 64	Anthem Forensics' Response to Rebuttal Report dated February 5, 2016		2/26/16	2/26/16
✓ 65	Anthem Forensics' Supporting Documentation for facts set forth in the February 5, 2016 Report		2/26/16	2/26/16
~~66~~	Mr. Richard Teichner's Surrebuttal Expert Report dated February 15, 2016		NOT PROVIDED	
	DENNIS' VIOLATIONS OF THE JOINT PRELIMINARY INJUNCTION AND THE STIPULATION AND ORDER FROM THE HEARING OF AUGUST 10, 2015			
✓ 69	Joint Preliminary Injunction Order		2/24/16	2/24/16 OBJ.
~~70~~	Stipulation and Order entered on August 10, 2015			
✓ 71	Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California		2/26/16	2/26/16
✓ 72	Spreadsheet showing expenses for Khapsalis and children from May, 2014		2/26/16	2/26/16
✓ 73	Spreadsheet showing updated Outflows greater than $10,000 since Anthem's December 15, 2015 Report based on updated statements provided by Dennis		2/26/16	2/26/16
✓ 74	Spreadsheet showing Outflows more than $10,000 since May, 2014		2/26/16	2/26/16

✓75	Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	2/25/16	2/25/16
✓76	Spreadsheet showing payments to Jennifer Steiner since September, 2014	2/26/16	2/26/16
✓77	Email from Bob Gehlen dated November 25, 2015	2/25/16	2/25/16
✓78	Email from Dennis to Robert Gehlen dated December 8, 2015	2/25/16	2/25/16
✓79	Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis not adding Gabrielle to the UBS account dated December 2, 2015	2/25/16	2/25/16
	JENNIFER STEINER		
✓80	Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	2/24/16	2/24/16 OBJ.
✗	Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner and Countermotion for Attorney's Fees and Costs filed on June 23, 2015		
✗	Reply to Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner and Opposition to Countermotion for Attorney's Fees and Costs filed on or about June 25, 2015		
✗	Discovery Commissioner's Report and Recommendations from hearing of June 26, 2015		
✗	Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015		
✗	Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015		
✗	Order from the Hearing of October 14, 2015 entered on December 1, 2015		
	CORRESPONDENCE		
✓87	Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents from DaVita dated October 1, 2015	2/25/16	2/25/16 OBJ
✓88	Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock options dated June 12, 2015	2/25/16	2/25/16
✓89	Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options dated August 14, 2015	2/25/16	2/25/16
✓90	Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing	2/25/16	2/25/16

	Dennis' position dated September 2, 2015		
	PROXY STATEMENTS		
✓ 91	2008 Annual Proxy Statement	2/23/16	2/23/16 NO OBJ
✓ 92	2009 Annual Proxy Statement	-"-	-"-
✓ 93	2010 Annual Proxy Statement	-"-	-"-
✓ 94	2011 Annual Proxy Statement	-"-	-"-
✓ 95	2012 Annual Proxy Statement	-"-	-"-
✓ 96	2013 Annual Proxy Statement	-"-	-"-
✓ 97	2014 Annual Proxy Statement	-"-	-"-
✓ 98	2015 Annual Proxy Statement	-"-	-"-
	ATTORNEY'S AND EXPERT FEES		
✓ 100	Radford J. Smith, Chartered's Billing Statements	2/25/16	2/25/16
✓ 101	Marc Herman's Billing Statements	✓ 2/25/16	2/25/16
✓ 102	Anthem Forensic's Billing Statements	2/25/16	4/25/16
✓ 103	Clark Barthol's Billing Statements	2/25/16	2/25/16
~~104~~	Discovery Commissioner's Report and Recommendations from hearing of January 15, 2016		
~~105~~	Discovery Commissioner's Report and Recommendations from hearing of May 1, 2015		
	MISCELLANEOUS		
~~106~~	Seller Statement for 128 N. Edinburg Avenue	NOT PROVIDED	
✓ 107	Nadya Khapsalis' Facebook printout	2/25/16	2/25/16 ✓ OBJ.
✓ 108	Documents produced during discovery in the case – *See* Flash Drive	2/25/16	2/26/16 ✓ OBJ.
~~109~~	Defendant's Answers to Plaintiff's First Set of Interrogatories to Defendant		
~~110~~	Defendant's Answers to Plaintiff's Second Set of Interrogatories to Defendant		
✓ 111	Plaintiff's Third Set of Interrogatories to Defendant	2/26/16	2/26/16 ✓
~~112~~	Defendant's Amended Answers to Plaintiff's Third Set of Interrogatories to Defendant		

✓ 113	Plaintiff's Fourth Set of Interrogatories to Defendant	2/26/16	2/26/16 ✓
~~DK~~	Defendant's Answers to Plaintiff's Fourth Set of Interrogatories to Defendant		
~~DK~~	Defendant's Answers to Plaintiff's Fifth Set of Interrogatories to Defendant		
✓ 116	Plaintiff's Sixth Set of Interrogatories to Defendant	2/26/16	2/26/16 ✓
~~DK~~	Defendant's Answers to Plaintiff's Sixth Set of Interrogatories to Defendant		
✓ 118	SUMMARY OF EMAILS PREPARED BY PLTF (DEMONSTRATIVE ONLY)	2/25/16	2/25/16 ✓

✓119 2011 TAX RETURN 2/25/16 2/25/16 ✓
✓120 2012 TAX RETURN 2/25/16 2/25/16 ✓
✓121 2013 TAX RETURN 2/25/16 2/25/16 ✓
✓122 2014 TAX RETURN 2/25/16 2/25/16 ✓

✓123 KOSOD EQUITY ANALYSIS 2/26/16 2/26/16
✓124 DIST. OF COMM PROP AS OF 8/2016 2/26/16 2/26/16
✓125 9/11/15 CERTIFIED TRANS OF DEPOSITION OF NAOYANE KOSOD 2/26/16 2/26/16
✓126 9/15/15 DEPO OF PATRICIA MURPHY. 2/26/16 2/26/16
✓127 9/26/15 DEPO OF MITCHELL KOSOD 2/26/16 2/26/16
✓128 9/25/15 DEPO OF MARSHA KOSOD 2/26/16 2/26/16
✓129 9/25/15 DEPO OF SHELDON KOSOD 2/26/16 2/26/16
✓130 9/26/15 DEPO OF DANA KOSOD —"— —"—
✓131 12/10/15 DEPO OF JENNIFER CRUTE STEINER —"— —"—

Kogod v. Kogod (D-13-489442-D)
DEPARTMENT: Q

PLAINTIFF'S SUPPLEMENTAL EXHIBITS –

All

		OFFER	ADMITTED
✓ 132	Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016		7/13/16 Stipulated
✓ 133	Gabrielle's Banana Republic Luxe X4713 dated March 4, 2016		
✓ 134	Gabrielle's Discover Card X5161 dated February 11, 2016		
✓ 135	Gabrielle's Discover Card X5161 dated March 11, 2016		
✓ 136	Gabrielle's Kohl's Card X2557 dated January 7, 2016		
✓ 137	Gabrielle's Kohl's Statement X2557 dated February 5, 2016		
✓ 138	Gabrielle's American Express Statement X9677 dated February 12, 2016		
✓ 139	Gabrielle's Nordstrom X992 dated February 11, 2016		
✓ 140	Gabrielle's Nordstrom X992 dated March 13, 2016		
✓ 141	Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016		
✓ 142	Bank of America Merrill Lynch X6446 Statement dated February 29, 2016		
✓ 143	Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)		
✓ 144	Gabrielle's UBS account FN-20329 GM dated March, 2016		
✓ 145	Gabrielle's UBS account FN 13134 GM dated March 2016		
✓ 146	Gabrielle's UBS account FN 12743 GM dated March 2016		

LETTERS ON SHEET DO NOT TALLY W/ BOOK - BOOK IS CORRECT.

DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX: (702) 386-6812
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD

Plaintiff,

vs.

DENNIS KOGOD,

Defendant.

Case No. D-13-489442-D
Dept. No. Q

DEFENDANT'S LIST OF EXHIBITS

Exhibit		Offered	Admitted
	-Volume One-		
X	Anthem Forensics Expert Witness Report Dated: November 17, 2015 (Subject to Motion in Limine)	____	____
X	Anthem Forensics Supplemental Expert Witness Report Dated: December 15, 2015 (Subject to Motion in Limine)	____	____
X	Anthem Forensics Back Up Documents (Subject to Motion in Limine)	____	____
✓ D.	Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	2/26/16	2/26/16 OBJ.
X	Anthem Forensics Rebuttal Report Dated: February 5, 2016 (Subject to Motion in Limine)	____	____
✓ F.	Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	2/26/16	2/26/16
X	2003 U.S. Individual Income Tax Return for		

		Dennis and Gabrielle Kogod	_____	_____
X		2004 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2005 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2006 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2007 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2008 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2009 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2010 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2011 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2012 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2013 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
X		2014 U.S. Individual Income Tax Return for Dennis and Gabrielle Kogod	_____	_____
✓	S.	Bank of America Joint Checking Account ending 6446 Statement from December 1, 2015 to December 31, 2015	2/26/16	2/26/16
✓	T.	Bank of America Checking Account ending 0129 Statement from December 1, 2015 to December 31, 2015	2/26/16	2/26/16
✓	U.	Wells Fargo Complete Advantage Checking Account ending 8870 Statement from January 9, 2016 to February 5, 2016	12/26/16	2/26/16
✓	V.	Wells Fargo PMA Account ending 5397 Statement from January 9, 2016 to February 5, 2016	2/26/16	2/26/16
✓	W.	UBS Trust - Fee Base ending 43 Statement for January 2016	2/26/16	2/26/16
✓	X.	UBS Checking ending 45 Statement for January 2016	2/26/16	2/26/16

Y.	UBS Trust - PWS/GAM ending 34 Statement for January 2016	2/26/16	2/26/16
Z.	UBS Stock Option ending 99 Statement for January 2016	2/26/16	2/26/16
AA.	UBS Trust - Fee Base ending 43 Statement for January 2016	"	"
BB.	Merrill Lynch ending 588 Statement from December 01, 2015 to December 31, 2015	"	"
CC.	UBS IRA Rollover Account ending 46 Statement for January 2015	"	"
DD.	Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	"	"
EE.	Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	"	"
~~FF.~~	Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015		
~~GG.~~	Secured Valuation & Advisory Services Appraisal of Property Located at 9716 Oak Pass Road Beverly Hills, CA 90210 as of May 27, 2015 by		
~~HH~~	All American Real Estate Services Appraisal of Property Located at 9716 Oak Pass Road, Beverly Hills, CA 90210 as of July 1, 2015		
~~II~~	Secured Valuation & Advisory Services Appraisal of Property Located at 434 S. Canon Drive Tract No. 28207 Condominium Unit 21, Beverly Hills, CA 90212 as of May 27, 2015 by		
~~JJ~~	All American Real Estate Services Appraisal of Property Located at 434 S. Canon Drive #405, Beverly Hills, CA 90212 as of July 15, 2015		
~~KK~~	Secured Valuation & Advisory Services Appraisal of Property Located at 321 S. San Vicente Blvd Tract No. 1440 Condominium Unit 707,Los Angeles, CA 90048 as of May 27, 2015 by		
LL.	All American Real Estate Services Appraisal of Property Located at 321 S. San Vicente Blvd #707, Los Angeles, CA 90048 as of July 15, 2015	2/26/16	2/26/16
MM.	UBS Premier Variable Credit Line ending 27 Statement for January 2016	2/26/16	2/26/16
NN.	American Express Centurion Account ending 3005		

	Statement from January 15, 2016 to February 14, 2016	2/26/16	2/26/16
~~OO.~~ WW	American Express Optima Account ending 2003 Statement from January 18, 2016 to February 15, 2016	2/26/16	2/26/16
~~PP.~~ OO	American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	"	"
~~QQ.~~ PP	Master Card Account ending 1588 Statement from January 07, 2016 to February 06, 2016	"	"
~~RR~~ QQ	Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	"	"
~~SS~~ RR	Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	"	"
~~TT.~~ SS	Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	"	"
~~UU.~~ TT	Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	"	"
~~VV.~~ UU	Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	"	"
~~WW.~~ VV	Nordstrom Account ending 992 Statement from November 13, 2015 to December 13, 2015	"	"
~~XX~~ WW	TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016		
~~YY~~ XX	Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, filed February 25, 2015	2/25/16	2/25/16 ✓
~~ZZ~~	Detailed Financial Disclosure Form for Dennis Kogod, filed May 28, 2015		
~~AAA~~	Detailed Financial Disclosure Form for Dennis Kogod, filed February 16, 2016		
AAA	Email from Eugene to Dennis Dated: February 12, 2012	2/25/16	2/25/16
~~BBB.~~ BBB	Various Checks from Gabrielle to Eugene Cioffi Re: House	2/25/16	2/25/16
~~CCC.~~ CCC	Various Checks from Gabrielle to Eugene Cioffi Re: Misc.	2/25/16	2/25/16
~~DDD.~~			

~~EEE.~~ DDD	Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	2/25/16	2/25/16
~~FFF.~~ EEE	Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	2/25/16	2/25/16
~~GGG.~~ FFF	Various Checks from Gabrielle to Stephanie Cioffi Re: Stephanie's Birthday	2/25/16	2/25/16
~~HHH.~~ GGG	Check from Dennis to Escrow of the West Re: 128 N. Edinburch	2/25/16	2/25/16
~~III.~~ HHH	Various Checks from Gabrielle to Cash	2/25/16	2/25/16
~~JJJ.~~ III	Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	2/25/16	2/25/16
KKK.	Notice of Entry of Stipulation and Order filed on August 12, 2015	2/25/16	2/25/16
LLL.	Email from Dennis to Gabrielle Dated: December 8, 2011 ✓	2/25/16	2/25/16 ✓
~~MMM.~~ UUU	Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	2/26/16	2/26/16
~~NNN.~~	Plaintiff's Fourteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 20, 2015	____	____
~~OOO.~~ NNN	Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	2/25/16	2/25/16
OOO	Gabrielle Kogod's Resume	2/25/16	2/25/16
~~QQQ.~~ PPP	Plaintiff's Response to Defendant's First Set of Interrogatories, dated May 18, 2015	2/25/16	2/25/16
~~RRR.~~ QQQ	Plaintiff's Response to Defendant's Second Set of Interrogatories, served on October 20, 2015	2/25/16	2/25/16
~~SSS.~~ RRR	Plaintiff's Response to Defendant's Third Set of Interrogatories, served on October 29, 2015	2/25/16	2/25/16
~~TTT.~~ SSS	Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	2/26/16	2/26/16

~~UUU.~~ TTT	New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	2/26/16	2/26/16
VVV.	Davita Power Point Regarding 2015 Long Term Incentive Program	2/26/16	2/26/16
~~WWW.~~	Davita Sample Agreement regarding 2011 Incentive Award Plan and Long Term Incentive Program		
XXX.	Davita Cash Performance Award Agreement, Exhibit B	2/26/16	2/26/16
YYY.	E-mail from Radiology Partners regarding 2014 Tax Compliance	2/26/16	2/26/16
ZZZ.	Radiology Partners Member Equity Statement Dated: July 31, 2015	2/26/16	2/26/16
AAAA.	Radiology Partners Practice Update, dated July 31, 2015	2/26/16	2/26/16
~~BBBB.~~	U.S. Securities and Exchange Commission documents relating to Dennis Kogod from 2010 through 2015		
~~CCCC.~~	Complaint for Divorce, filed March 10, 2010		
~~DDDD.~~	Summons, Gabrielle Cioffi-Kogod Issued March 10, 2010		
~~EEEE.~~	Order of Dismissal without Prejudice Filed February 18, 2011		
FFFF.	Kogod Equity Analysis of Dennis' outstanding long-term incentives (Equity Bases and Cash-Based) and Explanation	2/26/16	2/26/16
GGGG.	Thomasina Distribution Agreement	2/26/16	2/26/16
HHHH.	Pray for Ukraine Agreement Dated: October 16, 2014	2/26/16	2/26/16
IIII.	UBS Resource Management account ending 899 Statement for February 2016	2/26/16	2/26/16
JJJJ.	2015 W-2 issued to Dennis L. Kogod	2/26/16	2/26/16
KKKK.	Principle Life Insurance Company Statement for February 2016	2/26/16	2/26/16
LLLL	E-MAIL FROM ATTY GENTILE TO DEFT.	2/25/16	OBJ.
		2/26/16	2/26/16
MMMM	FILING WITH US SECURITY AND EXCH. COMMISSION 2/18/16		
NNNN	E-MAIL 2/20/16 RE: AWARD OF 76,766 SHARES AND SALE OF 33,290 SHARES FOR TAX PURPOSES.	2/26/16	2/26/16

6

✓OOOO	ASSET & DEBT CHART	2/26/16
✓PPPP	MARITAL BALANCE SHEET	2/26/16
✓QQQQ	COSTS & FEES THROUGH 1/31/16	2/26/16
✓RRRR	JIMMERSON FEES	2/26/16
✓SSSS	DEPO OF EUGENE PIOFFI (2/5/16)	2/26/16
✓TTTT	DEPO OF STEPHANIE PIOFFI (2/5/16)	2/26/16

SUPP
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
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Nevada State Bar No. 12659
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Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD

Plaintiff,

vs.

DENNIS KOGOD,

Defendant.

Case No. D-13-489442-D
Dept. No. Q

DEFENDANT'S SUPPLEMENTAL LIST OF EXHIBITS

Exhibit		Offered	Admitted
4X.	February 2016 UBS account summary statement		All by Stipulation 7/13/16
4Y.	February 2016 UBS account statement for accounts ending 43		
4Z.	February 2016 UBS account statement for accounts ending 34		
5A.	February 2016 UBS account summary statement		
5B.	February 2016 UBS account statement for accounts ending 45		
5C.	February 2016 UBS account statement for accounts ending 99		
5D.	February 2016 UBS account statement for accounts ending 46		
5E	February 2016 UBS account statement for accounts ending 27		
5F.	February 2016 UBS account statement for accounts ending 75		
5G.	UBS Account Summary for account ending 17, showing no value as of February 26, 2016		
5H.	February 2016 UBS account statement for accounts ending 75		

5I.	May 2016 UBS account statement for accounts ending 76			7/13/16
5J.	May 2016 UBS account statement for accounts ending 43			
5K.	May 2016 UBS account statement for accounts ending 45			
5L.	May 2016 UBS account statement for accounts ending 34			
5M.	Wells Fargo PMA Package account ending 5397 statement from 02/01/16 through 02/29/16			
5N.	Wells Fargo Checking account ending 8870 statements from 02/06/16 through 03/07/16			
5O.	Wells Fargo Visa account ending 1032 statements from 1/16/16 through 02/12/16			
5P.	Wells Fargo Visa account ending 1032 statements from 2/13/16 through 03/15/16			
5Q.	American Express Platinum account ending 9008 statements from 01/26/16 through 02/23/16			
5R.	American Express Platinum account ending 9008 statements from 02/24/16 through 03/25/16			
5S.	American Express Centurion account ending 3005 statements from 01/16/16 through 02/14/16			
5T.	American Express Centurion account ending 3005 statements from 02/15/16 through 03/16/16			
5U.	American Express Optima account ending 2003 statements from 01/19/16 through 02/16/16			
5V.	American Express Optima account ending 2003 statements from 02/17/16 through 03/18/16			
5W.	Master Card Black Card account ending 1588 statements from February of 2016			
5X.	Principal Life Insurance Company Statement of Coverage as of February 26, 2016			
5Y.	Voya DaVita Retirement Savings Plan statement from 01/01/16 through 03/31/16			
5Z.	DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016			
6A.	Cigna Health Savings Plan account balance as of February 26, 2016			

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6B.	DaVita Stock Award Grant Statement, exercisable as of 06/01/2016			7/13/16 S
6C.	Documents regarding sale of Ferrari			

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rsmith@radfordsmith.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD,

Plaintiff,

v.

DENNIS KOGOD,

Defendant.

CASE NO.: D-13-489442-D

DEPT NO.: Q

PLAINTIFF'S TRIAL EXHIBITS

HEARING DATE: February 23, 2016

TIME OF HEARING: 1:30 PM

CLERK'S COPY

VOLUME I

1-16

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CLERK OF THE COURT

MISC

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Tel: (702) 990-6448
Attorney for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY DIVISION

Gabrielle Cioffi-Kogod
Plaintiff,
vs.
Dennis Kogod
Defendant.

Case No. D-13-489442-D
Dept. No. G

DETAILED FINANCIAL DISCLOSURE FORM

What is your name? Gabrielle Rose Cioffi-Kogod
(First Name / Middle / Last Name / (Maiden / Former Name))

How old are you? 57 What is your date of birth? 7/12/1958

What is your occupation? Registered Nurse / Legal Nurse Consultant

Who is your employer? Dignity Health From: 11/15/2004 To: Present

Previous employer? HCA Sunrise Hospital From: 1/4/2003 To: 5/31/2004

What is your highest level of education? Master of Public Health (MPH)

Level of disability? N/A Agency/Physician Certifying Disability: N/A

FAMILY RESIDENCE TABLE - In the table below, insert the names and ages of each person currently living with you.

NAME	AGE	MINOR CHILD OF THIS MARRIAGE/RELATIONSHIP?	MINOR CHILD NOT OF THIS MARRIAGE/RELATIONSHIP?	OTHER RELATIONSHIP (SPECIFY)
N/A				

Income/Support from Others

I am ____ am not X ____ divorced from the other party in this action. I am ____ am not X ____ remarried.

My current spouse is: X ____ is not: ____ currently employed

My current spouse earns: unknown per hour $0.00 per week $0.00 every two weeks $0.00 per month

Attorney's Fees and Retainer(s)

As of the date of this Disclosure, a total of: $260,000.00 has been paid by me or on my behalf to all counsel who have represented me in this matter. I have a Retainer balance of $0.00 remaining in my attorney's Trust Account.

I currently owe my attorney(s) a total of: ____.

Your Name:_____
Case No.:_____

INCOME / EXPENSE SUMMARY

INCOME SUMMARY	
Gross Monthly Income From All Sources	$4,624.30
Mandatory Deductions	$836.30
Gross Monthly Income Less Mandatory Deductions	$3,788.00
Voluntary Deductions	$281.26
Net Monthly Income	$3,506.74

EXPENSE SUMMARY	
Necessities that I pay for myself	$7,841.16
Necessities that I pay for the other party	$0.00
Expenses that I pay for my child(ren) (of this relationship)	$0.00
Mandatory support (child & spousal) to the Other Party	$0.00
Mandatory support of others (including children NOT of this relationship)	$0.00
Total Necessities for which I pay	$7,841.16
Discretionary Expenses that I pay for myself	$13,453.91
Discretionary Expenses that I pay for the other party	$0.00
Discretionary support of others	$0.00
Total Discretionary Expenses that I pay for	$13,453.91
Total Expenses that I pay for	$21,295.07

INCOME / EXPENSE SUMMARY	
Monthly Deficit / Surplus	-$17,788.33

If you have a monthly deficit, provide an explanation below of how your meet that deficit each month:

Initials

Your Name: _____
Case Number: _____

PERSONAL INCOME WORKSHEET

	YOUR INCOME :					AMOUNT
1	**Gross Monthly Income from Employment**					
2	Fill out ALL of the following that apply to you (Enter the number (1, 2, 3, or 4) in the box that describes your pay frequency):					
	PAY FREQUENCY	1=one time per month	2= two times per month	3=every two weeks	4=every week	Per Paycheck	Monthly
			PAY FREQUENCY-1,2,3,or 4				
1	I get paid base salary/hourly wage		2		in the amount of	$2,312.16	$4,624.30
2	I receive overtime pay every				in the amount of	$0.00	$0.00
3	I receive bonus pay every				in the amount of	$0.00	$0.00
4	I receive commission every				in the amount of	$0.00	$0.00
5	I receive tips every				in the amount of	$0.00	$0.00
6	I receive a car allowance every				in the amount of	$0.00	$0.00
7	I receive a gas allowance every				in the amount of	$0.00	$0.00
8	I receive a housing allowance every				in the amount of	$0.00	$0.00
9	I receive other allowance(s) every				in the amount of	$0.00	$0.00
10	Business income (sole proprietorship, partnership, LLC, S Corp, etc) Attach Schedule C from last year's tax return and enter the following information:				Enter amount from line 29 of schedule C:	$0.00	
					Enter amount from line 13 of schedule C:	$0.00	$0.00
11	**Gross Monthly Income from All Other Sources**						
12	I receive spousal support/alimony ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of						$0.00
13	I receive child support ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of						$0.00
14	I receive support from others (not the other party in this case), a total every month in the amount of						$0.00
15	I receive Social Security, a total every month in the amount of						$0.00
16	I receive Social Security Disability/Military Disability income a total every month in the amount of						$0.00
17	I receive Supplemental Security Income, a total every month in the amount of					$0.00	
18	I receive Worker's Compensation Benefits, a total every month in the amount of						$0.00
19	I receive Unemployment Benefits, a total every month in the amount of						$0.00
20	I receive Pension/Retirement income, a total every month in the amount of						$0.00
21	I receive interest income, a total every month in the amount of						$0.00
22	I receive dividend and/or royalty income, a total every month of						$0.00
23	I receive payments from a partnership, S Corp, LLC, Trust, or other entity, a total every month of						$0.00
24	I receive net rental income each month in the amount of:						$0.00
25	I receive other income (roommates, parents, gifts, other), a total every month of						$0.00
	Describe the source and amount of any "other" income referenced above:						
	Describe any benefits or perks paid by your employer (including but not limited to the use of any vehicle, club membership, etc.) and your estimated value of such benefits or perks:						$0.00
26	**TOTAL GROSS MONTHLY INCOME**						$4,624.30

Initials

Your Name: _____
Case Number: _____

PERSONAL DEDUCTIONS WORKSHEET

	YOUR DEDUCTIONS : (IF YOU OWN A BUSINESS OR ARE SELF EMPLOYED, GO TO THE BUSINESS INCOME PAGE)		AMOUNT
	Mandatory Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
1	I have Federal Income Tax withheld every paycheck in the amount of	$240.90	$481.80
2	I have Social Security Taxes withheld every paycheck in the amount of	$143.70	$287.40
3	I have Medicare withheld every paycheck in the amount of	$33.55	$67.10
4	I have Union Dues withheld every paycheck in the amount of	$0.00	$0.00
5	I have Court-ordered Child Support withheld every paycheck in the amount of	$0.00	$0.00
6	I have other Court-ordered garnishments withheld every paycheck in the amount of	$0.00	$0.00
7	I have health insurance premiums withheld every paycheck in the amount of	$0.00	$0.00
8	List all other mandatory deductions, including amounts, withheld every paycheck:	$0.00	$0.00
	Total MANDATORY Deductions Per Month		$836.30
	Voluntary Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
8	I have Life, Disability, &/or other insurance premiums withheld every paycheck in the amount of	$1.79	$3.58
9	I have Federal Health Savings Plan every paycheck withheld in the amount of	$0.00	$0.00
10	I have Retirement/Pension/IRA/401(k) withheld every paycheck in the amount of	$138.84	$277.68
11	I have Savings withheld every paycheck in the amount of	$0.00	$0.00
12	I have other (specify below) voluntary sums withheld every paycheck in the amount of	$0.00	$0.00
13	List all other voluntary deductions, including amounts, withheld every paycheck:	$0.00	$0.00
14	**Total VOLUNTARY Deductions Per Month**		$281.26
15	**TOTAL DEDUCTIONS PER MONTH**		$3,506.74

Initials

[redacted]

DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE.
A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.

1	I own my home X / rent / lease my home / share a home or apartment with someone else			
		I pay a monthly mortgage/rent/lease payment (for the home I live in and/or home the other party lives in) in the amount of	$1,796.87	
		I pay a monthly second mortgage (for the home I live in and/or home the other party lives in) in the amount of	$0.00	
		I pay a monthly Home Equity Line of Credit ("HELOC") (for the home I live in and/or home other party lives in) in the amount of	$0.00	
		If not included in my mortgage payment(s), I pay property taxes (for the home I live in and/or home the other party lives in) in the amount of	$600.00	
		If not included in my mortgage/rent payment(s), I pay a monthly home owners/renters insurance premium (for the home I live in and/or home the other party lives in) in the amount of	$800.00	
		I pay monthly Home Owner's Association dues (for the home I live in and/or the home the other party lives in) in the amount of	$800.00	
		I pay a Special Assessment Fee (for the home I live in and/or the home the other party lives in) in the amount of	$300.00	
2	I pay the following utilities and telephone expenses (for the home I live in and/or the home the other party lives in) each month:			
		Gas/Heating Oil	$60.00	
		Electricity	$400.00	
		Water	$115.00	
		Garbage and sewer	$15.00	
		Landline (If part of a "bundled" service, indicate the total amount here)	$150.00	
		Cellular service (If not included in the Landline/bundled service above)	$125.00	
	*	Internet service (If not included in the landline/bundled service above)	$270.00	
3	I spend the following each month for healthcare related expenses for myself and/or the other party (Not paid from a Health Savings Plan):			
		Medical insurance (including hospitalization, dental, vision, etc.) for myself and/or the other party (Not already deducted from my paycheck)	$0.00	
		Out-of-pocket/unreimbursed cost of medical, dental, optical, and prescription expenses for myself and/or other party	$200.00	
		Out-of-pocket/unreimbursed cost of therapy or counseling (for myself and/or other party)	$0.00	
4	I spend the following for groceries, household goods and incidentals, not including entertainment or dining out, each month:		$500.00	
5	I/we own or lease Lease my car. I/we own or lease ___ the other party's car.			
		ADDITIONAL VEHICLES SHOULD BE LISTED ON THE SUPPLEMENT PAGE		
		Monthly loan / lease payment (for my car and/or the other party's car)	$1,400.29	
		Gasoline and oil (for my car and/or the other party's car)	$200.00	
		Automobile insurance (If you have policy covering more than one car, separate the amount for your car and/or for other party's car)	$169.00	
		Parking, public transportation, other	$50.00	
6	I pay the following monthly mandatory amounts for the support of others:			
		Court-ordered child support (If paid to the other party in this case for a child of this relationship, include amount in the "Total Amount I Pay Directly For The Other Party" (middle) column. If for a child of another relationship, include amount in the "Total Amount I Pay Directly For Myself" (left) column)	$0.00	
		Court-ordered spousal support (If paid to the other party in this case, include amount in the "Total Amount I Pay Directly For The Other Party (middle) column. If paid to someone else from a prior relationship, include amount in the "Total Amount I pay Directly For Myself" (left) column)	$0.00	
7	I spend the following each month on education, uniforms, dues, memberships, subscriptions, or other mandatory requirements to maintain employment. I DO NOT receive reimbursement from the employer for any of these expenses		$100.00	
		TOTAL NECESSITIES:	$7,841.16	$0.00

*** Divide by 3 if paid quarterly; Divide by 6 if paid semi-annually; Divide by 12 if paid annually**

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR NECESSITIES

* Internet includes DirecTv

Initials

Your Name: ___
Case Number: ___

PERSONAL EXPENSE WORKSHEET
DISCRETIONARY EXPENSES

DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE.
A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.

						TOTAL AMOUNT PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT PAY DIRECTLY FOR THE OTHER PARTY
8	I spend the following monthly amounts for House Maintenance (for the house I live in and/or the house the other party lives in) each month:						
	*	House cleaning				$200.00	
	*	Garden/lawn care				$300.00	
	*	Pool/spa service				$175.00	
	*	Pest Control				$45.00	
	*	Security / Alarm Service				$30.00	
9	I spend the following monthly amounts for my pet's expenses (food, grooming, healthcare, boarding):					$500.00	
10	Each month I pay the following minimum credit card and other consumer installment payments on my and/or the other party's credit cards: (List name of Issuing Bank or Lender, last four digits of account number and total outstanding balance)						
	**	Credit Card or entity to whom installment payment is made #1	Discover Card 4205	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #2	Bank of America AmEx 9577	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #3	Comenity Loft Mastercard 5363	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #4	SYNCB Banana Republic 4713	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #5	SYNCB TJX Mastercard 8951	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #6	Nordstrom 4992	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #7	Saks Fifth Avenue 8688	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #8	Nieman Marcus 2808	Total balance due is	$0.00	$0.00	
	**	Credit Card or entity to whom installment payment is made #9	Kohls 5707	Total balance due is	$0.00	$0.00	
11	I spend the following amounts each month for clothing and related expenses:						
		Clothing, shoes and accessories				$2,500.00	
		Dry cleaning and/or laundry service				$75.00	
12	I spend the following each month on appearance (hair, manicures/pedicures, facials, massages, cosmetics, other):					$1,200.00	
13	I spend the following amounts for Entertainment each month (dining out, movies, shows, books, magazines, etc.):					$1,500.00	
14	I pay the following amounts for non-mandatory dues and/or membership fees (professional, fraternal organizations, country club, etc.):					$1,010.00	
	I pay the following monthly Health/Exercise-related expenses (health club membership fee(s), personal training, etc.):					$100.00	
16	I spend the following monthly average amount for vacation expenses (total vacation cost per year divided by 12)					$850.00	
17	I pay the following monthly premiums for discretionary/non-mandatory insurance (life, disability, other) (NOT already deducted from my paycheck)					$0.00	
18	I spend the following amount each month on church tithes and/or charitable donations (pro-rate quarterly, semi-annual or annual payments)					$40.00	
19	I spend the following amount each month in voluntary support of others:					$0.00	
		Expenses for an adult non-dependent child (i.e., college, living or other expenses) SPECIFY:				$0.00	
						$0.00	
		Eldercare (specify the parent or parents for whom you pay eldercare expenses)				$0.00	
						$0.00	
20	Each month I pay the following other miscellaneous expenses:					$0.00	
		PO Box Rental				$0.00	
		Safety Deposit Box Rental (where located)				$0.00	
		Storage				$90.00	
		Other:				$0.00	
					TOTAL DISCRETIONARY EXPENSES	$8,415.00	$0.00
					SUBTOTAL FROM ADDITIONAL REAL PROPERTY WORKSHEET	$4,884.25	$0.00
					SUBTOTAL FROM ADDITIONAL VEHICLES WORKSHEET	$154.87	$0.00
					TOTAL MONTHLY DISCRETIONARY EXPENSES	$13,453.91	$0.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR PERSONAL EXPENSES.

*These costs are for the property at Via Mira Mesa.
**Ms. Kogod pays off these credit cards in full every month. The average monthly balance of these credit cards is as follows - Discover Card 4205 - $2,500, Bank of America AmEx 9577 - $400, Comenity Loft Mastercard 5363 - $100, SYNCB Banana Republic 4713 - $750, SYNCB TJX Mastercard 8951 - $125, Nordstrom 4992 - $200, Saks Fifth Avenue 8688 - $220, Kohl's 5707 - $100, Nieman Marcus 2808 - $250

Initials
Revised 2010

Case No. _____

Dept No. _____

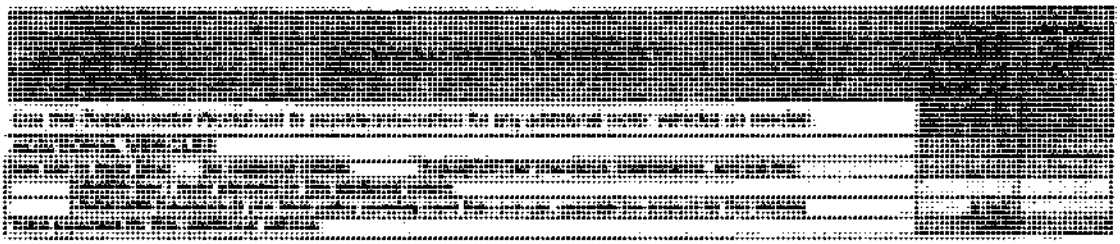
	ADDITIONAL REAL PROPERTY WORKSHEET	TOTAL AMOUNT PAY DIRECTLY	TOTAL AMOUNT OTHER PARTY PAYS DIRECTLY
	Use this Supplemental Worksheet to provide information for any additional real property as needed.		
	ADDITIONAL REAL PROPERTY (HOUSE, CONDO, VACANT LAND, ETC.)		
1	I own this additional property (insert address):		
	1478 East 14th Street, Brooklyn, New York, 11230		
	I / the other party receives rental income each month for this property in the amount of:	$0.00	$0.00
	I pay a monthly mortgage on the rental property payment in the amount of		
	I pay a montly second mortgage in the amount of		
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of		
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)		
	If not included in my mortgage payment(s), I pay a montnly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)		
	I pay monthly Home Owner's Association dues in the amount of		
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amunt divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)		
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)		
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)		
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)		
	Total expenses for this property:	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00
2	I own this additional property (insert address):		
	21 Augusta Canyon Way, Las Vegas, NV 89141		
	I / the other party receives rental income each month for this property in the amount of:	$0.00	$0.00
	I pay a monthly mortgage on the rental property payment in the amount of	$0.00	
	I pay a montly second mortgage in the amount of	$0.00	
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of	$0.00	
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)	$1,182.37	
	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)	$371.87	
	I pay monthly Home Owner's Association dues in the amount of	$635.00	
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amunt divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)	$275.21	
**	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)	$1,270.00	
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)	$850.00	
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)	$300.00	
	Total expenses for this property:	$4,884.25	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	-$4,884.25	$0.00
	TOTAL NET INCOME / LOSS FROM INVESTMENT PROPERTIES:	-$4,884.25	$0.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ADDITIONAL REAL PROPERTY

This Kogod and her three (3) siblings inherited this property upon the death of their father. All four (4) siblings are on the title to the property. This house is currently being occupied by Mr. Kogod's brother.
** Included in utilities is an estimate for Directly of $400, although Mr. Kogod has not yet begun service at this property.

Kenny Supreme Court
Number _____ 20-09

01902



ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

ADDITIONAL VEHICLES		
I/we own or lease	an additional vehicle. Explain	
Monthly loan / lease payment for this additional vehicle		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)		
Total expenses for this additional vehicle:	0	0

TOTAL NET INCOME / LOSS FROM VEHICLES:	$184.67	$0.00

Initials

	CHILD(REN)'S PERSONAL EXPENSE WORKSHEET (ENTER EXPENSES FOR CHILDREN FOR THIS RELATIONSHIP ONLY)	TOTAL AMOUNT YOU PAY FOR MINOR CHILD(REN)	TOTAL AMOUNT OTHER PARTY PAYS FOR MINOR CHILDREN	TOTAL AMOUNT EARNER ANOTHER FOR MINOR CHILD(REN)
1	Child(ren)'s monthly expenses for clothes, shoes & accessories:			
2	Child(ren)'s monthly unreimbursed medical expenses: Per Paycheck			
	medical co-pays			
	medication (prescription & over-the-counter)			
	optometry			
	dental and orthodontic			
	physical therapy, counseling, other			
3	Child(ren)'s monthly expenses for telephone, cellular telephone, internet			
4	Child(ren)'s monthly expenses for entertainment, dining out, movies, music, other			
5	Child(ren)'s monthly expenses for appearance (hair, manicure/pedicure; facials/massage, cosmetics, other):			
6	Children's monthly expenses for insurance (other than health insurance):			
7	Child(ren)'s monthly education-related expenses (if paid quarterly, divide by 3; semi-annually, divide by 6; annually, divide by 12):			
	Tuition, books & fees			
	Tutoring			
	Special Needs (specify)			
	Uniforms			
	Meals (if not included in tuition)			
	Extracurricular (sports, music, art, etc.)			
	Other: List specific "other" education expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
8	Childcare expenses (daycare, before and after school care, Nanny, etc.)			
9	Summer programs / summer camp			
10	Child(ren)'s vehicle (lease/payment, insurance, gas)			
11	Transportation related to visitation - If the child(ren) live in another city/state (pro-rate expenses over the year for a monthly amount, if necessary):			
	Airfare			
	Car Rental			
	Hotel/Motel			
	Parking (at airport or other)			
	Public Transportation			
	Other: List specific "other" transportation expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
12	Child(ren)'s Total Monthly Expenses	$0	$0	$0

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR CHILDREN'S PERSONAL EXPENSES

PLAINTIFF V. DEFENDANT
ASSET & DEBT CHART

2/19/16 11:52 AM

See Attached MBS

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER / VALUE	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY / VALUE	GROSS VALUE	Amount you owe on this asset NO. 1	Amount you owe on this asset NO. 2	NET VALUE
	ASSETS							
	BANK ACCOUNTS							
1								0
2								0
3								0
4								0
5								0
6								0
7	Subtotal	0		0	0	0	0	0
	INVESTMENTS / SECURITIES							
8								0
9								0
10								0
11								0
12								0
13								0
14	Subtotal	0		0	0	0	0	0
	RETIREMENT ACCOUNTS							
16								0
15								0
17	Subtotal	0		0	0	0	0	0
	LIFE INSURANCE POLICIES							
18								0
19								0
20								0
21	Subtotal	0		0	0	0	0	0
	BUSINESS INTERESTS							
22								0
23								0
24								0
25								0
26								0
27	Subtotal	0		0	0	0	0	0
	RECEIVABLES / DEPOSITS							
28								0
29								0
30								0
31								0
32								0
33	Subtotal	0		0	0	0	0	0
	REAL PROPERTY							
34								0
35								0
36								0
37								0
38	Subtotal			0	0	0	0	0
39	**AUTOMOBILES**							
40								0
41								0
42								0
43	Subtotal			0	0	0	0	0
	PERSONAL PROPERTY							
44								0
								0
								0
	Subtotal			0	0	0	0	0
				0	0	0	0	0
	LIABILITIES							

Initials

Inverse Supreme Court
Revised: _____ 20

PLAINTIFF V. DEFENDANT
ASSET & DEBT CHART

2/19/16 11:02 AM

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY	GROSS	Amount you owe on this asset	Amount you owe on this asset	NET
		VALUE		VALUE	VALUE	NO. 1	NO. 2	VALUE
	LONG TERM DEBT NOT LISTED ABOVE							
48								0
49								0
50								0
51								0
52								0
53	Subtotal			0	0			0
	OTHER LIABILITIES NOT LISTED ABOVE							
54								0
55								0
56								0
57								0
58								0
59								0
60								0
61								0
62								0
63	Subtotal				0			0
	TOTAL UNSECURED LIABILITIES				0			0
	NET VALUE OF ASSETS (NET EQUITY)				0			0

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ASSET AND DEBT CHART

Initials

SIGNATURE PAGE

Please read the questions below and check "yes" or "no."

	YES	NO
1. Are you contributing to anyone's expenses except your current spouse (if any), the other party and/or children as reported herein?	☐	☒
2. Is anyone contributing to your expenses other than your current spouse (if any) or the other party as reported herein?	☐	☒
3. Are you providing any voluntary unpaid services to any entity, group or person?	☐	☒
4. Have you canceled any monthly services (housecleaning, cable, lawn care, etc) in the past twelve (12) months?	☐	☒
5. Have you removed money from any retirement or deferred compensation account in the past twelve (12) months?	☐	☒
6. Have you traveled with anyone other than your current spouse (if any) or alone in the past twelve (12) months?	☐	☒
7. Have you transferred assets totaling $500 or more in the past twelve (12) months?	☐	☒
8. Have you deferred receiving any money that you are entitled to receive?	☐	☒
9. Is anyone holding money for you?	☐	☒
10. Have you accrued sick/vacation days that you can cash out through your employer?	☐	☒
11. Do you have money on deposit anywhere? i.e. purchase of a home or car, country club membership, landlord	☐	☒
12. Have you prepaid any expenses?	☐	☒
13. Have you loaned money totaling over $300 to anyone in the past twelve (12) months?	☐	☒
14. Have you made charitable contributions totaling over $500 in the past twelve (12) months?	☐	☒
15. Does anyone owe you money?	☐	☒
16. Are you owed back child support or spousal support?	☐	☒
17. Have you modified your payroll deductions in the past twelve (12) months?	☐	☒
18. Are you in Bankruptcy?	☐	☒
19. Is your current gross monthly income significantly different (20% or more) from the average for the past 12 months?	☐	☒

I am the X Plaintiff/Petitioner _____ Defendant/Respondent in the above action. I swear or affirm under penalty of perjury that I read and followed all instructions in completing this Financial Disclosure Form and that the contents of this Financial Disclosure Form are true and correct to the best of my knowledge as of this date. I understand that, by my signature, I verify the material accuracy of the contents of this Form. I also understand that any willful misstatments may be contemptuous and could result in my punishment by the Court.

I understand that I have a duty to supplement the information on this form within ten (10) calendar days of discovering additional assets or debts or upon discovering any incorrectly reported information or upon any changed circumstances.

Executed: 02/19/2016 Signature: [signature]

SIGNATURE OF ATTORNEY (if represented by counsel):

By signing this form, the attorney of record certifies that he or she has read the factual statements made by the Declarant, and there exists reasonable basis to believe that this financial disclosure is likely to have evidentiary support after further investigation or discovery.

Executed: 2/19/2016 Signature: [signature]

[signature]

Kogod v. Kogod
Las Vegas, NV

MARITAL ASSET SCHEDULE (SUBJECT TO UPDATE) - AS OF FEBRUARY 16, 2016

Ref	Asset Description	Valuation Date	Gross Value	Debt	Net Value	Notes
	Cash / Stocks / Bonds					
1	Gaby Kogod - Bank of America Checking x0129	12/31/2015	88,330.56	-	88,330.56	
2	Dennis and Gaby Kogod - Bank of America Checking x6436	12/31/2015	111,216.54	-	111,216.54	
3	Dennis Kogod - Wells Fargo Checking x5397	1/31/2016	16,267.79	-	16,267.79	
4	Dennis Kogod - Wells Fargo Savings x6293	1/31/2016	1,637.43	-	1,637.43	
5	Dennis Kogod - Wells Fargo Checking x8870	2/5/2016	428.55	-	428.55	
6	Blocked account for the sale of the yacht		-	-	-	The proceeds from the sale were placed into UBS x65.
7	System 8 Fight Club, LLC - Chase x5665	10/30/2015	201.25	-	201.25	
8	System 8 Fight Club, LLC - Chase x5090	10/30/2015	50.23	-	50.23	
	Investment Accounts					
9	UBS Financial Services Inc. x43 GM	1/31/2016	5,791,228.94	-	5,791,228.94	
10	UBS Financial Services Inc. x34 GM	1/31/2016	7,216,101.17	-	7,216,101.17	
11	UBS Financial Services Inc. x27 GM	1/31/2016	-	(471,871.62)	(471,879.62)	
12	UBS Financial Services Inc. x99 GM	1/31/2016	2,063,207.48	-	2,063,207.48	
13	UBS Financial Services Inc. x45 GM	1/31/2016	9,098,268.25	-	9,098,268.25	
14	UBS Financial Services Inc. x46 GM	1/31/2016	119,295.88	-	119,295.88	
15	UBS Financial Services Inc. x75 GM	5/31/2015	95,041.59	-	95,041.59	
16	Gaby Kogod - USB Financial Services Inc. FH 20329 GM	12/31/2015	1,232,033.60	-	1,232,033.60	
17	Gaby Kogod - Merrill Lynch CMA Account y765-10617	12/31/2015	501,929.52	-	501,929.52	
18	Gaby Kogod - Merrill Lynch Investment x765-11040	12/31/2015	166,132.95	-	166,132.95	
19	Gaby and Dennis Kogod - Merrill Lynch Investment x765-10588	12/31/2015	0.20	-	0.20	
20	Gaby and Dennis Kogod - Merrill Lynch CMA for TrustSub x765-10591	12/31/2015	282,025.31	-	282,025.31	
	Retirement and Health Savings Accounts					
21	Dennis Kogod - Qualfa Retirement Savings Voya	12/31/2015	371,444.52	-	371,444.52	
22	Dennis Kogod - Qualfa Mullen 780 Retirement Savings	1/31/2016	907,578.08	-	907,578.08	
23	Gaby Kogod - Fidelity Density Health 401(a) and 403(b)	12/31/2015	66,007.11	-	66,007.11	
24	Dennis Kogod - Chase Cigna Fund Health Savings x1626	11/3/2015	1,327.55	-	1,327.55	
25	Teleflex Pension	9/29/2013	-	-	-	$900 per month starting when Dennis reaches age 65.
	Business Interests and Investments					
26	12 Mos, LLC investment	9/14/2015	-	-	-	Amounts included in potential community waiver.
27	Thomasina, LLC investment (Production Project)	9/29/2015	100,000.00	-	100,000.00	This is the total amount invested, not the actual fair market value.
28	Pray for Ukraine "Winter on Fire" investment (Production Project)	10/16/2014	81,000.00	-	81,000.00	This is the total amount invested, not the actual fair market value.
29	Investments with New Enterprise Associates	6/30/2015	979,388.00	-	979,388.00	This is the potential fair market value as of June 30, 2015.
30	Investment with Radiology Partners	7/31/2015	655,500.00	-	655,500.00	This is the potential fair market value as of July 31, 2015.
31	Investment with iChill	12/7/2015	150,000.00	-	150,000.00	This investment is held outside of the UBS accounts. At this time, we do not know the fair market value of this $150,000 investment.
	Receivables					
32	Promissory Note - Mitchell Kogod	3/6/2013	178,000.00	-	178,000.00	
33	Promissory Note - Sheldon Kogod	5/12/2015	25,000.00	-	15,000.00	This amount excludes the promissory note related to the S. San Vicente apartment and the yacht.
34	Personal Loan - Bernie Kogod	5/29/2015	25,000.00	-	25,000.00	
35	Personal Loan - Jim Mathews	12/13/2013	35,000.00	-	15,000.00	

Kogod v. Kogod
Las Vegas, NV

MARITAL ASSET SCHEDULE (SUBJECT TO UPDATE) - AS OF FEBRUARY 26, 2016

Ref	Asset Description	Valuation Date	Gross Value	Debt	Net Value	Notes
	Real Estate					
36	28 Via Mira Monte, Henderson, NV 89011	Estimate	1,400,000.00	(829,498.38)	570,501.62	The mortgage on this property is held in Merrill Lynch Acct 765-10598.
37	321 South San Vicente Blvd. #707 Los Angeles, CA 90048	1/30/2016	650,000.00	-	650,000.00	
38	9716 Oak Pass Road, Beverly Hills, CA 90210	1/30/2016	6,400,000.00	-	6,400,000.00	
39	634 South Canon Drive, Unit 405, Beverly Hills, CA 90212	1/30/2016	700,000.00	-	700,000.00	
40	22 Augusta Canyon Way, Las Vegas, NV 89145	Purchase Price	2,375,000.00	-	2,375,000.00	
41	10776 Wilshire Boulevard #604 Los Angeles, CA 90024	Purchase Price	3,615,061.76	-	3,615,061.76	
42	Addition to 10776 Wilshire Boulevard	Purchase Price	332,215.89	-	332,215.89	During Dennis' deposition he indicated that he purchased the "nanny's quarters".
	Autos and Recreational Vehicles					
43	2015 Ferrari	1/27/2015	376,861.18	-	376,861.18	This amount includes the value listed on Dennis' FDF plus the $97,861.18 paid in June 2015 for an upgrade.
44	2015 Bentley	1/27/2015	155,000.00	-	155,000.00	
45	2015 Bentley - Nadine's vehicle	1/27/2015	105,000.00	-	105,000.00	
	Other Assets					
46	Miscellaneous (Golf cart, personal property, jewelry/watches, etc.)	Unknown	-	-	-	
47	Furniture (H)	Unknown	-	-	-	
48	Furniture (W)	Unknown	-	-	-	
49	Credit card reward points	Unknown	-	-	-	We do not know the cash value, but the total accumulation of points is in excess of 1,000,000.
	Life Insurance					
50	Principal (Whole, Nadine and Kids)	5/19/2015	31,642.00	-	31,642.00	
51	AIG (Term, Nadine and Kids)	5/19/2015	-	-	-	This is a term policy, with no cash value. The term value is $750,000.
52	Delta (Whole, Gaby)	5/29/2015	-	-	-	This is a term policy, with no cash value. The term value is $585,000.
	Liabilities					
53	Dennis Kogod - American Express Centurion x0-81005	1/15/2016	-	(13,433.49)	(13,433.49)	
54	Dennis Kogod - American Express Optima x5-72009	1/18/2016	-	(15,683.85)	(15,683.85)	
55	Dennis Kogod - American Express Platinum x8-81008/x8-91000	1/25/2016	-	(89.99)	(89.99)	
56	Dennis Kogod - Visa Black Card x1588	1/6/2016	-	(19,035.30)	(19,035.30)	
57	Dennis Kogod - Wells Fargo Visa x4727	4/14/2014	-	(250.19)	(250.19)	Potentially closed
58	Dennis Kogod - Wells Fargo Visa x1032	1/15/2016	-	(15,008.88)	(15,008.88)	
59	Gaby Kogod - Panama Republic x4733	1/4/2016	-	(1,075.04)	(1,075.04)	
60	Gaby Kogod - Discover x4205	12/11/2015	-	(2,997.57)	(2,997.57)	
61	Gaby Kogod - Kohl's x2557	12/7/2015	-	7.57	7.57	
62	Gaby Kogod - Loft x5363	11/28/2015	-	(171.39)	(171.39)	
63	Gaby Kogod - American Express x9677	12/12/2015	-	(458.76)	(458.76)	
64	Gaby Kogod - Nordstrom x892	12/13/2015	-	(78.53)	(78.53)	
65	Gaby Kogod - Neiman Marcus x2808	1/29/2015	-	(272.85)	(272.85)	
66	Gaby Kogod - TJX Rewards x6951	1/1/2016	-	(79.58)	(79.58)	
67	Gaby Kogod - Saks Fifth Avenue x686	7/10/2015	-	(288.56)	(288.56)	
	PRE-EQUALIZATION VALUE		$ 41,094,785.42	$ (1,210,248.31)	$ 39,784,047.11	

Dignity Health

3033 N 3rd Avenue, Phoenix, AZ 8501
Payroll Service Center - 888-842-2382, Fax - 602-798-046
PayrollConnect@DignityHealth.or

DIGNITY HEALTH

Pay Date: 01/22/2016 Pay Period: 01/03/2016 01/16/2016 Advice Number: 18729822 Net Pay: $1,755.2

EMPLOYEE INFORMATION

Name:	CIOFFI-KOGOD, GABRIELLE R.
Employee No.:	24186
Standard Hours Per Pay Period:	48.00
Base Pay Rate:	46.1697
Process Level / Home Dept:	101 / 87549

DIRECT DEPOSIT INFORMATION

Description	Amount
CHECKING xxxxxx0129	1,755.24

TAX WITHHOLDING

Description	Current Amount	YTD Amount	YTD Taxable Wages
Federal Tax	240.99	481.98	4,350.82
Social Security	143.42	286.98	4,628.64
MediCare	33.56	67.12	4,628.64

EARNINGS

Description	Rate	Hours	Earnings	YTD Hours	YTD Earnings
Regular	46.1696	48.00	2,312.14	48.00	2,312.14
PTO				48.00	2,312.14
NON-CASH TAXABLE AMOUNTS					
Group Term Life			2.18		4.36

PRE-TAX DEDUCTIONS

Description	Current Amount	YTD Amount
403(b) Savings Plan	138.86	277.72

AFTER TAX DEDUCTIONS

Description	Current Amount	YTD Amount

SUMMARY

Gross Pay does not include Non-Cash Taxable Amounts	HOURS PAID	GROSS PAY	PRE-TAX DEDUCTIONS (-)	TAXES (-)	AFTER TAX DEDUCTIONS (-)	NET PAY (=)
CURRENT	48.00	2,312.14	138.86	416.04	0.00	1,755.24
YTD	96.00	4,624.28	277.72	836.06	0.00	3,510.48

COMPANY CONTRIBUTIONS

Description	Current Amount	YTD Amount
Life Ins	3.60	7.20
LTD Ins	3.24	6.48
AD&D Ins	0.42	0.84

PAID TIME OFF STATEMENT

Plan	Current Used	Current Earned	Balance
PTO	0.00	7.5696	966.2784

TAX INFORMATION

Tax Type	Marital Status	Exemptions	Additional Withholding
FED	Married	0	
ST		0	

Dignity Health
3033 North Third Ave,
Phoenix, AZ 85013

Bank of America NT &SA
555 Capitol Mall Suite, #150
Sacramento, CA 95814-4503
11-35/1210

Date 1/22/2016

18729822

Advice Amount
$ *****1,755.24

GABRIELLE R CIOFFI-KOGOD
28 VIA MIRA MONTE
HENDERSON, NV 89011

A

NON-NEGOTIABLE

Dignity Health.

DIGNITY HEALTH

3033 N 3rd Avenue, Phoenix, AZ 85013
Payroll Service Center - 888-842-2382, Fax - 602-798-0466
PayrollConnect@DignityHealth.org

Pay Date: 02/05/2016 Pay Period: 01/17/2016-01/30/2016 Advice Number: 18785642 Net Pay: $1,755.27

EMPLOYEE INFORMATION

Name:	CIOFFI-KOGOD, GABRIELLE R.
Employee No.:	24186
Standard Hours Per Pay Period:	80.00
Base Pay Rate:	46.1697
Process Level / Home Dept:	101 / 87549

DIRECT DEPOSIT INFORMATION

Description	Amount
CHECKING xxxxxx0129	1,755.27

EARNINGS

Description	Rate	Hours	Earnings	YTD Hours	YTD Earnings
Regular	46.1697	40.00	1,926.70	88.00	4,238.93
PTO	46.1700	8.00	385.36	56.00	2,697.50
NON-CASH TAXABLE AMOUNTS					
Group Term Life			2.18		8.54

TAX WITHHOLDING

Description	Current Amount	YTD Amount	YTD Taxable Wages
Federal Tax	240.99	722.97	6,526.38
Social Security	143.48	430.46	6,942.97
MediCare	33.55	100.67	6,942.97

PRE-TAX DEDUCTIONS

Description	Current Amount	YTD Amount
403(b) Savings Plan	138.86	416.58

AFTER TAX DEDUCTIONS

Description	Current Amount	YTD Amount

SUMMARY

Gross Pay does not include Non-Cash Taxable Amounts	HOURS PAID	GROSS PAY	PRE-TAX DEDUCTIONS (-)	TAXES (-)	AFTER TAX DEDUCTIONS (-)	NET PAY (=)
CURRENT	48.00	2,312.16	138.86	418.02	0.00	1,755.27
YTD	144.00	6,938.43	416.58	1,254.10	0.00	5,265.75

COMPANY CONTRIBUTIONS

Description	Current Amount	YTD Amount
Life ins	3.60	10.80
LTD ins	3.24	9.72
AD&D ins	0.42	1.26

PAID TIME OFF STATEMENT

Plan	Current Used	Current Earned	Balance
PTO	8.00	7.5696	365.8480

TAX INFORMATION

Tax Type	Marital Status	Exemptions	Additional Withholding
FED	Married	0	
ST		0	

Dignity Health.
3033 North Third Ave.
Phoenix, AZ 85013

Bank of America NT & SA
555 Capitol Mall Suite, #150
Sacramento, CA 95814-4503
11-35/1210

Date 2/5/2016

18785642
Advice Amount
$ *****1,755.27

GABRIELLE R CIOFFI-KOGOD
28 VIA MIRA MONTE
HENDERSON, NV 89011

A

NON-NEGOTIABLE

Dignity Health.

3033 N 3rd Avenue, Phoenix, AZ 850
Payroll Service Center - 888-842-2362, Fax - 602-798-046
PayrollConnect@DignityHealth.org

DIGNITY HEALTH

Pay Date: 02/12/2016 Pay Period: 01/31/2016 02/13/2016 Advice Number: 18838044 Net Pay: $465.92

EMPLOYEE INFORMATION

Name: CIOFFI-KOGOD, GABRIELLE R.
Employee No.: 24185
Standard Hours Per Pay Period:
Base Pay Rate:
Process Level / Home Dept: 101 / 97549

DIRECT DEPOSIT INFORMATION

Description	Amount

TAX WITHHOLDING

Description	Current Amount	YTD Amount	YTD Taxable Wages

EARNINGS

Description	Rate	Hours	Earnings	YTD Hours	YTD Earnings
Expense Reimbursement			465.92		465.92

PRE-TAX DEDUCTIONS

Description	Current Amount	YTD Amount

AFTER TAX DEDUCTIONS

Description	Current Amount	YTD Amount

SUMMARY

Gross Pay does not Include Non-Cash Taxable Amounts	HOURS PAID	GROSS PAY	PRE-TAX DEDUCTIONS (-)	TAXES (-)	AFTER TAX DEDUCTIONS (-)	NET PAY (=)
CURRENT	0.00	465.92	0.00	0.00	0.00	465.92
YTD						

COMPANY CONTRIBUTIONS

Description	Current Amount	YTD Amount

PAID TIME OFF STATEMENT

Plan	Current Used	Current Earned	Balance

TAX INFORMATION

Tax Type	Marital Status	Exemptions	Additional Withholding
FED	Married	0	
ST		0	

Dignity Health.
3033 North Third Ave.
Phoenix, AZ 85013

Bank of America NT & SA
555 Capitol Mall Suite, #150
Sacramento, CA 95814-4503
11-95/1210

Date 2/12/2016

18838044
Advice Amount
$ *******465.92

GABRIELLE R CIOFFI-KOGOD
28 VIA MIRA MONTE
HENDERSON, NV 89011

A

NON-NEGOTIABLE

Electronically Filed
02/16/2016 09:48:22 AM

CLERK OF THE COURT

FDF
Daniel Marks, Esq.
LAW OFFICE OF DANIEL MARKS
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; Fax (702 386-6812
Attorney for Defendant

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY DIVISION

GABRIELLE CIOFFI- KOGOD
Plaintiff,

vs.
DENNIS KOGOD
Defendant.

Case No. D-13-469442-D
Dept. No. Q

PLAINTIFF'S EXHIBIT 2

DETAILED FINANCIAL DISCLOSURE FORM

What is your name? Dennis (First Name) Lee (Middle) Kogod (Last Name) ____ (Maiden / Former Name)

How old are you? 56 What is your date of birth? August 14, 1959

What is your occupation? Health Care Executive

Who is your employer? DaVita From: 10/1/2005 To: Present

Previous employer? Gambro From: 7/1/2000 To: 10/1/2005

What is your highest level of education? Undergraduate Degree

Level of disability N/A Agency/Physician Certifying Disability: N/A

FAMILY RESIDENCE TABLE - In the table below, insert the names and ages of each person currently living with you.

NAME	AGE	MINOR CHILD OF THIS MARRIAGE/RELATIONSHIP?	MINOR CHILD NOT OF THIS MARRIAGE/RELATIONSHIP?	OTHER RELATIONSHIP (SPECIFY)
Nadine Kievsky	46			Former Girlfriend
Nika Khapsalis	8		X	
Denise Khapsalis	8		X	

Income/Support from Others

I am ____ am not X divorced from the other party in this action. I am ____ am not X remarried.

My current spouse is: X is not: ____ currently employed.

My current spouse earns: $65,000.00 per year

Attorney's Fees and Retainer(s)

As of the date of this Disclosure, a total of: $200,000.00 has been paid by me or on my behalf to all counsel who have represented me in this matter. I have a Retainer balance of $0.00 remaining in my attorney's Trust Account.

I currently owe my attorney(s) a total of: $47,000.00

I currently owe my prior attorney(s) a total of: $0.00

INCOME / EXPENSE SUMMARY

INCOME SUMMARY	
Gross Monthly Income From All Sources	$61,538.48
Mandatory Deductions	$29,835.24
Gross Monthly Income Less Mandatory Deductions	$31,703.24
Voluntary Deductions	$4,599.28
Net Monthly Income	$27,103.96

EXPENSE SUMMARY	
Necessities that I pay for myself	$14,739.00
Necessities that I pay for the other party	$0.00
Expenses that I pay for my child(ren) (of this relationship)	$8,675.00
Mandatory support (child & spousal) to the Other Party	$0.00
Mandatory support of others (including children NOT of this relationship)	$0.00
Total Necessities for which I pay	$23,414.00
Discretionary Expenses that I pay for myself	$40,001.48
Discretionary Expenses that I pay for the other party	$0.00
Discretionary support of others	$0.00
Total Discretionary Expenses that I pay for	$40,001.48
Total Expenses that I pay for	$63,415.48

INCOME / EXPENSE SUMMARY	
Monthly Deficit / Surplus	-$36,311.52

If you have a monthly deficit, provide an explanation below of how you meet that deficit each month:

The monthly deficit is met using other variable income, including bonuses, interest, dividends, stock options and L-Tip awards.

PERSONAL INCOME WORKSHEET

YOUR INCOME :

1	**Gross Monthly Income from Employment**					
2	**Fill out ALL of the following that apply to you (Enter the number (1, 2, 3, or 4) in the box that describes your pay frequency):**					
	PAY FREQUENCY	**1=one time per month / 2= two times per month / 3=every two weeks**		**4=every week**	**Per Paycheck**	**Monthly**
		PAY FREQUENCY-1,2,3,or 4				
1	I get paid base salary/hourly wage	2		in the amount of	$30,769.24	$61,538.48
2	I receive overtime pay every			in the amount of		$0.00
3	I receive bonus pay every	1		in the amount of	Variable	Variable
4	I receive commission every			in the amount of		$0.00
5	I receive tips every			in the amount of		$0.00
6	I receive a car allowance every			in the amount of		$0.00
7	I receive a gas allowance every			in the amount of		$0.00
8	I receive a housing allowance every			in the amount of		$0.00
9	I receive other allowance(s) every			in the amount of		$0.00
10	Business income (sole proprietorship, partnership, LLC, S Corp, etc) - For each business, attach most recent Schedule C Profit or Loss From Business, Form 1065 US Return of Partnership Income with applicable Form K-1, Form 1120S US Income Tax Return for an S-Corporation with applicable Form K-1, and/or Form 1120 US Corporation Income Tax Return AND YTD Income Statement (P&L). Enter the following information:			**Net Monthly Income (After business expenses, but before taxes.)**		
				If adjusted for percentage of business owned, please indicate percentage of ownership here:		
11	**Gross Monthly Income from All Other Sources**					
12	I receive spousal support/alimony ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of					
13	I receive child support ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of					
14	I receive support from others (not the other party in this case), a total every month in the amount of					
15	I receive Social Security, a total every month in the amount of					
16	I receive Social Security Disability/Military Disability income a total every month in the amount of					
17	I receive Supplemental Security Income, a total every month in the amount of					
18	I receive Worker's Compensation Benefits, a total every month in the amount of					
19	I receive Unemployment Benefits, a total every month in the amount of					
20	I receive Pension/Retirement income, a total every month in the amount of					
21	I receive interest income, a total every month in the amount of					Variable
22	I receive dividend and/or royalty income, a total every month of					Variable
23	I receive payments from a partnership, S Corp, LLC, Trust, or other entity, a total every month of					
24	I receive gross rental income each month in the amount of:					$0.00
25	I receive other income (roommates, parents, gifts, other), a total every month of					Variable
	Describe the source and amount of any "other" income referenced above: Various employee benefits, including stock options and L-Tip award					
	Describe any benefits or perks paid by your employer (including but not limited to the use of any vehicle, club membership, etc.) and your estimated value of such benefits or perks: I receive twenty (20) hours of personal use of an aircraft every year.					
26	**TOTAL GROSS MONTHLY INCOME**					**$61,538.48**

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR GROSS MONTHLY INCOME

NOTE: YOU MUST ATTACH YOUR LAST THREE PAY STUBS/ STATEMENTS TO THE BACK OF THIS FORM PRIOR TO FILING

PERSONAL DEDUCTIONS WORKSHEET

	YOUR DEDUCTIONS :		AMOUNT
	Mandatory Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
1	I have Federal Income Tax withheld every paycheck in the amount of	$9,157.34	$18,314.68
2	I have Social Security Taxes withheld every paycheck in the amount of	$1,901.98	$3,803.96
3	I have Medicare withheld every paycheck in the amount of	$444.81	$889.62
4	I have Union Dues withheld every paycheck in the amount of		$0.00
5	I have Court-ordered Child Support withheld every paycheck in the amount of		$0.00
6	I have other Court-ordered garnishments withheld every paycheck in the amount of		$0.00
7	I have health insurance premiums withheld every paycheck in the amount of		$0.00
8	List all other mandatory deductions, including amounts, withheld every paycheck:		$6,826.98
	State Tax- CA	$3,413.49	
	Total MANDATORY Deductions Per Month		$29,836.24
	Voluntary Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
8	I have Life, Disability, &/or other insurance premiums withheld every paycheck in the amount of	$192.46	$384.92
9	I have Federal Health Savings Plan every paycheck withheld in the amount of		$0.00
10	I have Retirement/Pension/IRA/401(k) withheld every paycheck in the amount of	$1,846.16	$3,692.32
11	I have Savings withheld every paycheck in the amount of		$0.00
12	I have other (specify below) voluntary sums withheld every paycheck in the amount of	$261.02	$522.04
13	List all other voluntary deductions, including amounts, withheld every paycheck:		$0.00
14	**Total VOLUNTARY Deductions Per Month**		$4,599.28
15	TOTAL DEDUCTIONS PER MONTH		$34,434.52

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR DEDUCTIONS

Line 12 Deductions include: Vol ADD $2.31; DaPac $92.50; DVN $14.00; DVV Trust $28.00; Legal Serv $7.27; and Details Not Displayed $128.48.

Please note that these amounts do not include taxes paid on interest, dividends, bonuses, stock options, L-Tip awards, and other income received each year because that income varies each year.

Initials

		PERSONAL EXPENSE WORKSHEET: NECESSITIES	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL PAID DIRECTLY BY THE OTHER PARTY FOR ME
		DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.			
1		I own my home [ ] rent / lease my home [ ] share a home or apartment with someone else [ ]			
	a	I pay a monthly mortgage/rent/lease payment (for the home I live in and/or home the other party lives in) in the amount of			
	b	I pay a monthly second mortgage (for the home I live in and/or home the other party lives in) in the amount of			
	c	I pay a monthly Home Equity Line of Credit ("HELOC") (for the home I live in and/or home other party lives in) in the amount of			
	d	If not included in my mortgage payment(s), I pay property taxes (for the home I live in and/or home the other party lives in) in the amount of	$2,500.00		
	e	If not included in my mortgage/rent payment(s), I pay a monthly home owners/renters insurance premium (for the home I live in and/or home the other party lives in) in the amount of			
	f	I pay monthly Home Owner's Association dues (for the home I live in and/or the home the other party lives in) in the amount of	$3,600.00		
	g	I pay a Special Assessment Fee (for the home I live in and/or the home the other party lives in) in the amount of			
2		I pay the following utilities and telephone expenses (for the home I live in and/or the home the other party lives in) each month:			
	a	Gas/Heating Oil			
	b	Electricity			
	c	Water			
	d	Garbage and sewer			
	e	Landline (if part of a "bundled" service, indicate the total amount here)	$50.00		
	f	Cellular service (if not included in the Landline/bundled service above)			
	g	Internet service (if not included in the landline/bundled service above)	$180.00		
3		I spend the following each month for healthcare related expenses for myself and/or the other party (Not paid from a Health Savings Plan):			
	a	Medical insurance (including hospitalization, dental, vision, etc.) for myself and/or the other party (Not already deducted from my paycheck)	$800.00		
	b	Out-of-pocket/unreimbursed cost of medical, dental, optical, and prescription expenses for myself and/or other party	$500.00		
	c	Out-of-pocket/unreimbursed cost of therapy or counseling (for myself and/or other party)	$2,800.00		
4		I spend the following for groceries, household goods and incidentals, not including entertainment or dining out, each month:	$2,500.00		
5		I own/lease [ ] lease [ ] my car. [ ] I/we own or lease [ ] the other party's car.			
		ADDITIONAL VEHICLES SHOULD BE LISTED ON THE SUPPLEMENT PAGE			
	a	Monthly loan / lease payment (for my car and/or the other party's car)	$1,200.00		
	b	Gasoline and oil (for my car and/or the other party's car)	$300.00		
	c	Automobile insurance (if you have policy covering more than one car, separate the amount for your car and/or for other party's car)	$180.00		
	d	Parking, public transportation, other			
6		I pay the following monthly mandatory amounts for the support of others:			
	a	Court-ordered child support (if paid to the other party in this case for a child of this relationship, include amount in the "Total Amount I Pay Directly For The Other Party" (right) column. If for a child of another relationship, include amount in the "Total Amount I Pay Directly For Myself" (left) column)			
	b	Court-ordered spousal support (if paid to the other party in this case, include amount in the "Total Amount I Pay Directly For The Other Party (right) column. If paid to someone else from a prior relationship, include amount in the "Total Amount I pay Directly For Myself" (left) column)			
7		I spend the following each month on education, uniforms, dues, memberships, subscriptions, or other mandatory requirements to maintain employment. I DO NOT receive reimbursement from the employer for any of these expenses			
		TOTAL NECESSITIES:	$14,730.00	$0.00	$0.00
		* Divide by 3 if paid quarterly; Divide by 6 if paid semi-annually; Divide by 12 if paid annually			

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR NECESSITIES

Line 2(g): $90.00 for internet and $90.00 for Direct TV
Line 3(a): Health insurance cost for Nadya and the children
Line 3(c): $800.00 of that amount is for Nadya
Line 4: $1,200.00 of that amount is for Nadya and our two (2) children

PERSONAL EXPENSE WORKSHEET: DISCRETIONARY EXPENSES

DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.

						TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY FOR ME
8	I spend the following monthly amounts for House Maintenance (for the house I live in and/or the house the other party lives in) each month:							
	a	House cleaning service				$1,000.00		
	b	Garden/lawn care						
	c	Pool/spa service						
	d	Pest Control						
	e	Security / Alarm Service						
9	I spend the following monthly amounts for my pet's expenses (food, grooming, healthcare, boarding):							
10	Each month I pay the following minimum credit card and other consumer installment payments on my and/or the other party's credit cards: (List name of issuing Bank or Lender, last four digits of account number and total outstanding balance)							
	a	Credit Card or entity to whom installment payment is made #1	Amex Centurion	Total balance due is	$13,433.49	$13,433.49		
	b	Credit Card or entity to whom installment payment is made #2	Amex Optima	Total balance due is	$15,083.85	$345.00		
	c	Credit Card or entity to whom installment payment is made #3	Amex Platinum	Total balance due is	$88.99	$89.99		
	d	Credit Card or entity to whom installment payment is made #4	Visa Black Card	Total balance due is	$19,036.30	$439.00		
	e	Credit Card or entity to whom installment payment is made #5	Wells Fargo Visa	Total balance due is	$16,008.86	$369.00		
	f	Credit Card or entity to whom installment payment is made #6		Total balance due is				
	g	Credit Card or entity to whom installment payment is made #7		Total balance due is				
	h	Credit Card or entity to whom installment payment is made #8		Total balance due is				
11	I spend the following amounts each month for clothing and related expenses:							
	a	Clothing, shoes and accessories				$1,000.00		
	b	Dry cleaning and/or laundry service				$1,000.00		
12	I spend the following each month on appearance (hair, manicures/pedicures, facials, massages, cosmetics, other):					$1,250.00		
13	I spend the following amounts for Entertainment each month (dining out, movies, shows, books, magazines, etc.):					$2,500.00		
14	I pay the following amounts for non-mandatory dues and/or membership fees (professional, fraternal organizations, country club, etc.):							
15	I pay the following monthly Health/Exercise-related expenses (health club membership fee(s), personal training, etc.):					$450.00		
16	I spend the following monthly average amount for vacation expenses (total vacation cost per year divided by 12)					$1,500.00		
17	I pay the following monthly premiums for discretionary/non-mandatory insurance (life, disability, other) (NOT already deducted from my paycheck)							
18	I spend the following amount each month on church tithes and/or charitable donations (pro-rate quarterly, semi-annual or annual payments)							
19	I spend the following amount each month in voluntary support of others:							
	a	Expenses for an adult non-dependent child (i.e., college, living or other expenses) SPECIFY:						
	b							
	c	Eldercare (specify the parent or parents for whom you pay eldercare expenses)						
	d							
20	Each month I pay the following other miscellaneous expenses:							
	a	PO Box Rental						
	b	Safety Deposit Box Rental (where located)						
	c	Storage						
	d	Other:						
					TOTAL DISCRETIONARY EXPENSES	$23,276.48	$0.00	$0.00
					SUBTOTAL FROM ADDITIONAL REAL PROPERTY WORKSHEET	$13,575.00	$0.00	$0.00
					SUBTOTAL FROM ADDITIONAL VEHICLES WORKSHEET	$3,150.00	$0.00	$1,658.01
					TOTAL MONTHLY DISCRETIONARY EXPENSES	$40,001.48	$0.00	$1,658.01

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR PERSONAL EXPENSES.

Line 12- $1,000.00 is spent on Nadya; Line 13- $500.00 is spent on Nadya; Line 15- $250 is spent on Nadya; and Line 16- $750 is spent on Nadya and our two (2) children.

	ADDITIONAL REAL PROPERTY WORKSHEET	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
	Use this Supplemental Worksheet to provide information for any additional real property as needed.			
	ADDITIONAL REAL PROPERTY (HOUSE, CONDO, VACANT LAND, ETC.)			
1	I own this additional property (insert address): 9716 Oak Pass, BeverlyHills, CA 90210			
a	If the other party receives rental income each month for this property in the amount of:			
b	I pay a monthly mortgage on the rental property payment in the amount of			
c	I pay a montly second mortgage in the amount of			
d	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
e	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)	$4,583.00		
f	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)	$906.00		
g	I pay monthly Home Owner's Association dues in the amount of	$150.00		
h	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
i	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)	$2,622.00		
j	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)	$2,550.00		
k	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)	$747.00		
l	Landline, Internet, and Housekeeping			
	Total expenses for this property:	$10,958.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	-$10,958.00	$0.00	$0.00
2	I own this additional property (insert address): 321 San Vicente Blvd., Unit 707, Los Angeles, VA 90048			
a	If the other party receives rental income each month for this property in the amount of:			
b	I pay a monthly mortgage on the rental property payment in the amount of			
c	I pay a montly second mortgage in the amount of			
d	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
e	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)	$417.00		
f	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
g	I pay monthly Home Owner's Association dues in the amount of	$600.00		
h	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
i	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
j	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
k	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
l				
	Total expenses for this property:	$1,017.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	-$1,017.00	$0.00	$0.00
	TOTAL NET INCOME / LOSS FROM INVESTMENT PROPERTIES:	-$11,975.00	$0.00	$0.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ADDITIONAL REAL PROPERTY

Nadya resides at the house located at 9716 Oak Pass with our two (2) children. I pay the expenses related to that house. My parents reside at the house located at 321 San Vicente, and they pay all other expenses related to that house.

	ADDITIONAL REAL PROPERTY WORKSHEET	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
	Use this Supplemental Worksheet to provide information for any additional real property as needed.			
	ADDITIONAL REAL PROPERTY (HOUSE, CONDO, VACANT LAND, ETC.)			
1	I own this additional property (insert address): 434 S. Canon Drive, Beverly Hills, CA 90212			
	If the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of			
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)			
	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
	I pay monthly Home Owner's Association dues in the amount of			
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	Total expenses for this property:	$0.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00	$0.00
2	I own this additional property (insert address): 28 Via Mira Monte, Henderson, NV 89011			
	If the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of	-$1,218.90		
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)	$1,000.00		
	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)	$700.00		
	I pay monthly Home Owner's Association dues in the amount of	$780.00		
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)	$300.00		
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)	$1,050.00		
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)	$630.00		
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	South Shores Golf Club	$750.00		
	Total expenses for this property:	$6,394.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	-$6,394.00	$0.00	$0.00
	TOTAL NET INCOME / LOSS FROM INVESTMENT PROPERTIES:	-$6,394.00	$0.00	$0.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ADDITIONAL REAL PROPERTY

My brother resides at the house located at 434 S. Canon Blvd., and he pay all expenses related to that house. Plaintiff lives in the house located at 28 Via Mira Monte. The expenses related to that house are paid with community funds.

ADDITIONAL VEHICLES WORKSHEET	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
Use this Supplemental Worksheet to provide information for any additional motor vehicles as needed.			
ADDITIONAL VEHICLES			
I/we own or lease lease an additional vehicle. Explain 2016 Hyundai- Father Pays			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)	$100.00		
Total expenses for this additional vehicle:	$100.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease own an additional vehicle. Explain 2015 Bentley 12 cyl. Sportster			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)	$300.00		
Total expenses for this additional vehicle:	$300.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease own an additional vehicle. Explain 2015 Bentley 8 cyl- Radya			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)	$300.00		
Total expenses for this additional vehicle:	$300.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease own an additional vehicle. Explain 2015 Ferrari 458			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)	$400.00		
Total expenses for this additional vehicle:	$400.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease own an additional vehicle. Explain 2015 Lexus- Plaintiff's Vehicle			
Monthly loan / lease payment for this additional vehicle			$1,369.01
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			$158.00
Total expenses for this additional vehicle:	$0.00	$0.00	$1,658.01

ADDITIONAL VEHICLES			
I/we own or lease lease an additional vehicle. Explain 2015 Mercedes G			
Monthly loan / lease payment for this additional vehicle	$1,900.00		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)	$150.00		
Total expenses for this additional vehicle:	$2,050.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease an additional vehicle. Explain			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease an additional vehicle. Explain			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease an additional vehicle. Explain			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00

ADDITIONAL VEHICLES			
I/we own or lease an additional vehicle. Explain			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00

TOTAL NET INCOME / LOSS FROM VEHICLES:	$3,150.00	$0.00	$1,658.01

	CHILD(REN)'S PERSONAL EXPENSE WORKSHEET (ENTER EXPENSES FOR CHILD(REN) OF THIS RELATIONSHIP ONLY)	TOTAL AMOUNT I PAY FOR MINOR CHILD(REN)	TOTAL AMOUNT OTHER PARTY PAYS FOR MINOR CHILD(REN)	TOTAL AMOUNT PAID BY ANOTHER FOR MINOR CHILD(REN)
1	Child(ren)'s monthly expenses for clothes, shoes & accessories:	$1,000.00		
2	Child(ren)'s monthly unreimbursed medical expenses:			
	medical co-pays	$100.00		
	medication (prescription & over-the-counter)	$25.00		
	optometry			
	dental and orthodontic	$25.00		
	physical therapy, counseling, other			
3	Child(ren)'s monthly expenses for telephone, cellular telephone, internet	$100.00		
4	Child(ren)'s monthly expenses for entertainment, dining out, movies, music, other	$200.00		
5	Child(ren)'s monthly expenses for appearance (hair, manicure/pedicure, facials/massage, cosmetics, other):	$75.00		
6	Children's monthly expenses for insurance (other than health insurance):			
7	Child(ren)'s monthly education-related expenses (If paid quarterly, divide by 3; semi-annually, divide by 6; annually, divide by 12):			
	Tuition, books & fees	$50.00		
	Tutoring	$500.00		
	Special Needs (specify)			
	Uniforms			
	Meals (if not included in tuition)	$100.00		
	Extracurricular (sports, music, art, etc.)	$1,000.00		
	Other: List specific "other" education expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
8	Childcare expenses (daycare, before and after school care, Nanny, etc.)	$4,500.00		
9	Summer programs / summer camp	$1,000.00		
10	Child(ren)'s vehicle (lease/payment, insurance, gas)			
11	Transportation related to visitation - if the child(ren) live in another city/state (pro-rate expenses over the year for a monthly amount, if necessary):			
	Airfare			
	Car Rental			
	Hotel/Motel			
	Parking (at airport or other)			
	Public Transportation			
	Other: List specific "other" transportation expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
12	Child(ren)'s Total Monthly Expenses	$8,675	$0	$0

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR CHILDREN'S PERSONAL EXPENSES

ASSET AND DEBT CHART								
Item	Asset and/or Liability	Last 4 Digits of Account Number	Whose name is on account	Valuation Date	Enter "S" for any separate property and explain why	Gross Value	Amount Owed	Net Value
	Asset							
	Bank Accounts							
1	Bank of America Joint Checking	6446	Both	12/31/15		$111,216.54		$111,216.54
2	Bank of America Checking	0129	Gabrielle	12/31/15		$88,330.56		$88,330.56
3	Wells Fargo Checking	5397	Dennis	01/31/15		$16,267.79		$16,267.79
4	Wells Fargo Checking	8870	Dennis	02/05/16		$428.55		$428.55
5	Wells Fargo Savings	6253	Dennis	01/31/16		$1,637.43		$1,637.43
6	Subtotal					$217,880.87		$217,880.87
	Investments/Securities							
7	UBS Trust- Fee Base	43	Both	01/29/16		$5,791,228.94		$5,791,228.94
8	UBS Checking	45	Dennis	01/29/16		$9,069,368.25		$9,069,368.25
9	UBS Trust- PWS/GAM	34	Both	01/29/16		$2,226,101.17		$2,226,101.17
10	UBS Stock Option	99	Dennis	01/29/16		$2,063,207.48		$2,063,207.48
11	UBS Account	17	Dennis	02/12/16		$0.00		$0.00
12	UBS Account	75	Dennis	02/12/16		$95,056.00		$95,056.00
13	UBS Account	29	Gabrielle	12/31/15		$1,232,033.68		$1,232,033.68
14	Merrill Lynch CMA	637	Gabrielle	12/31/15		$501,903.52		$501,903.52
15	Merrill Lynch	588	Dennis	12/31/15		$0.20		$0.20
16	Merrill Lynch CMA	093	Both	12/31/15		$282,025.31		$282,025.31
17	NEA Investment		Dennis	06/2015		$979,388.00		$979,388.00
18	Radiology Partners Investment		Dennis			$150,000.00		$150,000.00
19	iChill Investment		Dennis			$150,000.00		$150,000.00
20	Pray for Ukraine/Winter on Fire Movie		Dennis			$61,000.00		$61,000.00
21	Thomasina Movie		Dennis			$100,000.00		$100,000.00
22	Subtotal					$22,701,312.60		$22,701,312.60
	Retirement Accounts							
23	UBS Rollover IRA	46	Dennis	01/29/16		$113,295.88		$113,295.88
24	Fidelity Dignity Health		Gabrielle	12/31/15		$66,007.11		$66,007.11
25	Chase Cigna Health Savings	1626	Dennis			$1,500.00		$1,500.00
26	Teleflex Pension		Dennis			$995/month when Dennis turns 65		
27	DaVita Executive Retirement		Dennis	01/31/16		$307,576.08		$307,576.08
28	Voya DaVita		Dennis	12/31/15		$371,444.52		$371,444.52
29	Merrill Lynch IRRA	040	Gabrielle	12/31/15		$166,132.95		$166,132.95
30	Subtotal					$1,025,956.54		$1,025,956.54
	Life Insurance Policies							
31	Principal		Dennis	02/15/16		$20,468.00		$20,468.00
32	AIG (term policy)		Dennis			No Value		No Value
33	DaVita (term policy)		Dennis			No Value		No Value
34	Subtotal					$20,468.00		$20,468.00
	Business Interests							
35	12 Moe, LLC		Dennis			Liquidated		Liquidated
36	System 8		Dennis			Liquidated		Liquidated
37	Subtotal					$0.00		$0.00

Item	Asset and/or Liability	Last 4 Digits of Account Number	Whose name is on account	Valuation Date	Enter "S" for any separate property and explain why	Gross Value	Amount Owed	Net Value
	Real Property							
38	28 Via Mira Monte		Both			To Be Sold	($829,498.38)	To Be Sold
39	321 San Vicente		Dennis	07/15/15		$610,000.00		$610,000.00
40	9716 Oak Pass		Dennis	05/27/15		$6,250,000.00		$6,250,000.00
41	434 S. Canon Drive		Dennis	05/27/15		$615,000.00		$615,000.00
42	10776 Wilshire Blvd.			05/23/15	Separate	$3,615,061.76		$3,615,061.76
43	10776 Wilshire Blvd.- Nanny Quarters			10/2015	Separate	$332,215.89		$332,215.89
44	21 Augusta Canyon Way			12/18/15	Separate	$2,375,000.00		$2,375,000.00
45	Subtotal					$13,797,277.60	($829,498.38)	$13,797,277.60
	Automobiles							
46	2015 Mercedes GLE 450		Dennis			Lease		Lease
47	2015 Hyundai		Dennis			Lease		Lease
48	2015 Bentley 12 cyl.		Dennis			$180,000.00		$180,000.00
49	2015 Bentley 8 cyl.		Dennis			$135,000.00		$135,000.00
50	2015 Ferrari 458		Dennis			$325,000.00		$325,000.00
51	2015 Lexus		Gabrielle			Lease		Lease
52	Golf Cart		Both			Unknown		Unknown
53	2015 Mercedes G		Dennis			Lease		Lease
54	Subtotal					$640,000.00		$640,000.00
	Personal Property							
55	Furniture and Furnishings		Dennis			Unknown		Unknown
56	Furniture and Furnishings		Gabrielle			Unknown		Unknown
57	Storage Unit Items		Both			Unknown		Unknown
58	Subtotal					$0.00		$0.00
	Receivables							
59	Promissory Note- Mitchell Kogod		Dennis			$178,000.00		$178,000.00
60	Promissory Note- Sheldon Kogod		Dennis			$25,000.00		$25,000.00
61	Personal Loan- Bernie Kogod		Dennis			$25,000.00		$25,000.00
62	Personal Loan- Kim Mathews		Dennis			$25,000.00		$25,000.00
63	Subtotal					$253,000.00		$253,000.00
64	TOTAL ASSETS					$38,655,895.60		$38,655,895.60
	Liabilities							
	Long term debt not listed above							
65	None							
66	Subtotal					$0.00		$0.00
	Other Liabilities Not listed above							
67	UBS Credit Line	27	Dennis	01/29/16			($411,873.62)	
68	American Express Centurion	1009/2007	Dennis	01/15/16			($13,433.49)	
69	American Express Optima	3003	Dennis	01/18/16			($15,683.85)	
70	American Express Platinum	9008/8000	Dennis	01/25/16			($89.99)	
71	Visa Black Card	5185	Dennis	02/06/16			($19,035.30)	
72	Wells Fargo Visa	1032/4727	Dennis	01/15/16			(15,008.86)	

Item	Asset and/or Liability	Last 4 Digits of Account Number	Whose name is on account	Valuation Date	Enter "S" for any separate property and explain why	Gross Value	Amount Owed	Net Value
73	Banana Republic	4713	Gabrielle	01/04/16			($1,075.04)	
74	Discover	4205	Gabrielle	12/11/15			($2,957.57)	
75	Kohl's	2557	Gabrielle	12/17/15			$0.00	
76	Loft	5363	Gabrielle					
77	American Express	9677	Gabrielle	12/12/15			($458.76)	
78	Nordstrom	992	Gabrielle	12/13/15			($78.53)	
79	Neiman Marcus	2808	Gabrielle					
80	TJX Rewards	6951	Gabrielle	01/01/16			($79.58)	
81	Saks Fifth Avenue	688	Gabrielle					
82	**Subtotal**						($479,774.59)	
TOTAL UNSECURED LIABILITIES							($479,774.59)	
NET VALUE OF ASSETS (NET EQUITY)								$38,176,121.00

SIGNATURE PAGE

Please read the questions below and check "yes" or "no."

	YES	NO
1. Are you contributing to anyone's expenses except your current spouse (if any), the other party and/or children as reported herein?	X	
2. Is anyone contributing to your expenses other than your current spouse (if any) or the other party as reported herein?		X
3. Are you providing any voluntary unpaid services to any entity, group or person?		X
4. Have you canceled any monthly services (housecleaning, cable, lawn care, etc) in the past twelve (12) months?		X
5. Have you removed money from any retirement or deferred compensation account in the past twelve (12) months?		X
6. Have you traveled with anyone other than your current spouse (if any) or alone in the past twelve (12) months?	X	
7. Have you transferred assets totaling $500 or more in the past twelve (12) months?	X	
8. Have you deferred receiving any money that you are entitled to receive?		X
9. Is anyone holding money for you?		X
10. Have you accrued sick/vacation days that you can cash out through your employer?		X
11. Do you have money on deposit anywhere? I.e. purchase of a home or car, country club membership, landlord		X
12. Have you prepaid any expenses?		X
13. Have you loaned money totaling over $300 to anyone in the past twelve (12) months?		X
14. Have you made charitable contributions totaling over $500 in the past twelve (12) months?	X	
15. Does anyone owe you money?	X	
16. Are you owed back child support or spousal support?		X
17. Have you modified your payroll deductions in the past twelve (12) months?		X
18. Are you in Bankruptcy?		X
19. Is your current gross monthly income significantly different (20% or more) from the average for the past 12 months?		X
20. Do you hold any assets outside of the United States?		X

I am the [X] Plaintiff/Petitioner [ ] Defendant/Respondent in the above action. I swear or affirm under penalty of perjury that I read and followed all instructions in completing this Financial Disclosure Form and that the contents of this Financial Disclosure Form are true and correct to the best of my knowledge as of this date. I understand that, by my signature, I verify the material accuracy of the contents of this Form. I also understand that any willful misstatements may be contemptuous and could result in my punishment by the Court.

I understand that I have a duty to supplement the information on this form within ten (10) calendar days of discovering additional assets or debts or upon discovering any incorrectly reported information or upon any changed circumstances.

Executed: 2/15/16 Signature: _____

SIGNATURE OF ATTORNEY (If represented by counsel):

By signing this form, the attorney of record certifies that he or she has read the factual statements made by the Decla and there exists reasonable basis to believe that this financial disclosure is likely to have evidentiary support after fur investigation or discovery.

Executed: 2/15/16 Signature: _____

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2016, service of the **FINANCIAL DISCLOSURE FORM** was made to the following interested parties in the manner set forth below:

☐ Via 1st Class U.S. Mail, postage fully prepaid, to

☒ Via Facsimile and/or Email pursuant to the Consent to Service By Electronic Means on file herein to:

Radford Smith, Esq. 2470 St. Rose Parkway #206 Henderson, Nevada 89074 Email: rsmith@radfordsmith.com

☐ And, via 1st Class U.S. Mail, postage full prepaid, addressed to:

Plaintiff

Respectfully Submitted,

(Signature) Sandra Martinez

(Printed Name) Sandra Martinez

DaVita.

Dennis Kogod
9715 Oak Pass Road
Beverly Hills, CA 90210

[redacted]

Earnings

Description	Dates	Hours	Rate	Amount	YTD
Regular	12/20/2015-01/02/2016	80	384.6154	30,769.24	30,769.24
GTL Imp	12/20/2015-01/02/2016	0	0	100.29	100.29
Earnings				30,869.53	30,869.53

Teammate Taxes

Description	Amount	YTD
OASDI	1,901.96	1,901.96
Medicare	444.82	444.82
Federal Withholding	9,278.19	9,278.19
State Tax - CA	3,333.35	3,333.35
Teammate Taxes	14,958.34	14,958.34

Pre Tax Ded

Description	Amount	YTD
401(k)PreTax	1,638.47	1,638.47
Dental	38.99	38.99
Medical	88.14	88.14
Melon	5.79	5.79
Points-SP	30.77	30.77
Points-TM	30.77	30.77
Pre Tax Ded	1,730.93	1,730.93

Post Tax Ded

Description	Amount	YTD
Vol ADD	2.31	2.31
DaPac	92.50	92.50
DVN	14.00	14.00
DW Trust	28.00	28.00
Legal Serv	7.27	7.27
Details Not Displayed	116.94	116.94
Post Tax Ded	261.02	261.02

Taxable Wages

Description	Amount	YTD
OASDI - Taxable Wages	30,877.07	30,877.07
Medicare - Taxable Wages	30,877.07	30,877.07
Federal Withholding - Taxable Wages	29,138.60	29,138.60

	Federal	State
Marital Status	Married	
Allowances	0	0
Additional Withholding	0	

Payment Information

Bank	Account Name	Account Number	USD Amount	Payment Amount	
BANK OF AMERICA, N.A.	BANK OF AMERICA, N.A. *****6446	*****6446		13,617.95	USD

DaVita.

Dennis Kogod
9716 Oak Pass Road
Beverly Hills, CA 90210

DVA Renal Healthcare, Inc P.O. Box 2076 Tacoma, WA 98401-2076

Name	Company	Employee ID	Pay Period Begin	Pay Period End	Check Date	Check Number
Dennis Kogod	DVA Renal Healthcare, Inc	619044	01/03/2016	01/16/2016	01/22/2016	

	Gross Pay	Pre Tax Ded	Teammate Taxes	Post Tax Ded	Net Pay
Current	30,769.24	2,038.62	14,785.86	272.56	13,662.20
YTD	61,538.48	3,769.55	29,755.20	533.58	27,480.15

Earnings

Description	Dates	Hours	Rate	Amount	YTD
Regular	01/03/2016-01/16/2016	80	384.6154	30,769.24	61,538.48
GTL Imp	01/03/2016-01/16/2016	0	0	100.29	200.58
Earnings				30,869.53	61,739.06

Teammate Taxes

Description	Amount	YTD
OASDI	1,901.98	3,803.96
Medicare	444.92	889.84
Federal Withholding	9,157.34	18,436.53
State Tax - CA	3,281.72	6,625.07
Teammate Taxes	14,785.86	29,755.20

Pre Tax Ded

Description	Amount	YTD
401(k)PreTax	1,846.16	3,384.83
Dental	36.99	73.98
Medical	88.14	176.28
Vision	5.79	11.58
Points-SP	30.77	61.54
Points-TM	30.77	61.54
Pre Tax Ded	2,038.62	3,769.55

Post Tax Ded

Description	Amount	YTD
Vol AD&D	2.31	4.62
DaPac	92.50	185.00
DVN	14.00	28.00
DVV Trust	25.00	50.00
Legal Serv	7.27	14.54
Details Not Displayed	128.48	245.42
Post Tax Ded	272.56	533.58

Taxable Wages

Description	Amount	YTD
OASDI - Taxable Wages	30,677.07	61,354.14
Medicare - Taxable Wages	30,677.07	61,354.14
Federal Withholding - Taxable Wages	28,630.91	57,969.51

	Federal	State
Marital Status	Married	
Allowances	0	0
Additional Withholding	0	

Absence Plans

Description	Accrued	Reduced	Available
Paid Sick Time	72	0	72

Payment Information

Bank	Account Name	Account Number	USD Amount	Payment Amount	
BANK OF AMERICA, N.A.	BANK OF AMERICA, N.A. ******8446	******8446		13,662.20	USD

DaVita.

Dennis Kogod
9716 Oak Pass Road
Beverly Hills, CA 90210

DVA Renal Healthcare, Inc P.O. Box 2676 Tacoma, WA 98401-2676

Name	Company	Employee ID	Pay Period Begin	Pay Period End	Check Date	Check Number
Dennis Kogod	DVA Renal Healthcare, Inc	619044	01/17/2016	01/30/2016	02/05/2016	

	Gross Pay	Pre Tax Ded	Taxable Taxes	Post Tax Ded	Net Pay
Current	30,769.24	2,038.62	14,917.62	272.56	13,540.44
YTD	92,307.72	5,808.17	44,672.62	806.14	41,020.58

Earnings

Description	Dates	Hours	Rate	Amount	YTD
Regular	01/17/2016-01/30/2016	80	384.6154	30,769.24	92,307.72
GTL Imp	01/17/2016-01/30/2016	0	0	100.29	300.87
Earnings				30,869.53	92,608.59

Employee Taxes

Description	Amount	YTD
OASDI	1,901.96	5,705.94
Medicare	444.81	1,334.45
Federal Withholding	9,157.34	27,693.87
State Tax - CA	3,413.49	10,036.56
Teammate Taxes	14,917.62	44,672.62

Pre Tax Ded

Description	Amount	YTD
401(k)PreTax	1,846.16	5,230.78
Dental	36.99	110.97
Medical	88.14	264.42
Vision	5.78	17.37
Points-SP	30.77	92.31
Points-TM	30.77	92.31
Pre Tax Ded	2,038.62	5,808.17

Post Tax Ded

Description	Amount	YTD
Vol ADD	2.31	6.33
DePac	92.50	277.50
DVN	14.00	42.00
DVV Trust	28.00	84.00
Legal Serv	7.27	21.81
Details Not Displayed	128.48	373.90
Post Tax Ded	272.56	806.14

Employer Paid Benefits

Description	Amount	YTD
HSAER	900.00	900.00
Employer Paid Benefits	900.00	900.00

Taxable Wages

Description	Amount	YTD
OASDI - Taxable Wages	30,677.07	92,031.21
Medicare - Taxable Wages	30,677.07	92,031.21
Federal Withholding - Taxable Wages	28,630.91	86,800.42

	Federal	State
Marital Status	Married	
Allowances	0	0
Additional Withholding	0	

Absence Hours

Description	Accrued	Reduced	Available
Paid Sick Time	0	0	72

Payment Information

Bank	Account Name	Account Number	USD Amount	Payment Amount	
BANK OF AMERICA, N.A.	BANK OF AMERICA, N.A. ******6446	******6446		13,540.44	USD

Details of filing: *Amended Detailed Financial Disclosure Form*
Filed in Case Number: D-13-489442-D

E-File ID: 7024145
Lead File Size: 7676624 bytes
Date Filed: 2015-05-29 16:11:47.0
Case Title: D-13-489442-D
Case Name: Gabrielle Rose Cioffi-Kogod, Plaintiff vs. Dennis L Kogod, Defendant.
Filing Title: Amended Detailed Financial Disclosure Form
Filing Type: EFS
Filer's Name: James J. Jimmerson/Jimmerson Hansen, P.C.
Filer's Email: ba@jimmersonhansen.com
Account Name: Jimmerson Hansen, P.C.
Filing Code: FDF
Amount: $ 3.50
Court Fee: $ 0.00
Card Fee: $ 0.00
Payment: Filing still processing. Payment not yet captured.
Comments:
Courtesy Copies: sh@jimmersonhansen.com
Firm Name: Jimmerson Hansen
Your File Number: 5420.01
Status: Pending - (P)
Date Accepted:
Review Comments:
Reviewer:
File Stamped Copy:
Documents: Cover Document:
Lead Document: Amended FDF - 5.29.15.pdf 7676624 bytes
Data Reference ID:
Credit Card Response: System Response: AR3CC20AC62B
Reference:

Details of filing: *Amended Detailed Financial Disclosure Form*
Filed in Case Number: D-13-489442-D

E-File ID: 7024158
Lead File Size: 7676624 bytes
Date Filed: 2015-05-29 16:13:15.0
Case Title: D-13-489442-D
Case Name: Gabrielle Rose Cioffi-Kogod, Plaintiff vs. Dennis L Kogod, Defendant.
Filing Title: Amended Detailed Financial Disclosure Form
Filing Type: SO
Filer's Name: James J. Jimmerson/Jimmerson Hansen, P.C.
Filer's Email: ba@jimmersonhansen.com
Account Name: Jimmerson Hansen, P.C.
Filing Code: Service Only
Amount: $ 0.00
Court Fee: $ 0.00
Card Fee: $ 0.00
Payment: Filing still processing. Payment not yet captured.
Comments:
Courtesy Copies: sh@jimmersonhansen.com
Firm Name: Jimmerson Hansen
Your File Number: 5420.01
Status: Submitted - (8)
Date Accepted:
Review Comments:
Reviewer:
File Stamped Copy:
Documents: Cover Document:
Lead Document: Amended FDF - 5.29.15.pdf 7676624 bytes
Data Reference ID:
Credit Card Response: System Response:
Reference:

[redacted]

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY DIVISION

GABRIELLE CIOFFI-KOGOD,
Plaintiff,

vs.

DENNIS L. KOGOD,
Defendant.

Case No. D-13-469442-D
Dept. No. Q

AMENDED

DETAILED FINANCIAL DISCLOSURE FORM

What is your name? Dennis (First Name) | L. (Middle) | Kogod (Last Name) | (Maiden / Former Name)

How old are you? 56 What is your date of birth? August 14, 1959

What is your occupation? Health Care Executive

Who is your employer? Dayita From: Oct., 2005 To: Present

Previous employer? Gambro From: July, 2000 To: Oct. 2005

What is your highest level of education? College - Undergraduate

Level of disability _____ Agency/Physician Certifying Disability: _____

FAMILY RESIDENCE TABLE - In the table below, insert the names and ages of each person currently living with you.

NAME	AGE	MINOR CHILD OF THIS MARRIAGE/RELATIONSHIP?	MINOR CHILD NOT OF THIS MARRIAGE/RELATIONSHIP?	OTHER RELATIONSHIP (SPECIFY)
Nadia Kleusky	48			Partner
Nika Khapsalis	7	yes		
Denisa Khapsalis	7	yes		
Elena Lawson	50			Nanny

Income/Support from Others

I am _____ am not X divorced from the other party in this action. I am _____ am not X remarried.

My current spouse is: X is not: _____ currently employed.

My current spouse earns: $85,000.00 per year

Attorney's Fees and Retainer(s)

As of the date of this Disclosure, a total of: $50,159.00 has been paid by me or on my behalf to all counsel who have represented me in this matter. I have a Retainer balance of $-0- remaining in my attorney's Trust Account.

I currently owe my attorney(s) a total of: $18,473.52- 4/20/15.

I currently owe my prior attorney(s) a total of: _____.

DK

Initials

INCOME / EXPENSE SUMMARY

INCOME SUMMARY	
Gross Monthly Income From All Sources	$600,310.40
Mandatory Deductions	$226,904.25
Gross Monthly Income Less Mandatory Deductions	$373,406.15
Voluntary Deductions	$261,365.34
Net Monthly Income	$112,040.81

EXPENSE SUMMARY	
Necessities that I pay for myself	$12,618.41
Necessities that I pay for the other party	$500.00
Expenses that I pay for my child(ren) (of this relationship)	$9,415.00
Mandatory support (child & spousal) to the Other Party	$0.00
Mandatory support of others (including children NOT of this relationship)	$0.00
Total Necessities for which I pay	$22,433.41
Discretionary Expenses that I pay for myself	$66,895.00
Discretionary Expenses that I pay for the other party	$1,726.00
Discretionary support of others	$1,500.00
Total Discretionary Expenses that I pay for	$70,120.00
Total Expenses that I pay for	$92,553.41

INCOME/EXPENSE SUMMARY	
Monthly Deficit / Surplus	$19,487.40

If you have a monthly deficit, provide an explanation below of how you meet that deficit each month:

Please be advised that my calculations are based off of 2013 earnings. My 2014 taxes will be filed October 15, 2015.
See Exhibit "A" attached hereto.

JK

Initials

PERSONAL INCOME WORKSHEET

	YOUR INCOME :				AMOUNT
1	Gross Monthly Income from Employment				
2	Fill out ALL of the following that apply to you (Enter the number (1, 2, 3, or 4) in the box that describes your pay frequency):				
	PAY FREQUENCY — 1=one time per month; 2= two times per month; 3=every two weeks; 4=every week	PAY FREQUENCY-1,2,3,or 4		Per Paycheck	Monthly
1	I get paid base salary/hourly wage	2	in the amount of	$30,769.23	$66,769.26
2	I receive overtime pay every	N/A	in the amount of		
3	I receive bonus pay every		in the amount of		$533,641.16
4	I receive commission every	N/A	in the amount of		
5	I receive tips every	N/A	in the amount of		
6	I receive a car allowance every	N/A	in the amount of		
7	I receive a gas allowance every	N/A	in the amount of		
8	I receive a housing allowance every	N/A	in the amount of		
9	I receive other allowance(s) every	X	in the amount of		
10	Business Income (sole proprietorship, partnership, LLC, S Corp, etc) - For each business, attach most recent Schedule C Profit or Loss From Business, Form 1065 US Return of Partnership Income with applicable Form K-1, Form 1120S US Income Tax Return for an S-Corporation with applicable Form K-1, and/or Form 1120 US Corporation Income Tax Return AND YTD Income Statement (P&L). Enter the following information:		Net Monthly Income (After business expenses, but before taxes.)		
			If adjusted for percentage of business owned, please indicate percentage of ownership here:		
11	Gross Monthly Income from All Other Sources				
12	I receive spousal support/alimony ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of				
13	I receive child support ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of				
14	I receive support from others (not the other party in this case), a total every month in the amount of				$0.00
15	I receive Social Security, a total every month in the amount of				$0.00
16	I receive Social Security Disability/Military Disability income a total every month in the amount of				$0.00
17	I receive Supplemental Security Income, a total every month in the amount of				
18	I receive Worker's Compensation Benefits, a total every month in the amount of				$0.00
19	I receive Unemployment Benefits, a total every month in the amount of				$0.00
20	I receive Pension/Retirement income, a total every month in the amount of				$0.00
21	I receive interest income, a total every month in the amount of				$0.00
22	I receive dividend and/or royalty income, a total every month of				$0.00
23	I receive payments from a partnership, S Corp, LLC, Trust, or other entity, a total every month of				$0.00
24	I receive gross rental income each month in the amount of:				$0.00
25	I receive other income (roommates, parents, gifts, other), a total every month of				$0.00
	Describe the source and amount of any "other" income referenced above:				
	Describe any benefits or perks paid by your employer (including but not limited to the use of any vehicle, club membership, etc.) and your estimated value of such benefits or perks:				$0.00
26	**TOTAL GROSS MONTHLY INCOME**				$800,310.40

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR GROSS MONTHLY INCOME

See Exhibit "A" attached hereto.

NOTE: YOU MUST ATTACH YOUR LAST THREE PAY STUBS/ STATEMENTS TO THE BACK OF THIS FORM PRIOR TO FILING

PERSONAL DEDUCTIONS WORKSHEET

	YOUR DEDUCTIONS :		AMOUNT
	Mandatory Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
1	I have Federal Income Tax withheld every paycheck in the amount of	$96,957.32	$210,397.38
2	I have Social Security Taxes withheld every paycheck in the amount of	$217.13	$588.35
3	I have Medicare withheld every paycheck in the amount of	$6,447.17	$13,990.37
4	I have Union Dues withheld every paycheck in the amount of		$0.00
5	I have Court-ordered Child Support withheld every paycheck in the amount of		$0.00
6	I have other Court-ordered garnishments withheld every paycheck in the amount of		$0.00
7	I have health insurance premiums withheld every paycheck in the amount of	$115.01	$249.57
8	List all other mandatory California State tax deductions, including amounts, withheld every paycheck: $773.54		$1,678.58
	Total MANDATORY Deductions Per Month		**$226,904.26**
	Voluntary Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
8	I have Life, Disability, &/or other insurance premiums withheld every paycheck in the amount of		$0.00
9	I have Federal Health Savings Plan every paycheck withheld in the amount of		$0.00
10	I have Retirement/Pension/IRA/401(k) withheld every paycheck in the amount of	$673.05	$1,460.58
11	I have Savings withheld every paycheck in the amount of		$0.00
12	I have other (specify below) voluntary sums withheld every paycheck in the amount of	$119,771.78	$259,904.76
13	List all other voluntary deductions, including amounts, withheld every paycheck:		$0.00
14	**Total VOLUNTARY Deductions Per Month**		**$261,365.34**
15	TOTAL DEDUCTIONS PER MONTH		**$488,269.59**

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR DEDUCTIONS

See Exhibit "A" attached hereto.

Initials

	PERSONAL EXPENSE WORKSHEET: NECESSITIES	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL PAID DIRECTLY BY THE OTHER PARTY FOR ME
	DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.			
1	I own my home [X] rent / lease my home [ ] share a home or apartment with someone else [ ]			
	I pay a monthly mortgage/rent/lease payment (for the home I live in and/or home the other party lives in) in the amount of	$0.00		
	I pay a monthly second mortgage (for the home I live in and/or home the other party lives in) in the amount of	$0.00		
	I pay a monthly Home Equity Line of Credit ("HELOC") (for the home I live in and/or home other party lives in) in the amount of	$0.00		
	If not included in my mortgage payment(s), I pay property taxes (for the home I live in and/or home the other party lives in) in the amount of	$5,400.00		
	If not included in my mortgage/rent payment(s), I pay a monthly home owners/renters insurance premium (for the home I live in and/or home the other party lives in) in the amount of	$500.00		
	I pay monthly Home Owner's Association dues (for the home I live in and/or the home the other party lives in) in the amount of	$150.00		
	I pay a Special Assessment Fee (for the home I live in and/or the home the other party lives in) in the amount of	$0.00		
2	I pay the following utilities and telephone expenses (for the home I live in and/or the home the other party lives in) each month:			
	Gas/Heating Oil	$1,335.00		
	Electricity	$2,287.00		
	Water	$0.00		
	Garbage and sewer	$0.00		
	Landline (if part of a "bundled" service, indicate the total amount here)	$54.13		
	Cellular service (if not included in the Landline/bundled service above)			
	Internet service (if not included in the landline/bundled service above)	$92.28		
3	I spend the following each month for healthcare related expenses for myself and/or the other party (Not paid from a Health Savings Plan):			
	Medical insurance (including hospitalization, dental, vision, etc.) for myself and/or the other party (Not already deducted from my paycheck)			
	Out-of-pocket/unreimbursed cost of medical, dental, optical, and prescription expenses for myself and/or other party	$500.00		
	Out-of-pocket/unreimbursed cost of therapy or counseling (for myself and/or other party)	$2,000.00	$600.00	
4	I spend the following for groceries, household goods and incidentals, not including entertainment or dining out, each month:	$100.00		
5	I own/lease [ ] my car. [ ] I/we own or lease [ ] the other party's car.			
	ADDITIONAL VEHICLES SHOULD BE LISTED ON THE SUPPLEMENT PAGE			
	Monthly loan / lease payment (for my car and/or the other party's car)			
	Gasoline and oil (for my car and/or the other party's car)			
	Automobile insurance (if you have policy covering more than one car, separate the amount for your car and/or for other party's car)			
	Parking, public transportation, other			
6	I pay the following monthly mandatory amounts for the support of others:			
	Court-ordered child support (if paid to the other party in this case for a child of this relationship, include amount in the "Total Amount I Pay Directly For The Other Party" (right) column. If for a child of another relationship, include amount in the "Total Amount I Pay Directly For Myself" (left) column)			
	Court-ordered spousal support (if paid to the other party in this case, include amount in the "Total Amount I Pay Directly For The Other Party (right) column. If paid to someone else from a prior relationship, include amount in the "Total Amount I pay Directly For Myself" (left) column)			
7	I spend the following each month on education, uniforms, dues, memberships, subscriptions, or other mandatory requirements to maintain employment. I DO NOT receive reimbursement from the employer for any of these expenses			
	TOTAL NECESSITIES:	$12,518.41	$600.00	$0.00
	* Divide by 3 if paid quarterly; Divide by 6 if paid semi-annually; Divide by 12 if paid annually			

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR NECESSITIES

DK

Initials
Revised 8/1/14

	PERSONAL EXPENSE WORKSHEET: DISCRETIONARY EXPENSES	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY FOR ME
	DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.			
8	I spend the following monthly amounts for House Maintenance (for the house I live in and/or the house the other party lives in) each month:			
	House cleaning service	$300.00		
	Garden/lawn care	$100.00		
	Pool/spa service	$225.00		
	Pest Control	$80.00		
	Security / Alarm Service	$130.00		
9	I spend the following monthly amounts for my pet's expenses (food, grooming, healthcare, boarding):			
10	Each month I pay the following minimum credit card and other consumer installment payments on my and/or the other party's credit cards: (List name of Issuing Bank or Lender, last four digits of account number and total outstanding balance) See Exhibit "B" attached hereto			
	Credit Card or entity to whom installment payment is made #1 — Total balance due is			
	Credit Card or entity to whom installment payment is made #2 — Total balance due is			
	Credit Card or entity to whom installment payment is made #3 — Total balance due is			
	Credit Card or entity to whom installment payment is made #4 — Total balance due is			
	Credit Card or entity to whom installment payment is made #5 — Total balance due is			
	Credit Card or entity to whom installment payment is made #6 — Total balance due is			
	Credit Card or entity to whom installment payment is made #7 — Total balance due is			
	Credit Card or entity to whom installment payment is made #8 — Total balance due is			
11	I spend the following amounts each month for clothing and related expenses:			
	Clothing, shoes and accessories	$500.00		
	Dry cleaning and/or laundry service	$1,000.00		
12	I spend the following each month on appearance (hair, manicures/pedicures, facials, massages, cosmetics, other):	$250.00	$300.00	
13	I spend the following amounts for Entertainment each month (dining out, movies, shows, books, magazines, etc.):	$250.00	$500.00	
14	I pay the following amounts for non-mandatory dues and/or membership fees (professional, fraternal organizations, country club, etc.):	$220.00		
15	I pay the following monthly Health/Exercise-related expenses (health club membership fee(s), personal training, etc.):	$225.00	$220.00	$45.00
16	I spend the following monthly average amount for vacation expenses (total vacation cost per year divided by 12)	$500.00	$500.00	
17	I pay the following monthly premiums for discretionary/non-mandatory insurance (life, disability, other) (NOT already deducted from my paycheck)			
18	I spend the following amount each month on church tithes and/or charitable donations (pro-rate quarterly, semi-annual or annual payments)			
19	I spend the following amount each month in voluntary support of others:			
	Expenses for an adult non-dependent child (i.e., college, living or other expenses) SPECIFY:			
	Eldercare (specify the parent or parents for whom you pay eldercare expenses)	$1,500.00		
	Sheldon and Marsha Kogod			
20	Each month I pay the following other miscellaneous expenses:			
	PO Box Rental			
	Safety Deposit Box Rental (where located)			
	Storage			
	Other:			
	TOTAL DISCRETIONARY EXPENSES	$66,996.00	$1,725.00	$45.00
	SUBTOTAL FROM ADDITIONAL REAL PROPERTY WORKSHEET	$0.00	$0.00	$0.00
	SUBTOTAL FROM ADDITIONAL VEHICLES WORKSHEET	$541.00	$0.00	$0.00
	TOTAL MONTHLY DISCRETIONARY EXPENSES	$66,996.00	$1,725.00	$45.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR PERSONAL EXPENSES.

For #10 - See Exhibit "B" attached hereto; For #17 - See Exhibit "A" attached hereto;

DK

Initials
Revised 8/1/14

	ADDITIONAL REAL PROPERTY WORKSHEET	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
	Use this Supplemental Worksheet to provide information for any additional real property as needed.			
	ADDITIONAL REAL PROPERTY (HOUSE, CONDO, VACANT LAND, ETC.)			
1	I own this additional property (insert address):			
	I / the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of			
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)			
	If not included in my mortgage payment(s), I pay a monthly home owner/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
	I pay monthly Home Owner's Association dues in the amount of			
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
	I pay other expenses related to the ownership/maintenance of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	Total expenses for this property:	$0.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00	$0.00
2	I own this additional property (insert address):			
	I / the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of			
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)			
	If not included in my mortgage payment(s), I pay a monthly home owner/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
	I pay monthly Home Owner's Association dues in the amount of			
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
	I pay other expenses related to the ownership/maintenance of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	Total expenses for this property:	$0.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00	$0.00
	TOTAL NET INCOME / LOSS FROM INVESTMENT PROPERTIES:	$0.00	$0.00	$0.00

USE THIS SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ADDITIONAL REAL PROPERTY

01939

ADDITIONAL VEHICLES WORKSHEET - See Exhibit "B" attached hereto.	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
Use this Supplemental Worksheet to provide information for any additional motor vehicles as needed.			
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain: 2014 Mercedes (Lease)			
Monthly loan / lease payment for this additional vehicle	$541.66		
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$541.66	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain: 2013 Hyundai			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
I/we own or lease [ ] an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
TOTAL NET INCOME / LOSS FROM VEHICLES:	$541.66	$0.00	$0.00

	CHILD(REN)'S PERSONAL EXPENSE WORKSHEET (ENTER EXPENSES FOR CHILD(REN) OF THIS RELATIONSHIP ONLY)	TOTAL AMOUNT I PAY FOR MINOR CHILD(REN)	TOTAL AMOUNT OTHER PARTY PAYS FOR MINOR CHILD(REN)	TOTAL AMOUNT PAID BY ANOTHER FOR MINOR CHILD(REN)
1	Child(ren)'s monthly expenses for clothes, shoes & accessories:	$600.00	$0.00	
2	Child(ren)'s monthly unreimbursed medical expenses:			
	medical co-pays	$2,225.00	$0.00	
	medication (prescription & over-the-counter)			
	optometry			
	dental and orthodontic			
	physical therapy, counseling, other			
3	Child(ren)'s monthly expenses for telephone, cellular telephone, internet			
4	Child(ren)'s monthly expenses for entertainment, dining out, movies, music, other	$150.00		
5	Child(ren)'s monthly expenses for appearance (hair, manicure/pedicure, facials/massage, cosmetics, other):	$50.00		
6	Children's monthly expenses for insurance (other than health insurance):	$0.00		
7	Child(ren)'s monthly education-related expenses (if paid quarterly, divide by 3; semi-annually, divide by 6; annually, divide by 12):			
	Tuition, books & fees			
	Tutoring	$500.00		
	Special Needs (specify)			
	Uniforms			
	Meals (if not included in tuition)	$100.00		
	Extracurricular (sports, music, art, etc.)	$800.00		
	Other: List specific "other" education expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
8	Childcare expenses (daycare, before and after school care, Nanny, etc.)	$3,990.00		
9	Summer programs / summer camp	$1,000.00		
10	Child(ren)'s vehicle (lease/payment, insurance, gas)			
11	Transportation related to visitation - if the child(ren) live in another city/state (pro-rate expenses over the year for a monthly amount, if necessary):			
	Airfare			
	Car Rental			
	Hotel/Motel			
	Parking (at airport or other)			
	Public Transportation			
	Other: List specific "other" transportation expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
12	Child(ren)'s Total Monthly Expenses	$9,415	$0	$0

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR CHILDREN'S PERSONAL EXPENSES

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY	GROSS	Amount you owe on this asset	Amount you owe on this asset	NET
		VALUE		VALUE	VALUE	NO. 1	NO. 2	VALUE
	ASSETS							
	BANK ACCOUNTS							
1	BOA Joint Checking	X648	Dennis & Gabrielle					0
2	BOA Pledged		Dennis & Gabrielle					0
3	Wells Fargo Checking	X8979	Dennis	S	429			429
4	Wells Fargo Checking	X8987	Dennis	S	24,506			24,506
5	Wells Fargo Checking	X8253	Dennis	S	118,851.29			
6	Closed CCNA Savings	X8186	Dennis					
7	BOA Checking @ 20th (4 Statements)	X8175	Gabrielle POD Eugene & Cassandra	S	284,618			0
8	Total From Accounts on Page 7(b)				0	0	0	0
9	Subtotal				414,355	0	0	424,355
	INVESTMENT ACCOUNTS							
10	UBS Financial Services	X6634	Dennis		591,087			591,087
11	UBS Financial Services	X5484	Dennis		55,285			55,285
12	UBS Financial Services	X7984	Dennis Trust		95,043			95,043
13	UBS Financial Services	X8706	Dennis		111,956			111,956
14	UBS Financial Services	X8634	Dennis		4,461,940			4,461,940
15	UBS Financial Services	X8634	Dennis		1,512,573			1,512,573
16	Merrill Lynch Primary Act 8539 (as of 11/2014)	X1849	Dennis & Gabrielle		121,491			
17	Merrill Lynch (as of 11/2014)	X3813	Dennis & Gabrielle		286,674			
18	Merrill Lynch (as of 11/2014)	X8598	Dennis & Gabrielle		0			
19	Merrill Lynch (as of 11/2014)	X6833	Dennis & Gabrielle		598,964			
20	Fidelity Investments - Dignity Health 401(a)		Gabrielle		12,761			
21	Fidelity Investments - Dignity Health 403(b)		Gabrielle		47,842			
22	Subtotal				7,996,970	0	0	7,956,976
	RETIREMENT ACCOUNTS							
23	Dennis Retirement w/My Voya	718	Dennis		368,285			368,285
24	UBS Financial Services Retirement Account	X4634	Dennis		2,733			
25	Teledyne Pensions		Dennis		973			973
26	Subtotal				368,418	0	0	368,418
	LIFE INSURANCE POLICIES				WHOLE CASH VALUE			
27	Principal		Dennis		31,642			31,642
28	AIG	9981	Dennis		764,000			764,000
29	Ovation		Dennis & Gabrielle		606,000			606,000
30	Subtotal				1,398,642	0	0	1,398,642
	BUSINESS INTERESTS							
31	Thirteenfive, LLC Investment				188,000			188,000
32	Ring for Wrists Investment				81,000			81,000
33	Nine, LLC Investment				175,000			185,000
34								0
35								0
36	Subtotal				366,000	0	0	306,000
	RECEIVABLES / DEBTS							
37	Personal Loan - Kiki Mayberry				25,000			25,000
38	Personal Loan - Bessie Rogers				25,000			25,000
39	Personal Loan - Mitch Rogers				150,000			150,000
40	Personal Loan - Sheldon Rogers				25,000			25,000
41								0
42	Subtotal				225,000	0	0	225,000
	REAL PROPERTY							
43	Oak Park		Dennis Trust		5,160,000			5,160,000
44	San Vincente Condo		Sheldon Rogers		472,000			472,000
45	Carson Condo		Dennis & Mitch		552,000			552,000
46								0
47	Subtotal				6,132,000	0	0	6,132,000
48	**AUTOMOBILES**							
49	Automobiles & Boat				1,325,000			1,325,000
50								0
51								0
52	Subtotal				1,325,000	0	0	1,325,000
	PERSONAL PROPERTY							
53	Furnishing Oak Park				65,000			65,000
54	Jewelry/Watches				49,000			49,000
55	Miscellaneous				15,000			15,000
56	Subtotal				129,000	0	0	129,000
					18,694,000	0	0	18,694,000
	LIABILITIES							
	LONG-TERM DEBT NOT LISTED ABOVE							
57								0

PCPD

Revised 8/1/14

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY	GROSS	Amount you owe on this asset	Amount you owe on this asset	NET
		VALUE		VALUE	VALUE	NO. 1	NO. 2	VALUE
60								0
61								0
62								0
63								0
64	Subtotal				0			0
	LIST LIABILITIES AND DEBTS BELOW							
65	AMEX - Optima	2007			11,811			11,811
66	AMEX - Platinum	9006			139			139
67	AMEX - Optima	2077			16,895			16,895
68								0
69								0
70								0
71								0
72								0
73								0
74	Subtotal				28,845			28,845
	TOTAL UNSECURED LIABILITIES				28,845			28,845
	NET VALUE OF ASSETS (NET EQUITY)				18,666,824			18,666,824

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ASSET AND DEBT CHART

	ADDITIONAL BANK ACCOUNTS							
75a	Bank of America Checking	2129	Includes PCD Expense and Commerce	S				
75b								
75c								
75d								
75e								
75f								
75g								
75h								
75i								
75j								
75k								
75l								
75m								
75n								
75o								
75p								
75q								
75r								
75s								
75t								
75u								
75v								
75w								
75x								
75y								
75z								
	Subtotal				0	0	0	0

Initials

SIGNATURE PAGE

Please read the questions below and check "yes" or "no."

	YES	NO
1. Are you contributing to anyone's expenses except your current spouse (if any), the other party and/or children as reported herein?	X	
2. Is anyone contributing to your expenses other than your current spouse (if any) or the other party as reported herein?		X
3. Are you providing any voluntary unpaid services to any entity, group or person?		X
4. Have you canceled any monthly services (housecleaning, cable, lawn care, etc) in the past twelve (12) months?		X
5. Have you removed money from any retirement or deferred compensation account in the past twelve (12) months?		X
6. Have you traveled with anyone other than your current spouse (if any) or alone in the past twelve (12) months?	X	
7. Have you transferred assets totaling $500 or more in the past twelve (12) months?	X	
8. Have you deferred receiving any money that you are entitled to receive?		X
9. Is anyone holding money for you?		X
10. Have you accrued sick/vacation days that you can cash out through your employer?		X
11. Do you have money on deposit anywhere? i.e. purchase of a home or car, country club membership, landlord		X
12. Have you prepaid any expenses?		X
13. Have you loaned money totaling over $300 to anyone in the past twelve (12) months?	X	
14. Have you made charitable contributions totaling over $500 in the past twelve (12) months?	X	
15. Does anyone owe you money?	X	
16. Are you owed back child support or spousal support?		X
17. Have you modified your payroll deductions in the past twelve (12) months?		X
18. Are you in Bankruptcy?		X
19. Is your current gross monthly income significantly different (20% or more) from the average for the past 12 months?		X
20. Do you hold any assets outside of the United States?		X

I am the [ ] Plaintiff/Petitioner [X] Defendant/Respondent in the above action. I swear or affirm under penalty of perjury that I read and followed all instructions in completing this Financial Disclosure Form and that the contents of this Financial Disclosure Form are true and correct to the best of my knowledge as of this date. I understand that, by my signature, I verify the material accuracy of the contents of this Form. I also understand that any willful misstatments may be contemptuous and could result in my punishment by the Court.

I understand that I have a duty to supplement the information on this form within ten (10) calendar days of discovering additional assets or debts or upon discovering any incorrectly reported information or upon any changed circumstances.

Executed: 05/28/15 Signature: [signature]

SIGNATURE OF ATTORNEY (if represented by counsel):

By signing this form, the attorney of record certifies that he or she has read the factual statements made by the Declarant, and there exists reasonable basis to believe that this financial disclosure is likely to have evidentiary support after further investigation or discovery.

Executed: _____ Signature: _____

[initials]

01944

Exhibit A

Exhibit A

2013 Pay Summary for Dennis Kogod

Type	Description	Annual Amt	Annual Total by Type	Monthly Amt	Monthly Total by Type
Earnings	Reg Earnings	800,000.24	7,202,494.18	66,666.69	600,207.85
	Bonus	1,400,000.00		116,666.67	
	*Imputed Income for Company Paid Life Insurance**	*1,476.54*		*123.05*	
	*Non Cash Fringe**	*8,758.12*		*729.84*	
	Stock Plan Award	5,002,493.94		416,874.50	
Taxes	OASDI	7,049.40	2,715,678.33	587.45	226,306.53
	Medicare	167,626.51		13,968.88	
	Fed Withholding	2,520,890.32		210,074.19	
	State Tax - CA	19,103.30		1,591.94	
	State Tax - CA	1,008.80		84.07	
Pre-Tax Deductions	401k	17,500.00	20,590.10	1,458.33	1,715.84
	Dental	915.72		76.31	
	Health Savings Accou	99.84		8.32	
	Medical	1,844.70		153.73	
	Vision	130.00		10.83	
	TM Points	99.84		8.32	
After-Tax Deductions	Vol ADD	89.96	3,112,406.84	7.50	259,367.24
	DaPac	830.79		69.23	
	Bridge of Life	360.10		30.01	
	DVN	360.10		30.01	
	Kidney Trust	360.10		30.01	
	Legal	189.02		15.75	
	Sup Life	518.44		43.20	
	Basic LTD	277.68		23.14	
	Supp LTD	778.02		64.84	
	Net Option	0.00		0.00	
	Net Stock Option	3,107,780.89		258,981.74	
	STD Buy-up	362.70		30.23	
	Phone	499.04		41.59	
TOTALS			**1,353,818.91**		**112,818.24**

*Imputed income and non-cash fringe are added to earnings only so they can be taxed, they do not count as regular income, so they are not represented in the earnings subtotals.

Exhibit B

Exhibit B

Dennis Kogod Financial Disclosure 7-Feb-15

Assets

Description	Acct #	Owned	HOA/YR	Estimated Value	Name on Acct	Annual Taxes /Registration
Home	Oak Pass	Yes	1500	5,100,000	Denika Trust	60,000
Condo	San Vicente	Yes	7,200	479,800	Sheldon Kogod	7,500
Condo	Canon	yes	6,500	552,800	Dennis/Mitch	8,500
Boat	Marquis	yes	24,000	1,100,000	Denika	9,000,000
Car	13 Ferrari	yes		279,000	Self	2,500
Car	15 Bentley	yes		255,000	Self	2,500
Car	14 Mercedes	No	6,500 Lease		Self	1,500
Car	15 Bentley	yes		205,000	Nadine	2,500
Car	13 Hyundai	No	4,000		Sheldon Kogod	1,000

Bank Accounts

BANK	Description	Estimated Daily Balance	Name on Account		
BOA	Joint Checking	100,000	Dennis and Gabrielle		
BOA	Pledged/ 0093	297,491	Dennis and Gabrielle		
BOA	Investment/ 0637	593,182	Dennis and Gabrielle		
Wells Fargo	Checking	25,000	Dennis		
Wells Fargo	Savings	100,000	Dennis		
UBS	Investment Acct	25,500,000	Family Trust		

Furniture and Jewerly

Description		Estimate Value				
Furnishing Oak Pass		55,000				
Jewlerly/Watches		45,000				
Misc		15,000				

Retirement Account

Description	Current Value					
Davita Retirement	651,345.23					
Teleflex Pension	900.00 per month paid at age 65					

Credit Cards

Card	Last 4 Digits	Revolving	Paid Monthly In Full	Average Monthly Balance		
Amex Opt	2003	yes		25,000		
Amex Plat	9008		Yes	0		
Amex Centurion	2007		Yes	0		
Visa Black	5185	yes		23,000		
Wells Fargo	1032	Yes		15,000		
Citi Card	7911	Yes		0		

Loans/Loc/Lease

Description			Annual Payments			
Mercedes Lease			7000			
Hyundai Lease	Paid by my father					

Insurance Policies

Description	Term/Whole	Beneficiary	Policy Amount	Annual Cost		
Principal	Whole	Nadine/Kids	1,000,000	6364.12		
AIG	Term	Nadine/Kids	1,000,000	2697.5		
DaVita	Whole	Gabrielle	800,000	3045.12		

Receivables

Description	Owed by Whom	Purpose	Balance	Due	Interest	
Loan	Kim Matthews	Bus Loan	25,000	6/1/2015	12%	
Loan	Bernie Kogod	Personal	25,000	6/1/2015	5%	
Loan	Mitch Kogod	Business	150,000	12/31/2015	5%	
Loan	Sheldon Kogod	Personal	25,000	Will	3%	

Miscellaneous

Description	Details	Purpose	Value			
Thomasina LLC	Production Project	Investment	100,000			
Pray for Ukraine	Production Project	Investment	81,000			
Moe LL	Fashion	Investment	125,000			

ROC
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JAMES J. JIMMERSON, ESQ.
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Las Vegas, Nevada 89101
(702) 388-7171
Attorneys for Defendant,
DENNIS L. KOGOD

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD,

Plaintiff,

v.

DENNIS L. KOGOD,

Defendant.

CASE NO. D-13-489442-D
DEPT. NO. Q

RECEIPT OF COPY

RECEIPT OF COPY of Defendant's AMENDED DETAILED FINANCIAL DISCLOSURE FORM (a copy of which was electronically served on May 29, 2015) is hereby acknowledged this 1 day of June, 2015 at 8:45 a.m.

RADFORD J. SMITH, CHTD.

By: _____ FOR
Radford J. Smith, Esq.
Garima Varshney, Esq.
Matthew P. Feeley, Esq.
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074

JIMMERSON HANSEN, P.C.
415 South Sixth Street, Suite 100, Las Vegas, Nevada 89101
Telephone (702) 388-7171 • Facsimile (702) 387-1167

FOF
James J. Jimmerson, Esq., NSB # 000264
JIMMERSON HANSEN, P.C.
415 South Sixth Street, Ste. 100
Las Vegas, Nevada 89101
(702) 388-7171
Attorney for Defendant, DENNIS L. KOGOD

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CLERK OF THE COURT

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY DIVISION

GABRIELLE CIOFFI-KOGOD,
Plaintiff,

vs.

DENNIS L. KOGOD,
Defendant.

Case No. D-13-489442-D
Dept. No. Q

DETAILED FINANCIAL DISCLOSURE FORM

What is your name? Dennis (First Name) | L. (Middle) | Kogod (Last Name) | (Maiden / Former Name)

How old are you? 56 What is your date of birth? August 14, 1959

What is your occupation? Health Care Executive

Who is your employer? Davita From: Oct., 2005 To: Present

Previous employer? Gambro From: July, 2000 To: Oct, 2005

What is your highest level of education? College - Undergraduate

Level of disability _____ Agency/Physician Certifying Disability: _____

FAMILY RESIDENCE TABLE - In the table below, insert the names and ages of each person currently living with you.

NAME	AGE	MINOR CHILD OF THIS MARRIAGE/RELATIONSHIP?	MINOR CHILD NOT OF THIS MARRIAGE/RELATIONSHIP?	OTHER RELATIONSHIP (SPECIFY)
Nadia Kleusky	46			Partner
Nika Khapsalis	7	yes		
Denise Khapsalis	7	yes		
Elena Lawson	50			Nanny

Income/Support from Others

I am ____ am not X divorced from the other party in this action. I am ____ am not X remarried.

My current spouse is: X is not: ____ currently employed.

My current spouse earns: $85,000.00 per year

Attorney's Fees and Retainer(s)

As of the date of this Disclosure, a total of: $25,000.00 has been paid by me or on my behalf to all counsel who have represented me in this matter. I have a Retainer balance of $7,000.00 remaining in my attorney's Trust Account.

I currently owe my attorney(s) a total of: ____

I currently owe my prior attorney(s) a total of: ____

Initials

INCOME / EXPENSE SUMMARY

INCOME SUMMARY	
Gross Monthly Income From All Sources	$66,666.66
Mandatory Deductions	$486,859.50
Gross Monthly Income Less Mandatory Deductions	-$420,192.84
Voluntary Deductions	$1,357,026.60
Net Monthly Income	-$1,777,219.44

EXPENSE SUMMARY	
Necessities that I pay for myself	$12,518.41
Necessities that I pay for the other party	$500.00
Expenses that I pay for my child(ren) (of this relationship)	$9,416.00
Mandatory support (child & spousal) to the Other Party	$0.00
Mandatory support of others (including children NOT of this relationship)	$0.00
Total Necessities for which I pay	$22,433.41
Discretionary Expenses that I pay for myself	$66,895.00
Discretionary Expenses that I pay for the other party	$1,725.00
Discretionary support of others	$1,500.00
Total Discretionary Expenses that I pay for	$70,120.00
Total Expenses that I pay for	$92,553.41

INCOME / EXPENSE SUMMARY	
Monthly Deficit / Surplus	-$1,869,772.85

If you have a monthly deficit, provide an explanation below of how you meet that deficit each month:

SEE ATTACHED - I have reviewed the Financial Disclosure Form and have found it confusing and difficult to calculate my financial information on this form. That being said, I am attaching detailed lists of my assets and liabilities which should satisfy this Court. Any questions, please advise and I will be happy to supplement additional information, if necessary.

Initials

PERSONAL INCOME WORKSHEET

YOUR INCOME :

1	**Gross Monthly Income from Employment**					
2	Fill out ALL of the following that apply to you (Enter the number (1, 2, 3, or 4) in the box that describes your pay frequency):					
	PAY FREQUENCY	1=one time per month	2= two times per month / 3=every two weeks	4=every week	Per Paycheck	Monthly
			PAY FREQUENCY-1,2,3,or 4			
1	I get paid base salary/hourly wage		2	in the amount of	$33,333.33	$66,666.66
2	I receive overtime pay every		N/A	in the amount of		FALSE
3	I receive bonus pay every		12	in the amount of	$1,100,000.00	FALSE
4	I receive commission every		N/A	in the amount of		FALSE
5	I receive tips every		N/A	in the amount of		FALSE
6	I receive a car allowance every		N/A	in the amount of		FALSE
7	I receive a gas allowance every		N/A	in the amount of		FALSE
8	I receive a housing allowance every		N/A	in the amount of		FALSE
9	I receive other allowance(s) every		X	in the amount of		FALSE
10	Business income (sole proprietorship, partnership, LLC, S Corp, etc) - For each business, attach most recent Schedule C Profit or Loss From Business, Form 1065 US Return of Partnership Income with applicable Form K-1, Form 1120S US Income Tax Return for an S-Corporation with applicable Form K-1, and/or Form 1120 US Corporation Income Tax Return AND YTD Income Statement (P&L). Enter the following information:			Net Monthly Income (After business expenses, but before taxes.) / If adjusted for percentage of business owned, please indicate percentage of ownership here:		
11	**Gross Monthly Income from All Other Sources**					
12	I receive spousal support/alimony ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of					
13	I receive child support ___ (voluntary) ___ (Court ordered) from the other party in this matter, a total every month in the amount of					
14	I receive support from others (not the other party in this case), a total every month in the amount of					$0.00
15	I receive Social Security, a total every month in the amount of					$0.00
16	I receive Social Security Disability/Military Disability income a total every month in the amount of					$0.00
17	I receive Supplemental Security Income, a total every month in the amount of					
18	I receive Worker's Compensation Benefits, a total every month in the amount of					$0.00
19	I receive Unemployment Benefits, a total every month in the amount of					$0.00
20	I receive Pension/Retirement Income, a total every month in the amount of					$0.00
21	I receive interest income, a total every month in the amount of					$0.00
22	I receive dividend and/or royalty income, a total every month of					$0.00
23	I receive payments from a partnership, S Corp, LLC, Trust, or other entity, a total every month of					$0.00
24	I receive gross rental income each month in the amount of:					$0.00
25	I receive other income (roommates, parents, gifts, other), a total every month of					$0.00
	Describe the source and amount of any "other" income referenced above:					
	Describe any benefits or perks paid by your employer (including but not limited to the use of any vehicle, club membership, etc.) and your estimated value of such benefits or perks:					$0.00
26	**TOTAL GROSS MONTHLY INCOME**					$66,666.66

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR GROSS MONTHLY INCOME

See Exhibit "A" attached hereto.

NOTE: YOU MUST ATTACH YOUR LAST THREE PAY STUBS/ STATEMENTS TO THE BACK OF THIS FORM PRIOR TO FILING

PERSONAL DEDUCTIONS WORKSHEET

	YOUR DEDUCTIONS :		AMOUNT
	Mandatory Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
1	I have Federal Income Tax withheld every paycheck in the amount of	$228,951.48	$457,902.96
2	I have Social Security Taxes withheld every paycheck in the amount of	$302.25	$604.50
3	I have Medicare withheld every paycheck in the amount of	$14,042.65	$28,085.30
4	I have Union Dues withheld every paycheck in the amount of		$0.00
5	I have Court-ordered Child Support withheld every paycheck in the amount of		$0.00
6	I have other Court-ordered garnishments withheld every paycheck in the amount of		$0.00
7	I have health insurance premiums withheld every paycheck in the amount of	$133.37	$266.74
8	List all other mandatory deductions, including amounts, withheld every paycheck:		$0.00
	Total MANDATORY Deductions Per Month		**$486,859.50**
	Voluntary Monthly Paycheck Deductions		
	Fill out ALL of the applicable items:		
8	I have Life, Disability, &/or other insurance premiums withheld every paycheck in the amount of		$0.00
9	I have Federal Health Savings Plan every paycheck withheld in the amount of		$0.00
10	I have Retirement/Pension/IRA/401(k) withheld every paycheck in the amount of	$729.17	$1,458.34
11	I have Savings withheld every paycheck in the amount of		$0.00
12	I have other (specify below) voluntary sums withheld every paycheck in the amount of	$677,784.13	$1,355,568.26
13	List all other voluntary deductions, including amounts, withheld every paycheck:		$0.00
14	**Total VOLUNTARY Deductions Per Month**		**$1,357,026.60**
15	TOTAL DEDUCTIONS PER MONTH		**$1,843,886.10**

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR DEDUCTIONS

See Exhibit "A" attached hereto.

Initials

	PERSONAL EXPENSE WORKSHEET: NECESSITIES	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL PAID DIRECTLY BY THE OTHER PARTY FOR ME
	DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.			
1	I own my home [X] / rent / lease my home [ ] / share a home or apartment with someone else [ ]			
	I pay a monthly mortgage/rentlease payment (for the home I live in and/or home the other party lives in) in the amount of	$0.00		
	I pay a monthly second mortgage (for the home I live in and/or home the other party lives in) in the amount of	$0.00		
	I pay a monthly Home Equity Line of Credit ("HELOC") (for the home I live in and/or home other party lives in) in the amount of	$0.00		
	If not included in my mortgage payment(s), I pay property taxes (for the home I live in and/or home the other party lives in) in the amount of	$5,400.00		
	If not included in my mortgage/rent payment(s), I pay a monthly home owners/renters insurance premium (for the home I live in and/or home the other party lives in) in the amount of	$600.00		
	I pay monthly Home Owner's Association dues (for the home I live in and/or the home the other party lives in) in the amount of	$165.00		
	I pay a Special Assessment Fee (for the home I live in and/or the home the other party lives in) in the amount of	$0.00		
2	I pay the following utilities and telephone expenses (for the home I live in and/or the home the other party lives in) each month:			
	Gas/Heating Oil	$1,035.00		
	Electricity	$2,287.00		
	Water	$0.00		
	Garbage and sewer	$0.00		
	Landline (if part of a "bundled" service, indicate the total amount here)	$84.13		
	Cellular service (if not included in the Landline/bundled service above)			
	Internet service (if not included in the landline/bundled service above)	$92.28		
3	I spend the following each month for healthcare related expenses for myself and/or the other party (Not paid from a Health Savings Plan):			
	Medical insurance (including hospitalization, dental, vision, etc.) for myself and/or the other party (that already deducted from my paycheck)			
	Out-of-pocket/unreimbursed cost of medical, dental, optical, and prescription expenses for myself and/or other party	$600.00		
	Out-of-pocket/unreimbursed cost of therapy or counseling (for myself and/or other party)	$2,000.00	$500.00	
4	I spend the following for groceries, household goods and incidentals, not including entertainment or dining out, each month:	$100.00		
5	I own/lease [ ] my car. / I/we own or lease [ ] the other party's car.			
	ADDITIONAL VEHICLES SHOULD BE LISTED ON THE SUPPLEMENT PAGE			
	Monthly loan / lease payment (for my car and/or the other party's car)			
	Gasoline and oil (for my car and/or the other party's car)			
	Automobile Insurance (if you have policy covering more than one car, separate the amount for your car and/or for other party's car)			
	Parking, public transportation, other			
6	I pay the following monthly mandatory amounts for the support of others:			
	Court-ordered child support (if paid to the other party in this case for a child of this relationship, include amount in the "Total Amount I Pay Directly For The Other Party" (right) column. If for a child of another relationship, include amount in the "Total Amount I Pay Directly For Myself" (left) column)			
	Court-ordered spousal support (if paid to the other party in this case, include amount in the "Total Amount I Pay Directly For The Other Party (right) column. If paid to someone else from a prior relationship, include amount in the "Total Amount I pay Directly For Myself" (left) column)			
7	I spend the following each month on education, uniforms, dues, memberships, subscriptions, or other mandatory requirements to maintain employment. I DO NOT receive reimbursement from the employer for any of these expenses:			
	TOTAL NECESSITIES:	$12,518.41	$500.00	$0.00
	* Divide by 3 if paid quarterly; Divide by 6 if paid semi-annually; Divide by 12 if paid annually			

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR NECESSITIES

	PERSONAL EXPENSE WORKSHEET: DISCRETIONARY EXPENSES			TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY FOR ME
	DO NOT REPORT ANY CHILD-RELATED EXPENSES ON THIS PAGE. A SEPARATE PAGE FOR CHILD-RELATED EXPENSES IS ATTACHED.					
8	I spend the following monthly amounts for House Maintenance (for the house I live in and/or the house the other party lives in) each month:					
	House cleaning service			$380.00		
	Garden/lawn care			$150.00		
	Pool/spa service			$228.00		
	Pest Control			$80.00		
	Security / Alarm Service			$130.00		
9	I spend the following monthly amounts for my pet's expenses (food, grooming, healthcare, boarding):					
10	Each month I pay the following minimum credit card and other consumer installment payments on my and/or the other party's credit cards: (List name of Issuing Bank or Lender, last four digits of account number and total outstanding balance) See Exhibit "B" attached hereto					
	Credit Card or entity to whom installment payment is made #1	Amex Opt	Total balance due is	$28,600.00		
	Credit Card or entity to whom installment payment is made #2	Visa Black	Total balance due is	$33,600.00		
	Credit Card or entity to whom installment payment is made #3	Wells Fargo	Total balance due is	$15,000.00		
	Credit Card or entity to whom installment payment is made #4		Total balance due is			
	Credit Card or entity to whom installment payment is made #5		Total balance due is			
	Credit Card or entity to whom installment payment is made #6		Total balance due is			
	Credit Card or entity to whom installment payment is made #7		Total balance due is			
	Credit Card or entity to whom installment payment is made #8		Total balance due is			
11	I spend the following amounts each month for clothing and related expenses:					
	Clothing, shoes and accessories			$800.00		
	Dry cleaning and/or laundry service			$1,000.00		
12	I spend the following each month on appearance (hair, manicures/pedicures, facials, massages, cosmetics, other):			$250.00	$600.00	
13	I spend the following amounts for Entertainment each month (dining out, movies, shows, books, magazines, etc.):			$250.00	$300.00	
14	I pay the following amounts for non-mandatory dues and/or membership fees (professional, fraternal organizations, country club, etc.):			$225.00		
15	I pay the following monthly Health/Exercise-related expenses (health club membership fee(s), personal training, etc.):			$225.00	$825.00	$45.00
16	I spend the following monthly average amount for vacation expenses (total vacation cost per year divided by 12)			$500.00	$600.00	
17	I pay the following monthly premiums for discretionary/non-mandatory insurance (life, disability, other) (NOT already deducted from my paycheck)					
18	I spend the following amount each month on church tithes and/or charitable donations (pro-rate quarterly, semi-annual or annual payments) - See Exhibit "C"					
19	I spend the following amount each month in voluntary support of others:					
	Expenses for an adult non-dependent child (i.e., college, living or other expenses) SPECIFY:					
	Eldercare (specify the parent or parents for whom you pay eldercare expenses)			$1,500.00		
	Sheldon and Marsha Kogod					
20	Each month I pay the following other miscellaneous expenses:					
	PO Box Rental					
	Safety Deposit Box Rental (where located)					
	Storage					
	Other:					
			TOTAL DISCRETIONARY EXPENSES	$88,396.00	$1,725.00	$45.00
			SUBTOTAL FROM ADDITIONAL REAL PROPERTY WORKSHEET	$0.00	$0.00	$0.00
			SUBTOTAL FROM ADDITIONAL VEHICLES WORKSHEET	$0.00	$0.00	$0.00
			TOTAL MONTHLY DISCRETIONARY EXPENSES	$88,396.00	$1,725.00	$45.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR PERSONAL EXPENSES.

For #10 - See Exhibit "B" attached hereto; For #17 - See Exhibit "A" attached hereto

	ADDITIONAL REAL PROPERTY WORKSHEET	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
	Use this Supplemental Worksheet to provide information for any additional real property as needed.			
	ADDITIONAL REAL PROPERTY (HOUSE, CONDO, VACANT LAND, ETC.)			
1	I own this additional property (insert address):			
	If the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of			
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)			
	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
	I pay monthly Home Owner's Association dues in the amount of			
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	Total expenses for this property:	$0.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00	$0.00
2	I own this additional property (insert address):			
	If the other party receives rental income each month for this property in the amount of:			
	I pay a monthly mortgage on the rental property payment in the amount of			
	I pay a monthly second mortgage in the amount of			
	I pay a monthly Home Equity Line of Credit ("HELOC") in the amount of			
	If not included in my mortgage payment(s), I pay property taxes in the amount of (divide payment to reach a monthly amount)			
	If not included in my mortgage payment(s), I pay a monthly home owners/renters insurance premium in the amount of (divide payment to reach a monthly amount)			
	I pay monthly Home Owner's Association dues in the amount of			
	I pay a monthly Special Assessment Fee in the amount of (to calculate a monthly amount divide: quarterly payment by 3; semi-annual payment by 6 or annual payment by 12)			
	I pay the following utilities for this property each month (gas, electricity, water, garbage, sewer, etc.)			
	I pay the following maintenance expenses for this property each month (landscape maintenance, pool, pest control, etc.)			
	I pay other expenses related to the ownership/rental/lease of this home in the amount of (Specify each "other" expense, to whom paid, and the amount below. Insert the TOTAL "Other Expenses" in the appropriate column.)			
	Total expenses for this property:	$0.00	$0.00	$0.00
	NET INCOME/ LOSS FROM THIS PROPERTY:	$0.00	$0.00	$0.00
	TOTAL NET INCOME / LOSS FROM INVESTMENT PROPERTIES:	$0.00	$0.00	$0.00

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ADDITIONAL REAL PROPERTY

DK

Initials
Revised 8/1/14

ADDITIONAL VEHICLES WORKSHEET - See Exhibit "B" attached hereto.	TOTAL AMOUNT I PAY DIRECTLY FOR MYSELF	TOTAL AMOUNT I PAY DIRECTLY FOR THE OTHER PARTY	TOTAL AMOUNT PAID DIRECTLY BY THE OTHER PARTY
Use this Supplemental Worksheet to provide information for any additional motor vehicles as needed.			
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
ADDITIONAL VEHICLES			
We own or lease ____ an additional vehicle. Explain:			
Monthly loan / lease payment for this additional vehicle			
Automobile insurance (if you have policy covering more than one car, separate the amount for this vehicle)			
Total expenses for this additional vehicle:	$0.00	$0.00	$0.00
TOTAL NET INCOME / LOSS FROM VEHICLES:	$0.00	$0.00	$0.00

	CHILD(REN)'S PERSONAL EXPENSE WORKSHEET (ENTER EXPENSES FOR CHILD(REN) OF THIS RELATIONSHIP ONLY)	TOTAL AMOUNT I PAY FOR MINOR CHILD(REN)	TOTAL AMOUNT OTHER PARTY PAYS FOR MINOR CHILD(REN)	TOTAL AMOUNT PAID BY ANOTHER FOR MINOR CHILD(REN)
1	Child(ren)'s monthly expenses for clothes, shoes & accessories:	$600.00	$0.00	
2	Child(ren)'s monthly unreimbursed medical expenses:			
	medical co-pays	$2,225.00	$0.00	
	medication (prescription & over-the-counter)			
	optometry			
	dental and orthodontic			
	physical therapy, counseling, other			
3	Child(ren)'s monthly expenses for telephone, cellular telephone, internet			
4	Child(ren)'s monthly expenses for entertainment, dining out, movies, music, other	$150.00		
5	Child(ren)'s monthly expenses for appearance (hair, manicure/pedicure, facials/massage, cosmetics, other):	$50.00		
6	Children's monthly expenses for insurance (other than health insurance):	$0.00		
7	Child(ren)'s monthly education-related expenses (if paid quarterly, divide by 3; semi-annually, divide by 6; annually, divide by 12):			
	Tuition, books & fees			
	Tutoring	$500.00		
	Special Needs (specify)			
	Uniforms			
	Meals (if not included in tuition)	$100.00		
	Extracurricular (sports, music, art, etc.)	$800.00		
	Other: List specific "other" education expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
8	Childcare expenses (daycare, before and after school care, Nanny, etc.)	$3,990.00		
9	Summer programs / summer camp	$1,000.00		
10	Child(ren)'s vehicle (lease/payment, insurance, gas)			
11	Transportation related to visitation - if the child(ren) live in another city/state (pro-rate expenses over the year for a monthly amount, if necessary):			
	Airfare			
	Car Rental			
	Hotel/Motel			
	Parking (at airport or other)			
	Public Transportation			
	Other: List specific "other" transportation expenses incurred and amount(s) paid, the insert the total in the appropriate column at right.			
12	Child(ren)'s Total Monthly Expenses	$9,415	$0	$0

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR CHILDREN'S PERSONAL EXPENSES

2/13/15 8:11 PM

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER VALUE	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY (explain why if separate) VALUE	GROSS VALUE	Amount you owe on this asset NO. 1	Amount you owe on this asset NO. 2	NET VALUE
	ASSETS							
	BANK ACCOUNTS							
1	BOA Joint Checking		Both		100,000			100,000
2	BOA Pledged		Both		297,491			297,491
3	BOA Investment		Both		593,182			593,182
4	Wells Fargo Checking		Dennis	S	25,000			25,000
5	Wells Fargo Savings		Dennis	S	100,000			100,000
6								0
7	Total From Accounts on Page 7(a)				0	0	0	0
8	Subtotal				1,115,673	0	0	1,115,673
	INVESTMENTS/ SECURITIES							
9	UBS		Family Trust		25,500,000			25,500,000
10								0
11								0
12								0
13								0
14								0
15	Subtotal				25,500,000	0	0	25,500,000
	RETIREMENT ACCOUNTS							
16	Delta Retirement		Dennis	S	651,345			651,345
17	Teacher Pension							0
18	Subtotal				651,345	0	0	651,345
	LIFE INSURANCE POLICIES				WHOLE CASH VALUE			
19	Principal				1,000,000			1,000,000
20	AIG				1,000,000			1,000,000
21	Banks				800,000			800,000
22	Subtotal				2,800,000	0	0	2,800,000
	BUSINESS INTERESTS							
23	Thomasine, LLC Investment				100,000			100,000
24	Pray for Ukrain Investment				81,000			81,000
25	Moe LLC Investment				125,000			125,000
26								0
27								0
28	Subtotal				306,000	0	0	306,000
	RECEIVABLES/ DEBTS							
29	Bus Loan - Kin Mathews				25,000			25,000
30	Personal Loan – Bernie Kogod				25,000			25,000
31	Business Loan - Mitch Kogod				150,000			150,000
32	Personal Loan - Sheldon Kogod				25,000			25,000
33								0
34	Subtotal				225,000	0	0	225,000
	REAL PROPERTY							
35	Oaks Pass		Desks Trust		5,100,000			5,100,000
36	Sea Vincente Condo		Sheldon Kogod		479,600			479,600
37	Canon Condo		Dennis & Brother		552,800			552,800
38								0
39	Subtotal				6,132,600	0	0	6,132,600
40	**AUTOMOBILES**							
41	Automobiles & Boat				1,839,000			1,839,000
42								0
43								0
44	Subtotal				1,839,000	0	0	1,839,000
	PERSONAL PROPERTY							
45	Furnishing Oak Pass			S	55,000			55,000
46	Jewelry/ Watches			S	45,000			45,000
47	Miscellaneous			S	15,000			15,000
48	Subtotal				115,000	0	0	115,000
					38,884,618	0	0	38,884,618

Initials

	2/11/16 4:11 PM								
ITEM			LAST 4 DIGITS OF ACCOUNT NUMBER	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY [explain why it separate]	GROSS	Amount you owe on this asset	Amount you owe on this asset	NET
			VALUE		VALUE	VALUE	NO. 1	NO. 2	VALUE
	LIABILITIES								
	LONG TERM DEBT NOT LISTED ABOVE								
49									0
50									0
51									0
52									0
53									0
54	Subtotal					0			0
	OTHER UNSECURED LIABILITIES								
55									0
56									0
57									0
58									0
59									0
60									0
61									0
62									0
63									0
64	Subtotal					0			0
	TOTAL UNSECURED LIABILITIES					0			0
	NET VALUE OF ASSETS (NET EQUITY)					38,884,618			38,884,618

USE THE SPACE BELOW FOR ANY NOTES/COMMENTS/EXPLANATION YOU WISH TO PROVIDE REGARDING YOUR ASSET AND DEBT CHART

JK

Initials

2/11/15 8:11 PM

ITEM		LAST 4 DIGITS OF ACCOUNT NUMBER	WHOSE NAME IS ON ACCOUNT	ENTER "S" FOR ANY SEPARATE PROPERTY (explain why it separate)	GROSS	Amount you owe on this asset	Amount you owe on this asset	NET
		VALUE		VALUE	VALUE	NO. 1	NO. 2	VALUE
	ADDITIONAL BANK ACCOUNTS							
7a								
7b								
7c								
7d								
7e								
7f								
7g								
7h								
7i								
7j								
7k								
7l								
7m								
7n								
7o								
7p								
7q								
7r								
7s								
7t								
7u								
7v								
7w								
7x								
7y								
7z								
	Subtotal				0	0	0	0

Initials

SIGNATURE PAGE

Please read the questions below and check "yes" or "no."

	YES	NO
1. Are you contributing to anyone's expenses except your current spouse (if any), the other party and/or children as reported herein?	X	
2. Is anyone contributing to your expenses other than your current spouse (if any) or the other party as reported herein?		X
3. Are you providing any voluntary unpaid services to any entity, group or person?		X
4. Have you canceled any monthly services (housecleaning, cable, lawn care, etc) in the past twelve (12) months?		X
5. Have you removed money from any retirement or deferred compensation account in the past twelve (12) months?		X
6. Have you traveled with anyone other than your current spouse (if any) or alone in the past twelve (12) months?	X	
7. Have you transferred assets totaling $600 or more in the past twelve (12) months?	X	
8. Have you deferred receiving any money that you are entitled to receive?		X
9. Is anyone holding money for you?		X
10. Have you accrued sick/vacation days that you can cash out through your employer?		X
11. Do you have money on deposit anywhere? i.e. purchase of a home or car, country club membership, landlord		X
12. Have you prepaid any expenses?		X
13. Have you loaned money totaling over $300 to anyone in the past twelve (12) months?	X	
14. Have you made charitable contributions totaling over $500 in the past twelve (12) months?	X	
15. Does anyone owe you money?	X	
16. Are you owed back child support or spousal support?		X
17. Have you modified your payroll deductions in the past twelve (12) months?		X
18. Are you in Bankruptcy?		X
19. Is your current gross monthly income significantly different (20% or more) from the average for the past 12 months?		X
20. Do you hold any assets outside of the United States?		X

I am the [ ] Plaintiff/Petitioner [X] Defendant/Respondent in the above action. I swear or affirm under penalty of perjury that I read and followed all instructions in completing this Financial Disclosure Form and that the contents of this Financial Disclosure Form are true and correct to the best of my knowledge as of this date. I understand that, by my signature, I verify the material accuracy of the contents of this Form. I also understand that any willful misstatments may be contemptuous and could result in my punishment by the Court.

I understand that I have a duty to supplement the information on this form within ten (10) calendar days of discovering additional assets or debts or upon discovering any incorrectly reported information or upon any changed circumstances.

Executed: 02/27/15 Signature: [signature]

SIGNATURE OF ATTORNEY (If represented by counsel):

By signing this form, the attorney of record certifies that he or she has read the factual statements made by the Declarant, and there exists reasonable basis to believe that this financial disclosure is likely to have evidentiary support after further investigation or discovery.

Executed: _____ Signature: _____

JK

Initials

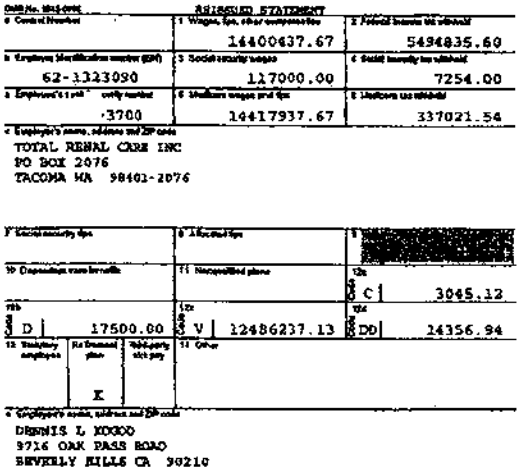
Exhibit A

Exhibit A

2014 Pay Summary for Dennis Kogod

Type	Description	Annual Amt	Annual Total by Type	Monthly Amt	Monthly Total by Type
Earnings	Reg Earnings	800,000.24	14,386,237.37	66,666.69	1,198,853.11
	Bonus	1,100,000.00		91,666.67	
	*Imputed Income for Company Paid Life Insurance**	*3,045.12*		*253.76*	
	*Non Cash Fringe**	*32,856.00*		*2,738.00*	
	Stock Plan Award	12,486,237.13		1,040,519.76	
Taxes	OASDI	7,254.00	6,265,078.84	604.50	522,089.90
	Medicare	337,021.54		28,085.13	
	Fed Withholding	5,494,835.60		457,902.97	
	State Tax - CA	420,617.61		35,051.47	
	State Tax - CA	5,350.09		445.84	
Pre-Tax Deductions	401k	17,500.00	21,700.82	1,458.33	1,808.40
	Dental	961.74		80.15	
	Fed Hlth Tax	126.10		10.51	
	Medical	1,983.02		165.25	
	Vision	130.00		10.83	
	Spouse Points	800.02		66.67	
	TM Points	199.94		16.66	
After-Tax Deductions	Vol ADD	60.06	7,706,441.85	5.01	642,203.49
	DaPac	2,405.00		200.42	
	DVN	364.00		30.33	
	DVV Trust	728.00		60.67	
	Legal	189.02		15.75	
	Sup Life	489.80		40.82	
	Basic LTD	241.80		20.15	
	Supp LTD	967.20		80.60	
	Net Option	3,189,633.33		265,802.78	
	Net Stock Option	4,510,459.10		375,871.59	
	STD Buy-up	604.50		50.38	
	Phone	300.04		25.00	
TOTALS			393,015.86		32,751.32

*Imputed income and non-cash fringe are added to earnings only so they can be taxed, they do not count as regular income, so they are not represented in the earnings subtotals.



CORRECTED STATEMENT

d Control Number	1 Wages, tips, other compensation 14400437.67	2 Federal income tax withheld 5494835.60
b Employer identification number (EIN) 62-1323090	3 Social security wages 117000.00	4 Social security tax withheld 7254.00
e Employee's social security number -3700	5 Medicare wages and tips 14417937.67	6 Medicare tax withheld 337021.54

c Employer's name, address and ZIP code
TOTAL RENAL CARE INC
PO BOX 2076
TACOMA WA 98401-2076

7 Social security tips	8 Allocated tips	9 [redacted]
10 Dependent care benefits	11 Nonqualified plans	12a C 3045.12
13 Statutory employee / Retirement plan / Third-party sick pay: X	14 Other	12b D 17500.00
		12c V 12486237.13
		12d DD 14356.94

e Employee's name, address and ZIP code
DENNIS L KOGOD
9716 OAK PASS ROAD
BEVERLY HILLS CA 90210

15 State CA	Employer's state I.D. no. 39769179	16 State wages, tips, etc. 14400437.67
17 State income tax 425967.70	18 Local wages, tips, etc.	
19 Local income tax	20 Locality name	

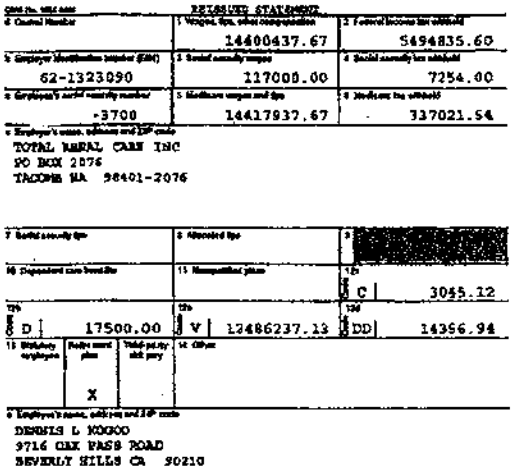
2014 W-2

Wage and Tax Statement

Copy C For EMPLOYEE'S RECORDS (See Notice to Employee on back of Copy B.)

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligent penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

Department of the Treasury - Internal Revenue Service



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TOTAL RENAL CARE INC
PO BOX 2076
TACOMA WA 98401-2076

7 Social security tips	8 Allocated tips	9 [redacted]
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		12c V 12486237.13
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DENNIS L KOGOD
9716 OAK PASS ROAD
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17 State income tax 425967.70	18 Local wages, tips, etc.	
19 Local income tax	20 Locality name	

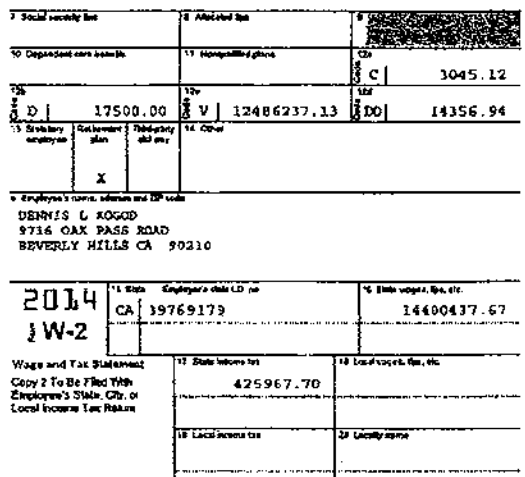
2014 W-2

Wage and Tax Statement

Copy B To Be Filed With Employee's FEDERAL Tax Return.

This information is being furnished to the Internal Revenue Service.

Department of the Treasury - Internal Revenue Service



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c Employer's name, address and ZIP code
TOTAL RENAL CARE INC
PO BOX 2076
TACOMA WA 98401-2076

7 Social security tips	8 Allocated tips	9 [redacted]
10 Dependent care benefits	11 Nonqualified plans	12a C 3045.12
13 Statutory employee / Retirement plan / Third-party sick pay: X	14 Other	12b D 17500.00
		12c V 12486237.13
		12d DD 14356.94

e Employee's name, address and ZIP code
DENNIS L KOGOD
9716 OAK PASS ROAD
BEVERLY HILLS CA 90210

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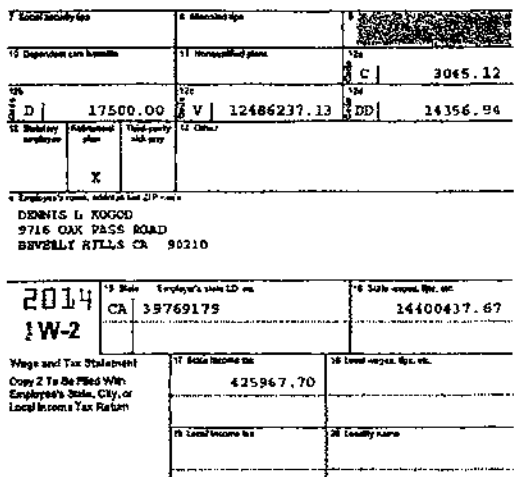
17 State income tax 425967.70	18 Local wages, tips, etc.	
19 Local income tax	20 Locality name	

2014 W-2

Wage and Tax Statement

Copy 2 To Be Filed With Employee's State, City, or Local Income Tax Return

Department of the Treasury - Internal Revenue Service



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TOTAL RENAL CARE INC
PO BOX 2076
TACOMA WA 98401-2076

7 Social security tips	8 Allocated tips	9 [redacted]
10 Dependent care benefits	11 Nonqualified plans	12a C 3045.12
13 Statutory employee / Retirement plan / Third-party sick pay: X	14 Other	12b D 17500.00
		12c V 12486237.13
		12d DD 14356.94

e Employee's name, address and ZIP code
DENNIS L KOGOD
9716 OAK PASS ROAD
BEVERLY HILLS CA 90210

15 State CA	Employer's state I.D. no. 39769179	16 State wages, tips, etc. 14400437.67
17 State income tax 425967.70	18 Local wages, tips, etc.	
19 Local income tax	20 Locality name	

2014 W-2

Wage and Tax Statement

Copy 2 To Be Filed With Employee's State, City, or Local Income Tax Return

Department of the Treasury - Internal Revenue Service

REISSUED STATEMENT

b Employer identification number (EIN)
62-1323090

e Employee's social security number
-3700

c Employer's name, address and ZIP code
TOTAL RENAL CARE INC
PO BOX 2076
TACOMA WA 98401-2076

12b W 900.00

f Employee's name, address and ZIP code
DENNIS L KOGOD
9716 OAK PASS ROAD
BEVERLY HILLS CA 90210

2014 W-2

Wage and Tax Statement

Copy C For EMPLOYEE'S RECORDS (See Notice to Employee on back of Copy B.)

Copy B To Be Filed With Employee's FEDERAL Tax Return.

Copy 2 To Be Filed With Employee's State, City, or Local Income Tax Return

Exhibit B

Exhibit B

Dennis Kogod Financial Disclosure 7-Feb-15

Assets

Description	Acct #	Owned	HOA/YR	Estimated Value	Name on Acct	Annual Taxes /Registration
Home	Oak Pass	Yes	1500	5,100,000	Denika Trust	60,000
Condo	San Vicente	Yes	7,200	479,800	Sheldon Kogod	7,500
Condo	Canon	yes	6,500	552,800	Dennis/Mitch	8,500
Boat	Marquis	yes	24,000	1,100,000	Denika	9,000,000
Car	13 Ferrari	yes		279,000	Self	2,500
Car	15 Bentley	yes		255,000	Self	2,500
Car	14 Mercedes	No	6,500 Lease		Self	1,500
Car	15 Bentley	yes		205,000	Nadine	2,500
Car	13 Hyundai	No	4,000		Sheldon Kogod	1,000

Bank Accounts

BANK	Description	Estimated Daily Balance	Name on Account		
BOA	Joint Checking	100,000	Dennis and Gabrielle		
BOA	Pledged/ 0093	297,491	Dennis and Gabrielle		
BOA	Investment/ .0637	593,182	Dennis and Gabrielle		
Wells Fargo	Checking	25,000	Dennis		
Wells Fargo	Savings	100,000	Dennis		
UBS	Investment Acct	25,500,000	Family Trust		

Furniture and Jewerly

Description		Estimate Value				
Furnishing Oak Pass		55,000				
Jewlerly/Watches		45,000				
Misc		15,000				

Retirement Account

Description	Current Value					
Davita Retirement	651,345.23					
Teleflex Pension	900.00 per month paid at age 65					

Credit Cards

Card	Last 4 Digits	Revolving	Paid Monthly in Full	Average Monthly Balance		
Amex Opt	2003	yes		25,000		
Amex Plat	9008		Yes	0		
Amex Centurion	2007		Yes	0		
Visa Black	5185	yes		23,000		
Wells Fargo	1032	Yes		15,000		
Citi Card	7911	Yes		0		

Loans/Loc/Lease

Description			Annual Payments			
Mercedes Lease			7000			
Hyundai Lease	Paid by my father					

Insurance Policies

Description	Term/Whole	Beneficiary	Policy Amount	Annual Cost		
Principal	Whole	Nadine/Kids	1,000,000	6364.12		
AIG	Term	Nadine/Kids	1,000,000	2697.5		
DaVita	Whole	Gabrielle	800,000	3045.12		

Receivables

Description	Owed by Whom	Purpose	Balance	Due	Interest	
Loan	Kim Matthews	Bus Loan	25,000	6/1/2015	12%	
Loan	Bernie Kogod	Personal	25,000	6/1/2015	5%	
Loan	Mitch Kogod	Business	150,000	12/31/2015	5%	
Loan	Sheldon Kogod	Personal	25,000	Will	3%	

Miscellaneous

Description	Details	Purpose	Value			
Thomasina LLC	Production Project	Investment	100,000			
Pray for Ukraine	Production Project	Investment	81,000			
Moe LL	Fashion	Investment	125,000			

Form 1040 U.S. Individual Income Tax Return (99) 2014

OMB No. 1545-0074 | IRS Use Only - Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 2014, or other tax year beginning , 2014, ending 20 | See separate instructions.

Your first name and initial: DENNIS L.	Last name: KOGOD	Your social security number: [redacted]
If a joint return, spouse's first name and initial: GABRIELLE R.	Last name: CIOFFI - KOGOD	Spouse's social security number: [redacted]
Home address (number and street). If you have a P.O. box, see instructions.: 9716 OAK PASS RD	Apt. no.	▲ Make sure the SSN(s) above and on line 6c are correct.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below.: BEVERLY HILLS, CA 90210		Presidential Election Campaign: Check here if you, or your spouse if filing jointly, want $3 to go to this fund. Checking a box below will not change your tax or refund. ☐ You ☐ Spouse
Foreign country name	Foreign province/state/county	Foreign postal code

Filing Status (Check only one box.)

1 ☐ Single
2 ☒ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a — Boxes checked on 6a and 6b: 2
b ☒ Spouse — No. of children on 6c who:

c Dependents:

(1) First name / Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if child under age 17 qualifying for child tax credit

If more than four dependents, see instructions and check here ▶ ☐

- lived with you
- did not live with you due to divorce or separation (see instructions)

Dependents on 6c not entered above

Add numbers on lines above ▶ 2

d Total number of exemptions claimed 2

Income (Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld. If you did not get a W-2, see instructions.)

7	Wages, salaries, tips, etc. Attach Form(s) W-2			7	14,459,056.
8a	Taxable interest. Attach Schedule B if required			8a	133,666.
b	Tax-exempt interest. Do not include on line 8a	8b	60,099.		
9a	Ordinary dividends. Attach Schedule B if required			9a	284,303.
b	Qualified dividends	9b	96,223.		
10	Taxable refunds, credits, or offsets of state and local income taxes STMT 5 STMT 7			10	STMT 9 4,052.
11	Alimony received			11	
12	Business income or (loss). Attach Schedule C or C-EZ			12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐			13	316,327.
14	Other gains or (losses). Attach Form 4797			14	13,742.
15a	IRA distributions 15a		b Taxable amount	15b	
16a	Pensions and annuities 16a		b Taxable amount	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			17	-234,657.
18	Farm income or (loss). Attach Schedule F			18	
19	Unemployment compensation			19	
20a	Social security benefits 20a		b Taxable amount	20b	
21	Other income. List type and amount			21	
22	Combine the amounts in the far right column for lines 7 through 21. This is your total income ▶			22	14,976,489.

Adjusted Gross Income

23	Educator expenses	23		
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24		
25	Health savings account deduction. Attach Form 8889	25		
26	Moving expenses. Attach Form 3903	26		
27	Deductible part of self-employment tax. Attach Schedule SE	27		
28	Self-employed SEP, SIMPLE, and qualified plans	28		
29	Self-employed health insurance deduction	29		
30	Penalty on early withdrawal of savings	30		
31a	Alimony paid b Recipient's SSN ▶	31a		
32	IRA deduction	32		
33	Student loan interest deduction	33		
34	Tuition and fees. Attach Form 8917	34		
35	Domestic production activities deduction. Attach Form 8903	35		
36	Add lines 23 through 35		36	
37	Subtract line 36 from line 22. This is your adjusted gross income ▶		37	14,976,489.

Kogod, Plif
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Form 1040 (2014) DENNIS L. KOGOD & GABRIELLE R. CIOFFI - [redacted] Page 2

Tax and Credits	38	Amount from line 37 (adjusted gross income)		38	14,976,489.
Standard Deduction for - • People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions. • All others: Single or Married filing separately, $6,200 Married filing jointly or Qualifying widow(er), $12,400 Head of household, $9,100	39a	Check { You were born before January 2, 1950, Blind. / Spouse was born before January 2, 1950, Blind. } Total boxes checked ▶ 39a			
	b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b			
	40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)		40	123,818.
	41	Subtract line 40 from line 38		41	14,852,671.
	42	Exemptions. If line 38 is $152,525 or less, multiply $3,950 by the number on line 6d. Otherwise, see inst.		42	0.
	43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		43	14,852,671.
	44	Tax. Check if any from: a ☐ Form(s) 8814 b ☐ Form 4972 c ☐		44	5,758,808.
	45	Alternative minimum tax. Attach Form 6251		45	0.
	46	Excess advance premium tax credit repayment. Attach Form 8962		46	
	47	Add lines 44, 45, and 46 ▶		47	5,758,808.
	48	Foreign tax credit. Attach Form 1116 if required	4,440.		
	49	Credit for child and dependent care expenses. Attach Form 2441			
	50	Education credits from Form 8863, line 19			
	51	Retirement savings contributions credit. Attach Form 8880			
	52	Child tax credit. Attach Schedule 8812, if required			
	53	Residential energy credits. Attach Form 5695			
	54	Other credits from Form: a ☐ 3800 b ☐ 8801 c ☐			
	55	Add lines 48 through 54. These are your total credits		55	4,440.
	56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- ▶		56	5,754,368.
Other Taxes	57	Self-employment tax. Attach Schedule SE		57	
	58	Unreported social security and Medicare tax from Form: a ☐ 4137 b ☐ 8919		58	
	59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required		59	
	60a	Household employment taxes from Schedule H		60a	
	b	First-time homebuyer credit repayment. Attach Form 5405 if required		60b	
	61	Health care: individual responsibility (see instructions) Full-year coverage [X]		61	
	62	Taxes from: a [X] Form 8959 b [X] Form 8960 c ☐ Inst.; enter code(s) STATEMENT 13		62	151,469.
	63	Add lines 56 through 62. This is your total tax ▶		63	5,905,837.
Payments	64	Federal income tax withheld from Forms W-2 and 1099	5,629,791.		STATEMENT 12
If you have a qualifying child, attach Schedule EIC.	65	2014 estimated tax payments and amount applied from 2013 return			
	66a	Earned income credit (EIC)			
	b	Nontaxable combat pay election 66b			
	67	Additional child tax credit. Attach Schedule 8812			
	68	American opportunity credit from Form 8863, line 8			
	69	Net premium tax credit. Attach Form 8962			
	70	Amount paid with request for extension to file	335,000.		
	71	Excess social security and tier 1 RRTA tax withheld			
	72	Credit for federal tax on fuels. Attach Form 4136			
	73	Credits from Form: a ☐ 2439 b ☐ Reserved c ☐ Reserved d ☐			
	74	Add lines 64, 65, 66a, and 67 through 73. These are your total payments ▶		74	5,964,791.
Refund	75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid		75	58,954.
Direct deposit? See instructions.	76a	Amount of line 75 you want refunded to you. If Form 8888 is attached, check here ▶ ☐		76a	58,954.
	b	Routing number ▶ c Type: ☐ Checking ☐ Savings ▶ d Account number			
	77	Amount of line 75 you want applied to your 2015 estimated tax ▶	77		
Amount You Owe	78	Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions ▶		78	
	79	Estimated tax penalty (see instructions)	79		

Third Party Designee Do you want to allow another person to discuss this return with the IRS (see instructions)? [X] Yes. Complete below. ☐ No

Designee's name ▶ PAUL S. BLEEG Phone no. ▶ (415) 974-6000 Personal identification number (PIN) ▶ 23392

Sign Here Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return? See instructions. Keep a copy for your records.

Your signature	Date	Your occupation	Daytime phone number
		PRESIDENT	949-285-8969
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent you an Identity Protection PIN, enter it here
		REGISTERED NURSE	

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
PAUL S. BLEEG	PAUL S. BLEEG			P00823392

Firm's name ▶ EISNERAMPER LLP Firm's EIN ▶ 13-1639826

Firm's address ▶ ONE MARKET, LANDMARK, SUITE 620 SAN FRANCISCO, CA 94105-1522 Phone no. (415) 974-6000

410022 12-31-14

Kogod, Pltf
12802

SCHEDULE A (Form 1040)
Department of the Treasury Internal Revenue Service (99)
Name(s) shown on Form 1040

Itemized Deductions

▶ Information about Schedule A and its separate instructions is at www.irs.gov/schedulea
▶ Attach to Form 1040.

OMB No. 1545-0074
2014
Attachment Sequence No. 07
Your social security number [redacted]

DENNIS L. KOGOD & GABRIELLE R. CIOFFI - KOGOD

Medical and Dental Expenses		Caution. Do not include expenses reimbursed or paid by others.			
	1	Medical and dental expenses (see instructions)	1		
	2	Enter amount from Form 1040, line 38	2		
	3	Multiply line 2 by 10% (.10). But if either you or your spouse was born before January 2, 1950, multiply line 2 by 7.5% (.075) instead	3		
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-			4
Taxes You Paid	5	State and local (check only one box): a [X] Income taxes, or b [ ] General sales taxes — SEE STATEMENT 15	5	468,104.	
	6	Real estate taxes (see instructions) — SEE STATEMENT 20	6	66,922.	
	7	Personal property taxes	7		
	8	Other taxes. List type and amount ▶	8		
	9	Add lines 5 through 8			9 535,026.
Interest You Paid	10	Home mortgage interest and points reported to you on Form 1098 — STMT 17	10	15,500.	
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address ▶	11		
Note. Your mortgage interest deduction may be limited (see instructions).	12	Points not reported to you on Form 1098. See instructions for special rules	12		
	13	Mortgage insurance premiums (see instructions)	13		
	14	Investment interest. Attach Form 4952 if required. (See instructions.) STMT 18	14	7,925.	
	15	Add lines 10 through 14			15 23,425.
Gifts to Charity	16	Gifts by cash or check. If you made any gift of $250 or more, see instructions	16	5,510.	STMT 16
	17	Other than by cash or check. If any gift of $250 or more, see instructions. You must attach Form 8283 if over $500	17		
If you made a gift and got a benefit for it, see instructions.	18	Carryover from prior year	18		
	19	Add lines 16 through 18			19 5,510.
Casualty and Theft Losses	20	Casualty or theft loss(es). Attach Form 4684. (See instructions.)			20
Job Expenses and Certain Miscellaneous Deductions	21	Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ▶	21		
	22	Tax preparation fees	22		
	23	Other expenses - investment, safe deposit box, etc. List type and amount ▶ SEE STATEMENT 14	23	139,852.	
	24	Add lines 21 through 23	24	139,852.	
	25	Enter amount from Form 1040, line 38 — 25 4,976,489.			
	26	Multiply line 25 by 2% (.02)	26	299,530.	
	27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-			27 0.
Other Miscellaneous Deductions	28	Other - from list in instructions. List type and amount ▶			28
Total Itemized Deductions	29	Is Form 1040, line 38, over $152,525? [ ] No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. [X] Yes. Your deduction may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter.	STMT 19		29 123,818.
	30	If you elect to itemize deductions even though they are less than your standard deduction, check here ▶ [ ]			

SCHEDULE B (Form 1040A or 1040)

Department of the Treasury Internal Revenue Service (99)

Name(s) shown on return

Interest and Ordinary Dividends

▶ Attach to Form 1040A or 1040.

▶ Information about Schedule B and its instructions is at www.irs.gov/schedulesb

OMB No. 1545-0074

2014

Attachment Sequence No. 08

Your social security number

DENNIS L. KOGOD & GABRIELLE R. CIOFFI - KOGOD

[redacted]

Part I Interest

1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see instructions and list this interest first. Also, show that buyer's social security number and address ▶

		Amount
SEE STATEMENT 21	1	193,442.
SUBTOTAL FOR LINE 1		193,442.
TAX-EXEMPT INTEREST SEE STATEMENT 23		-59,776.

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

2	Add the amounts on line 1	2	133,666.
3	Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815	3	
4	Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a ▶	4	133,666.

Note. If line 4 is over $1,500, you must complete Part III.

Part II Ordinary Dividends

5 List name of payer ▶

		Amount
SEE STATEMENT 22	5	284,618.
SUBTOTAL FOR LINE 5		284,618.
TAX-EXEMPT DIVIDENDS SEE STATEMENT 24		-315.

Note. If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

6	Add the amounts on line 5. Enter the total here and on Form 1040A, or Form 1040, line 9a ▶	6	284,303.

Note. If line 6 is over $1,500, you must complete Part III.

Part III Foreign Accounts and Trusts

You must complete this part if you (a) had over $1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

		Yes	No
7a	At any time during 2014, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions		X
	If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements		
b	If you are required to file FinCen Form 114, enter the name of the foreign country where the financial account is located ▶		
8	During 2014, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions		X

427501 11-07-14

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule B (Form 1040A or 1040) 2014

Kogod, Pltf
12804

01976

Interest and Dividend Summary

Name: DENNIS L. KOGOD & GABRIELLE R. CIOFFI - KOGOD FEIN/SSN: 217-62-3700

Payer	Interest	Interest on U.S. Savings Bonds	Tax-Exempt Interest	Private Activity Interest	Original Issue Discount (OID)	Ordinary Dividends	Qualified Dividends	Capital Gain Distributions	Federal Income Tax Withheld	State Tax Withheld	Foreign Tax Paid
BANK OF AMERICA #0129	77.										
BANK OF AMERICA #6446	42.										
MERRILL LYNCH #10093	48.		5,625.								
MERRILL LYNCH #10093 BOND											
PREMIUM			-28.								
MERRILL LYNCH #10637	19.		16,378.								
MERRILL LYNCH #10637 BOND											
PREMIUM			-7,581.								
UBS #12743	272.										
UBS #13134	30.		85,918.								
UBS #13134 BOND PREMIUM			-36,872.								
MERRILL LYNCH #10637			16.			1,782.	1,745.	3.			8.
UBS #12743						115,307.	91,736.	119,893.			3,645.
UBS #12745			299.			56,420.		90.			
UBS #15899						89,715.					
UBS #13134 ACCRUED INTEREST											
PAID			-3,679.								
UBS #13134 OID			15.								
UBS #15899	1,458.										
FROM K-1 - APOLLO EUROPEAN											
CREDIT FUND LP	37,011.					406.	406.				
FROM K-1 - O'CONNOR GLOBAL											
MULTI-STRATEGY ALPHA WM LLC	26.					428.	356.				
FROM K-1 - ALPHAKEYS RIALTO											
REAL ESTATE FUND LLC	30,019.										
TOTALS	130,123.	3,543.	60,099.			284,303.	96,223.	119,986.			3,653.

430191 05-01-14

5.1

Kogod, Plif
12805

Interest and Dividend Summary

Name: DENNIS L. KOGOD & GABRIELLE R. CIOFFI - KOGOD FEIN/SSN: 217-62-3700

Payer	Interest	Interest on U.S. Savings Bonds	Tax-Exempt Interest	Private Activity Interest	Original Issue Discount (OID)	Ordinary Dividends	Qualified Dividends	Capital Gain Distributions	Federal Income Tax Withheld	State Tax Withheld	Foreign Tax Paid
FROM K-1 - THE CAMPBELL FUND											
TRUST - SERIES A	1,669.										
FROM K-1 - NEW ENTERPRISE											
ASSOCIATES 14 LP	355.										
FROM K-1 - ALPHAKEYS RIALTO											
REAL ESTATE FUND II LLC	19,568.					204.	204.				
FROM K-1 - ALPHAKEYS KRR											
ENERGY INCOME FUND LLC	2,493.										
FROM K-1 - ALPHAKEYS MILLENIUM											
FUND III LLC	4,162.					3,849.	1,778.				
FROM K-1 - ALPHAKEYS EUROPEAN											
REAL ESTATE OPPORTUNITIES FUND											
LLC	2,939.					200.					
FROM K-1 - O'CONNOR GLOBAL											
MULTI-STRATEGY ALPHA WM LLC	29,935.					15,992.					
FROM K-1 - O'CONNOR GLOBAL											
MULTI-STRATEGY ALPHA WM LLC			8.								
FROM K-1 - O'CONNOR GLOBAL											
MULTI-STRATEGY ALPHA WM LLC		140.									
FROM K-1 - THE CAMPBELL FUND											
TRUST - SERIES A		18.									
FROM K-1 - ALPHAKEYS MILLENIUM											
FUND III LLC		3,385.									
TOTALS											

430191 05-01-14

3,4

Kogod, Pltf
12806

SCHEDULE D (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Capital Gains and Losses

▶ Attach to Form 1040 or Form 1040NR.

▶ Information about Schedule D and its separate instructions is at www.irs.gov/schedulesd.

▶ Use Form 8949 to list your transactions for lines 1b, 2, 3, 8b, 9, and 10.

OMB No. 1545-0074

2014

Attachment Sequence No. 12

Name(s) shown on return

DENNIS L. KOGOD & GABRIELLE R. CIOFFI - KOGOD

Your social security number

[redacted]

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part I, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
1a Totals for all short-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 1b				
1b Totals for all transactions reported on Form(s) 8949 with Box A checked	172,688.	172,662.	146.	172.
2 Totals for all transactions reported on Form(s) 8949 with Box B checked	12,651,955.	12,668,662.		<16,707.>
3 Totals for all transactions reported on Form(s) 8949 with Box C checked				

4	Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824 STMT 25	4	50,179.
5	Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 SEE STATEMENT 27	5	23,792.
6	Short-term capital loss carryover. Enter the amount, if any, from line 8 of your Capital Loss Carryover Worksheet in the instructions	6	( )
7	Net short-term capital gain or (loss). Combine lines 1a through 6 in column (h). If you have any long-term capital gains or losses, go to Part II below. Otherwise, go to Part III on page 2	7	57,436.

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part II, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
8a Totals for all long-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 8b				
8b Totals for all transactions reported on Form(s) 8949 with Box D checked	362,745.	360,167.		2,578.
9 Totals for all transactions reported on Form(s) 8949 with Box E checked	962,379.	1,023,437.		<61,058.>
10 Totals for all transactions reported on Form(s) 8949 with Box F checked				

11	Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824 SEE STATEMENT 26 SEE STATEMENT 28	11	79,129.
12	Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1	12	118,256.
13	Capital gain distributions SEE STATEMENT 29	13	119,986.
14	Long-term capital loss carryover. Enter the amount, if any, from line 13 of your Capital Loss Carryover Worksheet in the instructions	14	( )
15	Net long-term capital gain or (loss). Combine lines 8a through 14 in column (h). Then go to Part III on page 2	15	258,891.

Part III Summary

16	Combine lines 7 and 15 and enter the result	16	316,327.
	• If line 16 is a gain, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below. • If line 16 is a loss, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. • If line 16 is zero, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22.		
17	Are lines 15 and 16 both gains? [X] Yes. Go to line 18. [ ] No. Skip lines 18 through 21, and go to line 22.		
18	Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet in the instructions ▶	18	
19	Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet in the instructions SEE STATEMENT 30 ▶	19	1.
20	Are lines 18 and 19 both zero or blank? [ ] Yes. Complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). Do not complete lines 21 and 22 below. [X] No. Complete the Schedule D Tax Worksheet in the instructions. Do not complete lines 21 and 22 below.		
21	If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of: • The loss on line 16 or • ($3,000), or if married filing separately, ($1,500) Note. When figuring which amount is smaller, treat both amounts as positive numbers.	21	( )
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? [ ] Yes. Complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). [ ] No. Complete the rest of Form 1040 or Form 1040NR.		

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IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD,

Appellant,

vs.

GABRIELLE CIOFFI-KOGOD,

Respondent.

Case No. 71147

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX
Volume 9

Docket 71147 Document 2017-11537

DOCUMENT	VOLUME	PAGE NO.
Acceptance of Service filed on April 24, 2014	1	14
Acceptance of Service Filed on November 6, 2015	2	394
Amended Notice of Cross-Appeal filed on September 23, 2016	46	9032-9148
Answer to Complaint for Divorce and Counterclaim filed on November 24, 2014	1	19-24
Case Appeal Statement filed on August 23, 2016	44	8590-8593
Case Appeal Statement, filed on December 13, 2016	47	9287-9290
Case Cross-Appeal Statement filed on September 21, 2016	46	9028-9031
Case Cross-Appeal Statement, filed on December 23, 2016	47	9298-9301
Certificate of Service filed on March 2, 2015	1	66
Certificate of Service filed on June 2, 2015	1	85-86
Certificate of Service filed on January 25, 2016	4	712
Certificate of Service filed on June 21, 2016	42	8082
Certificate of Service filed on September 14, 2016	45	8704-8802
Certification of Copy of Exhibits Presented at the 2/23/16-2/26/16 Non-Jury Trial, dated December 8, 2016	10	1876-1894
Certification of Copy Clerks List	41	7980-7983
Complaint for Divorce filed on December 13, 2013	1	1-6
Defendant's Closing Brief filed on August 1, 2016	43	8415-8473
Defendant, Dennis Kogod's, Reply to Plaintiff's, Gabrielle Cioffi-Kogod's, Opposition to Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the deposition of Jennifer Crute Steiner and Opposition to Plaintiff's Countermotion for Attorney Fees and Costs filed on June 25, 2015	1	151-178
Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	1	87-110
Defendant's Exhibits Vol. I:	33	6161-7979

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit D- Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	33	6162-6209
Defendant's Exhibit F- Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	33	6210-6215
Defendant's Exhibit S- Bank of America Joint Checking Account Ending 6446 Statement From December 1, 2015 to December 31, 2015	33	6216-6223
Defendant's Exhibit T- Bank of America Checking Account ending in 0129 Statement from December 1, 2015 to December 31, 2015	33	6224-6229
Defendant's Exhibit U- Wells Fargo Complete Advantage Checking Account Ending 5397 Statement from January 9, 2016 to February 5, 2016	33	6230-6239
Defendant's Exhibit V- Wells Fargo PMA Account ending 8870 Statement from January 9, 2016 to February 5, 2016	33	6240-6242
Defendant's Exhibit W- UBS Trust – Fee Base ending 743 Statement From January 2016	33	6243-6252
Defendant's Exhibit X- UBS Checking ending 745 Statement for January 2016	33	6253-6264
Defendant's Exhibit Y- UBS Trust – PWS/GAM ending 134 Statement for January 2016	33	6265-6282
Defendant's Exhibit Z- UBS Stock Option ending 999 Statement for January 2016	33	6283-6290
Defendant's Exhibit AA- Merrill Lynch Ending 588 Statement from December 01, 2015 to December 31, 2015	33	6291-6360
Defendant's Exhibit BB- UBS Trust – Fee Base ending 43 Statement for January 2016	34	6361-6368
Defendant's Exhibit CC- Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	34	6369-6372
Defendant's Exhibit DD- Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	34	6373-6375
Defendant's Exhibit EE- Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015	34	6376-6378
Defendant's Exhibit LL- UBS Premier Variable Credit Line ending 027 Statement for January 2016	34	6379-6384

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit MM- American Express Centurion Account ending 3005	34	6385-6396
Defendant's Exhibit NN- American Express Platinum Account ending 2003 Statement from January 18, 2016 to February 6, 2016	34	6397-6401
Defendant's Exhibit OO- American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	34	6402-6406
Defendant's Exhibit PP- Master Card Account ending 1588 Statement From January 07, 2016 to February 06, 2016	34	6407-6412
Defendant's Exhibit QQ- Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	34	6413-6419
Defendant's Exhibit RR- Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	34	6420-6423
Defendant's Exhibit SS- Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	34	6424-6427
Defendant's Exhibit TT- Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	34	6428
Defendant's Exhibit UU- Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	34	6429-6431
Defendant's Exhibit VV- Nordstorm Account ending 992 Statement from November 13, 2015 to December 13, 2015	34	6432-6436
Defendant's Exhibit WW- TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016	34	6437-6439
Defendant's Exhibit XX- Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, Filed February 25, 2015	34	6440-6456
Defendant's Exhibit AAA- Email from Eugene to Dennis Dated: February 12, 2012	34	6457-6459
Defendant's Exhibit BBB- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: House	34	6460-6464
Defendant's Exhibit CCC- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: Misc.	34	6465-6467
Defendant's Exhibit DDD- Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	34	6468-6470
Defendant's Exhibit EEE- Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	34	6471-6473

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit FFF- Various Checks from Gabrielle to Stephanie Cioff Re: Stephanie's Birthday	34	6474-6476
Defendant's Exhibit GGG- Check from Dennis to Escrow of the West Re: 128 N. Edinburch	34	6477
Defendant's Exhibit HHH- Various Checks from Gabrielle to Cash	34	6478-6496
Defendant's Exhibit III- Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	34	6497-6507
Defendant's Exhibit KKK- Notice of Entry of Stipulation and Order Filed on August 12, 2015	34	6508-6513
Defendant's Exhibit LLL- Email from Dennis to Gabrielle Dated: December 8, 2011	34	6514-6515
Defendant's Exhibit NNN- Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	34	6516-656
Defendant's Exhibit OOO- Gabrielle Kogod's Resume	34	6561-6564
Defendant's Exhibit PPP- Plaintiff's Response to Defendant's First Set of Interrogatories Dated May 18, 2015	35	6565-6589
Defendant's Exhibit QQQ- Plaintiff's Response to Defendant's Second Set of Interrogatories Served on October 20, 2015	35	6590-6597
Defendant's Exhibit RRR- Plaintiff's Response to Defendant's Third Set of Interrogatories Served on October 29, 2015	35	6598-6603
Defendant's Exhibit SSS- Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	35	6604-6683
Defendant's Exhibit TTT- New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	35	6684-6706
Defendant's Exhibit UUU- Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	36	6707-6906
Defendant's Exhibit UUU- Continued Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	37	6907-7034
Defendant's Exhibit VVV- Davita Power Point Regarding 2015 Long Term Incentive Program	37	7035-7041

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit XXX- Davita Cash Performance Award Agreement, Exhibit B	37	7042-7048
Defendant's Exhibit YYY- Email from Radiology Partners regarding 2014 Tax Compliance	37	7049-7059
Defendant's Exhibit ZZZ- Radiology Partners Member Equity Statement Dated: July 31, 2015	37	7060
Defendant's Exhibit AAAA- Radiology Partners Practice Update, Dated July 31, 2015	37	7061-7067
Defendant's Exhibit FFFF- Kogod Equity Analysis of Dennis' outstanding Long-term incentives (Equity Bases and Cash-Based) and Explanation	37	7068-7070
Defendant's Exhibit GGGG- Thomasina Distribution Agreement	37	7071-7126
Defendant's Exhibit HHHH- Pray for Ukraine Agreement Dated: October 16, 2014	37	7127-7132
Defendant's Exhibit IIII- UBS Resource Management account Ending 899 Statement for February 2016	37	7133-7134
Defendant's Exhibit JJJJ- 2015 W-2 issued to Dennis L. Kogod	37	7135-7137
Defendant's Exhibit KKKK- Principle Life Insurance Company Statement for February 18 2016	37	7138-7139
Defendant's Exhibit LLLL- Email from Denise to Dennis Kogod	38	7140
Defendant's Exhibit MMMM- Filing with US Security and Exchange Commission	38	7141-7142
Defendants Exhibit NNNN- Email 2/23/16 Re: Award of 76,766 Shares And Sale of $33,290 Shares for Tax Purposes	38	7143-7144
Defendant's Exhibit OOOO- Assets & Debt Chart	38	7145-7148
Defendant's Exhibit PPPP- Martial Balance Sheet	38	7149-7151
Defendant's Exhibit QQQQ- Costs & Fees Through 1/31/16	38	7152-7174
Defendant's Exhibit RRRR- Jimmerson Fees	38	7175-7340
Defendant's Exhibit SSSS- Depo of Eugene Cioffi February 05, 2016	39	7341-7450
Defendant's Exhibit TTTT- Depo of Stephanie Cioffi February 05, 2016	39	7451-7467
Defendant's Exhibit UUUU- 9716 Oak Pass Appraisal	42	8042-8061

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit VVVV- Jennifer Bosco Resume	42	8062
Defendant's Exhibit WWWW- Hollywood Hills Escrow	42	8063
Defendant's Exhibit XXXX-_February 2016 UBS account summary statement	39	7468-7474
Defendant's Exhibit YYYY- February 2016 UBS account statement for Accounts ending 743	39	7475-7484
Defendant's Exhibit ZZZZ- February 2016 UBS account statement for Accounts ending 134	39	7485-7500
Defendant's Exhibit 5A- February 2016 UBS account summary statement	39	7501-7508
Defendant's Exhibit 5B- February 2016 UBS account statement for accounts Ending 745	39	7509-7522
Defendant's Exhibit 5C- February 2016 UBS account statement for accounts Ending 899	39	7523-7532
Defendant's Exhibit 5D- February 2016 UBS account statement for accounts Ending 746	39	7533-7540
Defendant's Exhibit 5E- February 2016 UBS account statement for accounts Ending 027	39	7541-7546
Defendant's Exhibit 5F- February 2016 UBS account statement for accounts Ending 575	39	7547-7552
Defendant's Exhibit 5G- UBS Account Summary for account ending 17, Showing no value As of February 26, 2016	39	7553
Defendant's Exhibit 5H- February 2016 UBS account statement for accounts ending 75	39	7554-7559
Defendant's Exhibit 5I- May 2016 UBS account statement for accounts ending 76	39	7560-7567
Defendant's Exhibit 5J- May 2016 UBS account statement for accounts ending 43	39	7568-7577
Defendant's Exhibit 5K- May 2016 UBS account statement for accounts ending 45	39	7578-7587
Defendant's Exhibit 5L- May 2016 UBS account statement for accounts ending 34	40	7588-7603
Defendant's Exhibit 5M- Wells Fargo PMA Package account ending 5397 Statement from February 1, 2016 through February 29, 2016	40	7604-7613

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit 5N- Wells Fargo Checking account ending 8870 Statements from February 6, 2016 through March 7, 2016	40	7614-7616
Defendant's Exhibit 5O- Wells Fargo Visa account ending 1032 statements From January 16, 2016 through February 12, 2016	40	7617-7620
Defendant's Exhibit 5P- Wells Fargo Visa account ending 1032 statements From February 13, 2016 through March 15, 2016	40	7621-7625
Defendant's Exhibit 5Q- American Express Platinum account ending 9008 Statements from January 16, 2016 through February 23, 2016	40	7626-7636
Defendant's Exhibit 5R- American Express Platinum account ending 9008 Statements from February 24, 2016 through March 25, 2016	40	7637-7645
Defendant's Exhibit 5S- American Express Centurion account ending 3005 Statements from January 16, 2016 through February 14, 2016	40	7646-7659
Defendant's Exhibit 5T- American Express Centurion account ending 3005 Statements from February 15, 2016 through March 16, 2016	40	7660-7668
Defendant's Exhibit 5U- American Express Optima account ending 2003 Statements from January 19, 2016 through February 16, 2016	40	7669-7680
Defendant's Exhibit 5V- American Express Optima account ending 2003 Statements from February 17, 2016 through March 18, 2016	40	7681-7685
Defendant's Exhibit 5W- Master Card Black Card account ending 1588 Statements from February of 2016	40	7686-7691
Defendant's Exhibits 5X- Principle Life Insurance Company Statement of Coverage as of February 26, 2016	40	7692-7693
Defendant's Exhibits 5Y- Voja DaVita Retirement Savings Plan statement From 01/01/16 through 03/31/16	40	7694-7696
Defendant's Exhibits 5Z- DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016	40	7697-7699
Defendant's Exhibit 6A- Cigna Health Savings Plan account balance of April 24, 2016	40	7700-7703
Defendant's Exhibit 6B- DaVita Stock Award Grant Statement, exercisable as of 06/01/16	40	7704-7705
Defendant's Exhibit 6C- Documents regarding sale of Ferrari	40	7706-7707

DOCUMENT	VOLUME	PAGE NO.
Detailed Financial Disclosure Form filed on February 25, 2015	1	28-44
Detailed Financial Disclosure Form filed on February 27, 2015	1	45-65
Detailed Financial Disclosure Form filed on May 29, 2015	1	67-84
Detailed Financial Disclosure Form filed on February 16, 2016	4	721-738
Detailed Financial Disclosure Form filed on February 19, 2016	4	819-835
Discovery Commissioner's Report and Recommendations filed on January 11, 2016	2	421-424
Discovery Commissioner's Report and Recommendations filed on January 22, 2016	4	707-711
Discovery Commissioner's Supplemental Report and Recommendations filed on February 22, 2016	4	843-846
Errata to Pre-Trial Memorandum filed on February 22, 2016	4	841-842
Errata to Notice of Filing Cost Bond for Appeal filed on August 30, 2016	44	8603-8606
Ex-Parte Motion to Enlarge Time for Service of Summons and Complaint filed on April 4, 2014	1	7-11
Ex-Parte Order to Enlarge Time for Service of Summons and Complaint filed on April 10, 2014	1	12-13
Ex Parte Request for Leave of Court to File Supplemental Pleading (With Notice) Filed September 21, 2016	45	8914-8944
Joint Preliminary Injunction filed on May 15, 2014	1	15-16
Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015	2	207-274
Motion to Compel Discovery and for Attorney's Fees and Costs filed on December 23, 2015	2	407-420
Motion in Limine to Exclude Updated Real Estate Appraisals and Newly Disclosed Rental Values Submitted by Plaintiff filed on February 19, 2016	4	836-840
Motion in Limine to Exclude Defendant's Witness Disclosed After Deadline to Disclose witnesses and Request for Attorney's Fees and Sanctions filed on February 22, 2016	4	847-858

DOCUMENT	VOLUME	PAGE NO.
Motion to Stay Enforcement of Decree of Divorce and for Other Related Relief filed on August 24, 2016	44	8594-8600
Motion for Attorney's Fees and Costs filed on September 13, 2016	44	8607-8703
Notice of Appeal filed on August 23, 2016	44	8588-8589
Notice of Appeal, filed on December 13, 2016	47	9280-9286
Notice of Cross-Appeal filed on September 21, 2016	45	8823-8940
Notice of Cross-Appeal, filed on December 23, 2016	47	9291-9297
Notice of Entry of Order filed on August 12, 2015	1	205-206
Notice of Entry filed on November 30, 2015	2	395-399
Notice of Entry of Order filed on December 3, 2015	2	400-404
Notice of Entry of Order filed on May 6, 2016	42	8064-8065
Notice of Entry of Order filed on May 11, 2016	42	8068-8069
Notice of Entry of Order filed on June 29, 2016	42	8086-8089
Notice of Entry of Findings of Facts, Conclusions of Law and Decree of Divorce filed on August 22, 2016	44	8474-8587
Notice of Entry of Order filed on October 24, 2016	47	9272-9275
Notice of Entry of Order from October 18, 2016 Hearing filed on December 5, 2016	47	9276-9279
Notice of Filing Cost Bond for Appeal filed on August 29, 2016	44	8601-8602
Objections to Plaintiff's proposed deposition Testimony and Submission of Additional Deposition Testimony filed on March 25, 2016	40	7721-7739
Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015	2	287-335
Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner, and Countermotion for Attorney's Fees and Costs filed on June 23, 2015	1	111-150

DOCUMENT	VOLUME	PAGE NO.
Opposition to Motion to Compel Discovery and for Attorney's Fees and Costs and Countermotion for Protective Order filed on January 11, 2016	3	425-579
Opposition to Plaintiff's Motion for an Order to Show Cause why Defendant Should not be Held in Contempt of Court for His Multiple Violations of the Joint Preliminary Injunction, for an Order Limiting Access and Payments from Community Accounts, and for Sanctions, Attorney's Fees and Costs; and Countermotion for Attorney's Fees and Costs filed on February 8, 2016	4	713-720
Opposition to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's fees and Costs; and Countermotion for Sanctions, Attorney's Fees and Costs filed on July 8, 2016	42	8090-8153
Opposition to Motion for Attorney's Fees and Costs filed on October 13, 2016	46	9167-9174
Order to Show Cause filed on February 24, 2016	4	859-860
Order filed on May 6, 2016	42	8066-8067
Order from April 6, 2016 Hearing filed on May 11, 2016	42	8070-8071
Order filed on June 28, 2016	42	8083-8085
Order From October 18, 2016 Hearing, filed on December 5, 2016	47	9278-9279
Plaintiff's Closing Brief filed on August 1, 2016	43	8242-8414
Plaintiff's Ex Parte Motion with Notice for Extension of Time to File Motion for Attorney's Fees and Costs filed on September 15, 2016	45	8803-8822
Plaintiff's Motion for the Issuance of an Order to Show Cause why Defendant Should not be Held in Contempt for his Multiple Violations of the Joint Preliminary Injunction; Plaintiff's Motion for an Order Limiting the Access and Payments from Community Accounts filed on January 19, 2016	4	647-706
Plaintiff's Pre Trial Memorandum filed on February 19, 2016	4	780-818
Plaintiff's Exhibit 1- Financial Disclosure Form Filed on February 16, 2016	10	1896-1912
Plaintiff's Exhibit 2- Financial Disclosure Form Filed on February 16, 2016	10	1913-1930
Plaintiff's Exhibit 3- Detailed Financial Disclosure Form Filed on May 29, 2015	10	1931-1951

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 4- Detailed Financial Disclosure Form Filed on February 27, 2015	10	1952-1972
Plaintiff's Exhibit 5- 2014 Individual Income Tax Return	10	1973-1980
Plaintiff's Exhibit 6- 2013 Individual Income Tax Return	11	1981-2241
Plaintiff Exhibit 7- 2012 Individual Income Tax Returns	12	2242-2378
Plaintiff's Exhibit 8- 2011 Individual Income Tax Returns	13	2379-2427
Plaintiff's Exhibit 9- 2010 Individual Income Tax Returns	13	2428-2456
Plaintiff's Exhibit 10- 2009 Individual Income Tax Returns	13	2457-2489
Plaintiff's Exhibit 11- 2008 Individual Income Tax Returns	13	2490-2515
Plaintiff's Exhibit 12- 2007 Individual Income Tax Returns	13	2516-2542
Plaintiff's Exhibit 13- 2006 Individual Income Tax Returns	13	2543-2572
Plaintiff's Exhibit 14- 2005 Individual Income Tax Returns	13	2573-2595
Plaintiff's Exhibit 15- 2004 Individual Income Tax Returns	13	2596-2612
Plaintiff's Exhibit 16- 2003 Individual Income Tax Returns	13	2613-2627
Plaintiff's Exhibit 18- Text messages between the parties	14	2629-2772
Plaintiff's Exhibit 19- Emails between the parties	14	2773-2813
Plaintiff's Exhibit 20- Text messages between the parties	15	2814-2921
Plaintiff's Exhibit 21- Text messages between the parties	15	2922-2925
Plaintiff's Exhibit 22- Emails between the parties	15	2926-2962
Plaintiff's Exhibit 23- Emails between the parties	15	2963-3040
Plaintiff's Exhibit 24- Text messages between the parties	15	3041-3048
Plaintiff's Exhibit 25- Text messages between the parties	15	3049-3061
Plaintiff's Exhibit 26- Proposed Community Property Distribution Worksheet	15	3062-3063
Plaintiff's Exhibit 54- Jenny Allen's Curriculum Vitae and List of Cases	16	3064-3066
Plaintiff's Exhibit 55- Index of documents in Support of Spreadsheets in Anthem Forensic's Reports	16	3067-3121

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 56 Anthem Forensics' Expert Witness Report	16	3122-3232
Plaintiff's Exhibit 57- Anthem Forensics' Supplemental Expert Witness Report	17	3233-3368
Plaintiff's Exhibit 58- Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report	17	3369-3402
Plaintiff's Exhibit 59- Email from Joe Leauanae to Daniel Marks, Esq.	17	3403-3404
Plaintiff's Exhibit 60- Auto Related Exhibits listed on Exhibit 6	17	3405-3409
Plaintiff's Exhibit 61- Transactions that comprise the "adjusted" column on Exhibit 6	18	3410-3549
Plaintiff's Exhibit 62- Withdrawals and checks written to cash - Gabrielle Kogod	18	3550
Plaintiff's Exhibit 63- Anthem Forenscics' Response to Rebuttal Report	18	3551-3578
Plaintiff's Exhibit 65- Anthem Forensics' Supporting Documentation for Facts set fourth in The February 5, 2016 Report	19	3579-3640
Plaintiff's Exhibit 69- Joint Preliminary Injunction Order	19	3641-3642
Plaintiff's Exhibit 71- Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California	19	3643
Plaintiff's Exhibit 72- Spreadsheet showing expenses for Khapsalis and children From May 2014	19	3644-3674
Plaintiff's Exhibit 73- Spreadsheet showing updated Outflows greater than $10,000 Since Anthem's December 15, 2015 Report based on updated statements provided by Dennis	19	3675
Plaintiff's Exhibit 74- Spreadsheet showing Outflows more than $10,000 Since May, 2014	19	3676
Plaintiff's Exhibit 75- Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	19	3677-3678
Plaintiff's Exhibit 76- Spreadsheet showing payments to Jennifer Steiner since September, 2014	19	3679-3682
Plaintiff's Exhibit 77- Email from Bob Gehlen dated November 25, 2015	19	3683-3685
Plaintiff's Exhibit 78- Email from Dennis to Robert Gehlen dated December 8, 2015	19	3686-3690

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 79- Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis Not adding Gabrielle to the UBS Account dated December 2, 2015	19	3691-3696
Plaintiff's Exhibit 80- Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	19	3697-3720
Plaintiff's Exhibit 87- Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents From DaVita dated October 1, 2015	19	3721-3725
Plaintiff's Exhibit 88- Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock Options dated June 12, 2015	19	3726
Plaintiff's Exhibit 89- Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options Dated August 14, 2015	19	3727-3729
Plaintiff's Exhibit 90- Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing Dennis' position dated September 2, 2015	19	3730-3731
Plaintiff's Exhibit 91- 2008 Annual Proxy Statement	19	3732-3807
Plaintiff's Exhibit 92- 2009 Annual Proxy Statement	20	3808-3873
Plaintiff's Exhibit 93- 2010 Annual Proxy Statement	20	3874-3959
Plaintiff's Exhibit 94- 2011 Annual Proxy Statement	21	3960-4081
Plaintiff's Exhibit 95- 2012 Annual Proxy Statement	21	4082-4202
Plaintiff's Exhibit 96- 2013 Annual Proxy Statement	22	4203-4298
Plaintiff's Exhibit 97- 2014 Annual Proxy Statement	22	4299-4432
Plaintiff's Exhibit 98- 2015 Annual Proxy Statement	23	4433-4526
Plaintiff's Exhibit 100- Radford J. Smith, Chartered's Billing Statements	23	4527-4560
Plaintiff's Exhibit 101- Marc Herman's Billing Statements	23	4561
Plaintiff's Exhibit 102- Anthem Forensic's Billing Statements	23	4562-4627
Plaintiff's Exhibit 103- Clark Barthol's Billing Statements	23	4628
Plaintiff's Exhibit 107- Nadya Khapsalis' Facebook printout	24	4629-4691
Plaintiff's Exhibit 111- Plaintiff's Third Set of Interrogatories to Defendant	24	4692-4709

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 113- Plaintiff's Fourth Set of Interrogatories to Defendant	24	4710-4717
Plaintiff's Exhibit 116- Plaintiff's Sixth Set of Interrogatories to Defendant	24	4718-4761
Plaintiff's Exhibit 118- Summary of emails prepared by Plaintiff	24	4762-4765
Plaintiff's Exhibit 119- 2011 Tax Return	24	4766-4767
Plaintiff's Exhibit 120- 2012 Tax Return	24	4768-4772
Plaintiff's Exhibit 121- 2013 Tax Return	24	4773-4780
Plaintiff's Exhibit 122- 2014 Tax Return	24	4781-4784
Plaintiff's Exhibit 123- Kogod equity analysis	24	4785
Plaintiff's Exhibit 124- Dist. Comm prop as of February 2016	24	4786-4788
Plaintiff's Exhibit 125- 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	25	4789-5065
Plaintiff's Exhibit 125- Continued 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	26	5066-5170
Plaintiff's Exhibit 126- 9/15/15 Deposition of Patricia Murphy	27	5171-5305
Plaintiff's Exhibit 127- 9/26/15 Deposition of Mitchell Kogod	28	5306-5498
Plaintiff's Exhibit 128- 9/25/15 Deposition of Marsha Kogod	29	5499-5592
Plaintiff's Exhibit 129- 9/25/15 Deposition of Sheldon Kogod	29	5593-5745
Plaintiff's Exhibit 130- 9/26/15 Deposition of Dana Kogod	30	5746-5832
Plaintiff's Exhibit 131- 12/10/15 Deposition of Jennifer Crute Steiner	31	5833-6019
Plaintiff's Exhibit 132- Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016	32	6020-6023
Plaintiff's Exhibit 132-2- Marc Herman's Curriculum Vitae	41	7984
Plaintiff's Exhibit 132-5- Gabrielle's expert, Mr. Marc Herman's updated Appraisal dated January 30, 2016	41	7985-8021
Plaintiff's Exhibit 132-6- Dennis' expert, Ms. Jennifer L. Bosco's appraisal Dated March 7, 2016	41	8022-8041
Plaintiff's Exhibit 133- Gabrielle's Banana Republic Luxe X4713 Dated March 4, 2016	32	6024-6026

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 134- Gabrielle's Discover Card X5161 dated February 11, 2016	32	6027-6029
Plaintiff's Exhibit 135- Gabrielle's Discover Card X5161 dated March 11, 2016	32	6030-6033
Plaintiff's Exhibit 136- Gabrielle's Kohl's Card X2557 Dated January 7, 2016	32	6034-6036
Plaintiff's Exhibit 137- Gabrielle's Kohl Statement X2557 dated February 5, 2016	32	6037-6039
Plaintiff's Exhibit 138- Gabrielle's American Express Statement X9677 dated February 12, 2016	32	6040-6042
Plaintiff's Exhibit 139- Gabrielle's Nordstrom X992 dated February 11, 2016	32	6043-6048
Plaintiff's Exhibit 140- Gabrielle's Nordstrom X992 dated March 13, 2016	32	6049-6052
Plaintiff's Exhibit 141- Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016	32	6053-6058
Plaintiff's Exhibit 142- Bank of America Merrill Lynch X6446 Statement Dated February 29, 2016	32	6059-6066
Plaintiff's Exhibit 143- Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)	32	6067-6124
Plaintiff's Exhibit 144- Gabrielle's UBS account FN-20329 GM Dated March, 2016	32	6125-6132
Plaintiff's Exhibit 145- Gabrielle's UBS account FN 13134 GM Dated March, 2016	32	6133-6146
Plaintiff's Exhibit 146- Gabrielle's UBS account FN 12743 GM Dated March, 2016	32	6147-6160
Plaintiff's Motion to Compel Discovery, For Sanctions, and Attorney's Fees and Costs filed on June 21, 2016	42	8072-8081
Plaintiff's Opposition to Defendant's Motion to Stay Enforcement Of Decree of Divorce and for Other Related Relief and Countermotion for Attorney's Fees filed on October 12, 2016	46	9149-9166
Reply to Counterclaim for Divorce filed on December 5, 2014	1	25-27

////

DOCUMENT	VOLUME	PAGE NO.
Reply in Support of Motion for an Order to Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs; and Opposition to Countermotion for sanctions and Attorney's Fees filed on October 12, 2015	2	336-345
Reply in Support of Defendant's Motion to Compel Discovery and for Attorney's Fees and Costs, and Opposition to Plaintiff's Countermotion for Protective Order filed on January 13, 2016	3	583-586
Reply to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's Fees and Costs and Opposition to Countermotion for Sanctions, Attorney's Fees and Costs filed on July 13, 2016	42	8154-8192
Reply in Support of Motion to Stay Enforcement of Decree of Divorce and For Other Related Relief; and Opposition to Countermotion for Attorney's fees filed on October 14, 2016	46	9175-9180
Reply to Opposition to Motion for Attorney's Fees and Costs filed on October 17, 2016	46	9181-9186
Stipulation and Order filed on August 10, 2015	1	201-204
Stipulation and Order filed on December 15, 2015	2	405-406
Summons filed on May 15, 2014	1	17-18
Supplemental Billing Statements of Attorney's Fees and Costs filed on March 11, 2016	40	7708-7720
Supplement to Plaintiff's Motion for Attorney's Fees and Costs filed on September 21, 2016	46	8945-9027
Transcript Re: All Pending Motions (Hearing on June 26, 2015) filed on July 9, 2015	1	179-200
Transcript Re: Motion to Stay (Hearing on Wednesday September 21, 2016) filed on December 29, 2016	2	275-286
Transcript Re: All Pending Motions (Hearing on Wednesday October 14, 2015) filed on December 29, 2016	2	346-393
Transcript Re: All Pending Motions (Hearing on Friday January 15, 2016) filed on December 29, 2016	3	587-646
Transcript Re: All Pending Motions (Hearing on Wednesday, February 17, 2016) filed on December 29, 2016	4	739-779
Transcript Re: Non-Jury Trial (Tuesday, February 23, 2016) filed on April 28, 2016	5	861-1037

DOCUMENT	VOLUME	PAGE NO.
Transcript Re: Non-Jury Trial (Wednesday, February 24, 2016) filed on April 28, 2016	6	1038-1222
Transcript Re: Non-Jury Trial Vol. I (Thursday, February 25, 2016) filed on April 28, 2016	7	1223-1399
Transcript Re: Non-Jury Trial Vol. II (Thursday, February 25, 2016) filed on April 28, 2016	8	1400-1592
Transcript Re: Non-Jury Trial Vol. I (Friday, February 26, 2016) filed on April 28, 2016	9	1593-1766
Transcript Re: Non-Jury Trial Vol. II (Friday, February 26, 2016) filed on April 28, 2016	10	1767- 1875
Transcript Re: Status Check (Hearing on Wednesday April 6, 2016) Filed on April 28, 2016	40	7740-7808
Transcript Re: Hearing (Hearing on Wednesday May 4, 2016) Filed on December 29, 2016	41	7809-7979
Transcript Re: All Pending Motions (Hearing on Wednesday July 13, 2016) Filed on December 29, 2016	42	8193-8241
Transcript Re: All Pending Motions (Hearing on Tuesday October 18, 2016) filed on December 29, 2016	47	9187-9271

TRANS

FILED
APR 2 8 2016
CLERK OF COURT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD, Plaintiff, vs. DENNIS L. KOGOD, Defendant.	CASE NO. D-13-489442-D DEPT. Q **(SEALED)**

BEFORE THE HONORABLE BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON-JURY TRIAL - VOL. I

FRIDAY, FEBRUARY 26, 2016

APPEARANCES:

The Plaintiff: GABRIELLE ROSE CIOFFI-KOGOD
For the Plaintiff: RADFORD SMITH, ESQ.
GARIMA VARSHNEY, ESQ.
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The Defendant: DENNIS L. KOGOD
For the Defendant: DANIEL MARKS, ESQ.
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Las Vegas, Nevada 89101
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INDEX OF WITNESSES

	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
FRIDAY, FEBRUARY 26, 2016					
PLAINTIFF'S WITNESSES					
Jennifer Allen	--	8	22/137/166	54/160	
DEFENDANT'S WITNESSES:					
Richard Teichner	169/181	--	--	--	175

* * * * *

INDEX OF EXHIBITS

	ADMITTED
WEDNESDAY, FEBRUARY 24, 2016	
PLAINTIFF'S EXHIBITS:	
26 - Community property worksheet	154
54 - Jennifer Allen CV	52
55 - Summary account statements	51
56 - November Report	15
57 - December Report	15
58 - Deposition Portions	45
59 - E-mail	46
60 - Auto-related transactions	48
61 - Adjusted category support	49
62 - Gabrielle's withdrawals	50
71 - Settlement Statement	156
72 - Order to show cause document	158
73 - Order to show cause document	158
74 - Order to show cause document	158
75 - Order to show cause document	158
76 - Order to show cause document	158
111 - Interrogatory question	159
113 - Interrogatory question	159
116 - Interrogatory question	159

INDEX OF EXHIBITS (CONT.)

	ADMITTED
DEFENDANT'S EXHIBITS:	
3U - September 15th transactions summary	70
D - Teichner's CV	181

LAS VEGAS, NEVADA FRIDAY, FEBRUARY 26, 2016

PROCEEDINGS

(THE PROCEEDINGS BEGAN AT 8:29:17)

THE COURT: We are on the record in the Cioffi-Kogod matter, Case D-13-489442-D. Please confirm your appearances.

MR. SMITH: Radford Smith, 2791, on behalf of Gabrielle Kogod is to my right.

MS. VARSHNEY: Garima Varshney, bar number 11878 on behalf of Ms. Kogod as well.

THE COURT: Good morning.

MR. MARKS: Your Honor, Danny Marks and Nicole Young for the Defendant, who is present.

THE COURT: Good morning.

THE CLERK: Give me some bar numbers, please?

MR. MARKS: Bar number 002003.

MS. YOUNG: My bar number is 12659.

THE CLERK: Thank you.

THE COURT: Good morning.

MR. MARKS: Good morning.

MR. SMITH: Good morning.

THE COURT: All right. We're set to proceed.

MR. SMITH: Could somebody --

MR. MARKS: Can we have the time remaining?

(PAUSE)

THE COURT: Plaintiff has used 435 minutes and Defendant has used 258 minutes. Okay.

MR. SMITH: Your Honor, consistent with the agreement reached on the record yesterday, we have gone through all the depositions and identified the various locations that we would like to submit.

THE COURT: Okay.

MR. SMITH: And I'm providing -- for the record, I'm providing that information to Mr. Marks. And we will -- at the time that the Court has indicated to provide the deposition transcripts, we'll make that an exhibit and submit it --

THE COURT: Okay.

MR. SMITH: -- with the (indiscernible) transcripts as long as -- to go along with Mr. Marks' identifications. And then, at that point, we'll discuss how the --

THE COURT: The logistics of what we're --

MR. SMITH: The logistics of the exhibits --

THE COURT: Yeah.

MR. SMITH: -- and so forth are going to be handled.

THE COURT: Okay.

MR. SMITH: So, yeah.

MR. MARKS: Your Honor, so from our end, we had two

depositions; Eugene Cioffi that is relatively short, and Stephanie Cioffi that is short.

THE COURT: Okay.

MR. MARKS: I think to get the full flavor, I would submit those depos. They're short depos.

MR. SMITH: I don't -- I don't have an objection to the depos. There are form of the question depositions (sic) within them; the Court can review those and determine whether or not it's even a problem.

THE COURT: Okay. I appreciate that.

MR. MARKS: You want me to then submit the copies to you at some point?

THE COURT: We do this -- so, yeah. That's fine. We can maybe do that after -- right befo -- right when we come back from lunch.

MR. SMITH: When we left, Your Honor, Ms. Allen was on the stand.

THE COURT: Ms. Allen was on the stand. I think there was some voir dire. Okay. So we'll go ahead and resume. If we can have Ms. Allen please retake the stand. We'll swear you in once again, because it's a new day. If you'll please raise your right hand to be sworn.

THE CLERK: You do solemnly swear the testimony you're about to give in this action shall be the truth, the

whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you.

THE COURT: Okay. You may be seated. Mr. Marks, you may continue.

JENNIFER ALLEN

called as a witness on behalf of the Plaintiff and being first duly sworn, testified as follows on:

CROSS EXAMINATION

BY MR. MARKS:

Q We're on Exhibit 56?

A Volume?

Q Exhibit that --

A Yep.

Q Okay. If you go to page 12?

A Okay. I'm there.

Q Did you actually write this report?

A I co-authored this report.

Q But who actually wrote it?

A I co-authored with -- Joe Leauanae.

Q Okay. At the bottom of page 12, you say assessments of potential community waste not elsewhere classified in this report, while we have sought to identify potential community waste related to specific cost centers, the document --

documentation that we have thus far received has prevented us from being able to precisely allocate other outflows between Dennis and non-community uses. Do you see that?

A I do.

Q And therefore, in your Exhibit 6 to this report, you prepared a summary not elsewhere classified and attempted to allocate those between Dennis and non-community uses; is that right? Is that what you said there?

A That is correct.

Q And you say as reflected on Exhibit 6, you've aggregated outflows --

A Did you turn the page?

Q -- Page 13 -- not elsewhere classified by category and year; is that correct? Is that what you're saying?

A That's what it says, yes.

Q Okay. And then, you have three notes. And then, you have notes one through five?

A In the November report, yes. I believe in the December report, there is a sixth note.

Q Okay. We're now on the November report, correct?

A Yes.

Q So note one, those outflows were removed. They're not contained on Exhibit 6, correct?

A That is correct.

Q Note two, those outflows were removed. They're not contained on Exhibit 6, correct?

A That is correct.

Q Note three, you're saying you need additional information, so they -- are they contained on Exhibit 6 or not contained on Exhibit 6?

A Let me just confirm. The note threes are contained on Exhibit 6.

Q Even though you need additional information; is that correct?

A That is correct.

Q And then, on note four, you've adjusted those outflows by taking Dennis' May 29th, 2015 financial disclosure form and working back eight years, meaning you went back to look at expenditures from 2008 to 2015, correct?

A Based upon the categories that we discussed during Dennis' deposition, we applied the amounts that he said that he spends on a monthly basis for himself and applied those to the categories going back from two thou -- March 2008 through at some point in 2015.

Q But, you used the May fif -- May 29th, 2015 amended financial disclosure form and you went back eight years, correct?

A And his deposition testimony.

Q Okay. And then, on note five, you're saying you currently -- we do not currently have sufficient documentation. Did you include note five on Exhibit 6 or not?

A Well, that's not the complete sentence for note five, but it says we did not have sufficient information to gauge whether these outflows wholly benefitted the community. For purpose of this report, we have assumed that these outflows may reasonably be community.

Q Okay. And in your report, did you put -- did you classify items as potential waste if they did not in your opinion wholly benefit the community? Is that the standard you used?

A Can you repeat the question?

Q Did you -- in doing your report, did you use a standard of the item, the expenditure, must have wholly benefitted the community, otherwise you classified it as potential community waste; isn't that correct?

A I don't believe that's correct, because under note five, even though some of the -- those categories we don't know if they wholly benefitted the community, we still assumed that they were not included on Exhibit 6.

Q But did you use -- did you use a classification of; it's waste if it didn't wholly benefit the community?

A I guess I don't understand what you're saying,

wholly benefit the community.

Q Those are your words in the report.

A Can you repeat the question?

Q Did you consider an item potentially wasteful in your report if it did not wholly, using your words, benefit the community?

A On Exhibit 6, we removed items from the not elsewhere classified if we -- if they appeared to benefit the community. If there was information that we did not have to identify whether or not it benefitted the community, it was included. And then, we made the adjustment for note four, which would be the excess over the amounts reported by Dennis in his May 29th FDF and his deposition.

Q Okay. But if it partially benefitted the -- if it partially benefitted the community, did you include it in Exhibit 6 or not?

A I would have to look at a specific category to answer that question.

Q You can't answer that sitting here?

A If we went through the schedule, I could explain each category. I don't know what you're saying partially.

Q The community is Dennis and Gabby, correct?

A That's my understanding.

Q So if Dennis spent money, he's part of the community

just as if Gabby spent money, she's part of the community, correct?

A They are both part of the community. But I think the question here is the excess of Dennis' spending on other individuals. So to the extent that Dennis spent money, we don't necessarily know if it was for Dennis or for other individuals.

Q But if Dennis spent money for himself, that's not waste, potential waste, correct?

A That's fair.

Q Okay.

MR. MARKS: Your Honor, under the Rodriguez case, that -- obviously, you read that and that obviously changed to some extent the standard for expert testimony and expert reports where you no longer have to use magic words. The report has to be sufficiently certain for you, as the gatekeeper, to let it in.

I understand letting it in doesn't mean you're going to hundred percent follow it, but there's still a gatekeeper role that you have and there's got to be some sufficient certainty. You just can't be, we don't have information or we don't know information and therefore, it's out there to throw against the wall. There has to be some -- it used to be standard to a degree of accounting probability.

The Rodriguez case to some extent modifies that. But you have to be test -- you have to testify to a degree of sufficient certainty. And I think as it relates to Exhibit 6, they can't meet that based on her testimony. They basically used an FDF. There was no evidence that Dennis ever testified that that FDF was his expenditure over an eight-year period. He never said that in his deposition. He specifically said -- contradicted that.

They have used an FDF to try to create a baseline and then create potential community waste over an eight-year period above and beyond what was spending on the FDF, which is -- which is speaking of a discree -- time in May 2015. And it would be very prejudicial to us for 3.6 million dollars that they're just saying is unallocated to be considered seriously by the Court as community waste. We don't think that part of the report should be admitted.

MR. SMITH: Argument goes to weight and discretion, not admissibility. But let me ask a couple of questions, Your Honor, before I address his legal arguments, if I may? (Indiscernible).

THE COURT: Well, let me just -- at this point, I'm prepared to rule as it relates to the admissibility. I believe it does go to the issue of weight, issues of credibility. I believe fundamentally that it becomes an issue

of evidentiary burdens as well in terms of the way I ultimately approach this.

So I'm inclined to allow -- and I know we've been talking about 56 and 57, which share similarities. I get the sense, even though I haven't had a chance to look at it, that 57, I know you're probably going to ask questions in that regard, why the difference as perhaps some type of an update and that may not be the right word, but --

MR. SMITH: It's the right word.

THE COURT: Okay. I'm inclined to allow Exhibits 56 and 57 into the record. I recognize there is an argument regarding the issue of specificity and -- but that does go to weight. It goes to the Court's review based on all of the evidence that does come in, including the testimony of all the individuals who are presented. And as I indicated before, it really is a matter of evidentiary burdens for --

(PLAINTIFF'S EXHIBITS 56 AND 57 ADMITTED)

MR. MARKS: Okay, Your Honor.

MR. SMITH: I need your guidance on something, Your Honor. In -- as you'll see in the reports now admitted, part of the factual determinations that were made by the experts were based upon deposition testimony. The other depositions that are referenced, other than Mr. Kogod's, will obviously be part of this record.

THE COURT: Right. Understood.

MR. SMITH: How do I address, based on your rulings yesterday about the use of the deposition, how would you -- I would think that it would be published and then, the deposition would be --

MR. MARKS: No.

MR. SMITH: -- opened and she would address those parts or the Court would have an opportunity to check those parts. Because of the time frames, I'm going to go very quickly on this and I just need some guidance as to what I should do with that deposition. Because if I don't have it in the record, then I have to walk up to her and show her each section as to why that section was relevant to her determination.

MR. MARKS: Yeah.

THE COURT: You're talking about Mr. Kogod's --

MR. SMITH: Correct.

THE COURT: -- deposition? Mr. Marks, what's your position in that regard? This gets back to the publication issue of the deposition transcript.

MR. SMITH: Yes, Your Honor.

MR. MARKS: I think we should deal with it when it comes up. Right now, I'm not sure what he's asking. He has an expert who can testify regarding a lot of different things,

not non-depositions. I think he needs to lay the foundation and if we get to a contested issue regarding the deposition, you can rule on it at that point.

THE COURT: Well, here's what I'm going to do. And again, my preference is to streamline it. I made the comment earlier because I have the parties here testifying I would not -- I'm not going to be reading their deposition transcripts per se.

MR. SMITH: I understand.

THE COURT: I will certainly to the extent something's pointed out during these proceedings, I may reference that.

MR. SMITH: Even made it easier on you. Anticipating that this would be your observation, we have included in Exhibit -- we asked the experts to identify and copy those portions of the deposition that they relied on. So I think we should -- my view, Your Honor, and I hope you share it, is that the depositions should be published. I don't expect you to read the entirety of the deposition if not addressed by our pleadings, our arguments, et cetera.

But the portions of the deposition once published that were cited by the experts are actually in one exhibits, so I can avoid the time of going up and showing the various exhibits. We've tabbed it. We've identified them. We've

specified what portion of the report is -- we went through the work of doing this to make it easier on the Court. That's Exhibit 58, Your Honor, if you could -- and let me -- let me just clarify with Ms. Allen.

VOIR DIRE

BY MR. SMITH:

Q Ms. Allen, the facts that are set forth in your report have various footnotes, particularly we're now dealing with 57. And just as way of background, what is the difference between 56 and 57?

A After the issuance of our November report, which is Exhibit 56, we attended the deposition, the second deposition, of Dennis. We received additional statements, so we provided an update. The only section that is not updated in our December report, I believe, is going to be Section 10 of both reports, is the assessment of Dennis, Dennis' future income and our December report just refers back to our November report for that section only.

Q Okay.

A The entirety of the other sections are updated.

Q So in other words, it's really -- for everything except his income, which hasn't changed since November to December, the December report, which is Exhibit 57, is the report that -- on which you've set forth your expert opinion,

correct?

A That is correct.

Q All right. So one of the the things that we asked you to do was to identify for us -- you had a series of footnotes in Exhibit 57 in which you referenced portions of depositions; is that true?

A That is true.

Q Okay. And we asked you to provide us an outline or copies of all of the various deposition sections that you referenced along with a chart showing those deposition portions and that's contained in 58. Do you see that?

A Yes.

Q And is -- did you prepare that document?

A Yes, we did.

Q Okay.

MR. SMITH: And Your Honor, I would move for the admission of that. And again, this is to address the very thing that we've discussed today, the use of the deposition by the Court, the ease of the use of the -- of the transcripts.

THE COURT: Okay. So you're asking to publish the deposition transcripts?

MR. SMITH: We would ask to publish the deposition transcript, because I don't know how else it would be in the record to support the exhibit.

THE COURT: All right. At this point, as a matter of time, I'm inclined to go ahead and publish it at this point.

MR. SMITH: All right. So it would be Volumes 1 and 2 of the deposition of Dennis Kogod. And I'm providing to the clerk of the court, the sealed transcript of both of those volumes.

MR. MARKS: Your Honor, so just so I'm clear on your ruling, the publication allows the use for these purposes. It doesn't mean that something that was not read or not used --

THE COURT: Right.

MR. MARKS: -- to impeach can be used later in closing or a brief.

THE COURT: Right.

MR. MARKS: It has to be --

THE COURT: I do want the record to reflect that. It's going to be limited to those specific references that have -- that come up by way of the report for the testimony that's been offered.

MR. MARKS: Okay. Yeah.

MR. SMITH: Part of it, Your Honor -- and I don't know how else to do it. Part of it, there's a couple of excerpts from Nadia's deposition we thought were important. Those will be submitted to Your Honor. There's no -- unless

we're going to go over those sections and talk about any objections that might be made in regard to the questions, they can rely on information that --

THE COURT: Right.

MR. SMITH: -- from any source, so we thought that that would be reasonable under the circumstances. If, as you go forward, the Court sees the deposition and decided that based on an objection by Mr. Marks that that information would be allowed, the Court can weigh that in its discretion in determining the validity of the report.

THE COURT: Okay. All right.

MR. SMITH: And Your Honor, I just want to state for the record, our -- we don't -- we respect the Court. We've done what you've asked and we're providing everything we can, but we -- we think the deposition can be used for (indiscernible) purpose and we discussed that --

THE COURT: Understood.

MR. SMITH: All right.

THE COURT: But I've made it clear how I'm approaching it.

MR. SMITH: Yes, yes. No, your parameters are very clear.

THE COURT: Okay.

MR. SMITH: We understand.

REDIRECT EXAMINATION

BY MR. SMITH:

Q All right. So let's look at the report -- and we're going to go over this very quickly. So there were -- does the report set forth your opinions associated -- that you discussed earlier?

A Yes, it does.

MR. MARKS: Which report are we talking about?

MR. SMITH: The 57, Your Honor.

MR. MARKS: So that's through December 15, 2015?

MR. SMITH: Yes.

BY MR. SMITH:

Q So in 57, you've outlined the categories that we discussed earlier. I think there are five of them. There's the information that you could identify specifically for Ms. Capsalas. There's the identification of Jennifer Steiner's deposition -- information. There's the yacht information. There's the cash-spending information. And then, there's the otherwise not allocated spending. Do I have that correct?

A And the family spending.

Q Family spending. Okay. Oh, yes. The family spending. But we haven't included -- the family spending was -- why did you do the -- include the family spending?

A Based upon attendance at a court hearing, I believe

you indicated that you would like to see separate lists; one including Nadia and the children and the other -- the family members and you would consider those differently. So we've segregated those out onto a different exhibit.

Q All right. So we're clear though, those aren't part of the overall analysis of potential community waste, correct? The potential community waste number is -- excludes the number for spending on the parents, correct?

A That is correct.

Q And you heard -- you were present when you heard Ms. Kogod's testimony that she's not concerned about the spending on the parents?

MR. MARKS: Objection, leading and relevance.

MR. SMITH: All right. It's fine. It's not included on the analysis.

THE COURT: All right. The objection is sustained.

BY MR. SMITH:

Q In regard to the report, let's talk about the method that was asked of you -- that was inquired to you about -- by Mr. Marks. Is that method in your experience commonly used to determine issues of excess spending by an individual in a divorce matter?

A I believe we've been asked to look at the transaction activity and analyze who the different

beneficiaries were and the potential excess between the parties and I believe that the manner that we have taken is reasonable.

Q And is it within a reasonable degree of professional certainty for your profession as a forensic accountant?

A Based upon my years of experience, I believe it to be reasonable.

Q In your years of experience, you've cited certain court cases you've been involved with, speaking engagements and the like, but you've been working for Anthem Forensics your whole career; is that correct?

A That is correct.

Q Is it a busy firm?

A I would say so.

Q And in that period of time, can you estimate how many forensic assignments that you've completed?

A For forensic accounting engagements, I've probably been involved in excess of 500 engagements.

Q And this method that you've used in terms of determining spending in a way, you -- that is within the custom and practice that you've used even within your own firm, correct?

A Every forensic accounting engagement is different, but analyzing the transactions and the way we've approached it

is within that experience.

Q Okay. So in regard to the analysis, can you walk us through -- I think we all can read your report, so I'm not going to walk you through reading your report. But I would like you to walk us through the exhibits and tell us what those are and it may be yours are the only eyes in this courtroom that can actually see them without glasses on,

A so --

A Okay.

Q The first exhibit, you've got account statement matrix. What did you prepare there?

A The account statement matrix is an internal document that we use for management of the documentation we receive. It allows us to the see the account savings and cancelled checks that we've received for each account that has been produced. It also allows us to identify which statements we're missing and need to request. And so Exhibit 1 as of this report date identifies all of the various account statements we've received and applicable cancelled checks.

Q We have -- for purposes of support, we placed all of the information that was produced or exchanged in this case, including all the accounts that you've referenced, on an exhibit.

MS. VARSHNEY: Uh-huh.

MR. SMITH: I'm sorry?

MS. VARSHNEY: 108.

MR. SMITH: Exhibit 108. It's a flash drive, Your Honor. And let me note for the record that this method was discussed and agreed to by Counsel prior --

THE COURT: Okay.

MR. SMITH: -- to the time of the matter.

BY MR. SMITH:

Q I've asked you to review that flash drive to verify that it contains all of the account information upon which you relied for your report. Did you do that review?

A I reviewed the flash drive and it has a couple different folders, but two of the folders; one is incoming and includes all of Plaintiff's disclosures and the second was outcoming -- or outgoing and it included all of Defendant's productions, disclosures, supplements, responses to interrogatories.

Q And that is what you relied on and identified in your matrix that is part of your report, correct?

A The account statements and cancelled checks within those disclosures is on Exhibit 1 and is used in our report.

MR. SMITH: Okay. And we would move for the admission of Exhibit 108, Your Honor.

MR. MARKS: Your Honor, I thought the arrangement

that I thought I agreed to -- and I know Nicole talked to Garima -- was that it -- we would have the flash drive and if the specific account or document was needed, we could plug that in and utilize it. We weren't going to put in the record every single account statement or back up. It was here as needed and if we needed a statement, then we would print it.

THE COURT: Well, but let me just ask you. Is there any evidentiary objection to the admission of Exhibit 108?

MR. MARKS: I haven't actually -- did you look at the flash drive?

MS. YOUNG: Unh-unh.

MR. MARKS: We were told they'd have a flash drive here and if there was a dispute --

MS. VARSHNEY: No, I didn't.

MR. MARKS: -- regarding a statement --

MS. VARSHNEY: No, I didn't.

MR. SMITH: They had the flash --

MR. MARKS: -- they would plug in and we would look at it. I didn't look at every single document on the flash drive.

MR. SMITH: It takes minutes to look at this document. There weren't that many disclosures. They are in number, like they're --

MR. MARKS: Well --

MR. SMITH: But it's -- that, that --

MS. VARSHNEY: (Indiscernible).

MR. SMITH: -- it's there. It's there. It's -- they have --

THE COURT: Well, here's --

MS. VARSHNEY: I don't think they --

THE COURT: -- here's --

MR. SMITH: -- (indiscernible).

THE COURT: Here's what I'm going to do. Certainly, I'll give you the chance to take a look at the flash drive and basically looking to determine whether or not there is an evidentiary basis to exclude it. I would be inclined to admit it, but I want to give you the chance --

MR. MARKS: But, Your Honor, --

THE COURT: -- to look at it.

MR. MARKS: -- we have a -- we have a room literally filled with the discovery. We were told specifically we'll have a flash drive in case -- in the case or under cross-examination someone disputed one specific statement, we could plug in the computer, try to pull up the statement, if we to print it and make that the exhibit, not that every single piece of paper in the room -- it's probably -- I don't know -- tens of thousands or maybe hundreds of thousands of pieces of paper.

MR. SMITH: There's not hundreds of thousands. There could be more than ten thousand, but let me just say --

MR. MARKS: That that would become part of the record.

MR. SMITH: Let me just say this. It's very common to submit voluminous records as part of a record so as to support the opinion of the individual who's reviewed all of those records. And so I'm clear --

THE COURT: Well, again let me just note, from an evidentiary standpoint, this is -- and that what it has to boil down to for me -- is I'm inclined to admit those documents absent a specific evidentiary objection to those records. But I'm not -- I'm going to give you the opportunity -- and we can do it during a break or even during lunch. I'm going to defer ruling on that to give you the chance to look at the scan drive. I understand it's going to -- it has voluminous documents. But that being said, I'm looking at it strictly from an evidentiary standpoint as a supporting --

MR. MARKS: But normally, you do a chart or a summary and you have the back up available -- that's the rule -- and you're admitting the summary rather than 20,000 pages --

THE COURT: All the documents.

MR. MARKS: -- unless there's some issue and you've

got to go to that --

THE COURT: Well --

MR. MARKS: -- page. That's what I thought --

THE COURT: And again, to be clear, I don't want 20,000 pages of documents. I --

MR. SMITH: It's the flash drive that's the evidentiary record. There's no prohibition as I understand it for having evidence in the form of --

THE COURT: Well, right.

MR. SMITH: -- electronic data.

THE COURT: Right. I --

MR. SMITH: It's very common nowadays. And so --

THE COURT: And I would prefer that. I think that's the point I'm making.

MR. SMITH: Oh, I see. All right.

THE COURT: I prefer a flash drive than 20,000 pages of documents sitting on my --

MR. SMITH: And that was the -- well, we don't -- thank you.

THE COURT: So I'm inclined to admit it, but I'm going to give you the chance to go through it, even if it means going through the lunch hour to see if there's anything specific that jumps out.

BY MR. SMITH:

Q Okay. So that's the exhibit. Exhibit 1 you've explained is your analysis of all the various things that you've reviewed and utilized for your report. Is that a fair statement?

A It's a document inventory of the information we received.

Q Thank you. Exhibit 2, tell me what that is.

A If you refer to page eight of the December report, this is an explanation of the information contained on Exhibit 2.

Q Okay. And the explanation is -- generally, just give me the Reader's Digest version?

A Sure. Exhibit 2 is an aggregation of the transaction data that we were able to discreetly identify to Nadia and the children. Those transactions include -- and I'll walk down the list here -- payments directly made to Nadia. So these would be checks that Dennis has written directly to Nadia or Nadine or, you know, one of her various names. The second would be transactions on the Wells Fargo Visa cards ending at 1032 and 4727. Based upon the deposition testimony of both Nadia and Dennis, these cards were used exclusively by Nadia, so we have contained all of the transaction data on those cards. The third criteria would be --

Q Hold on just one second.

A Yep.

(COURT AND CLERK CONFER BRIEFLY)

THE COURT: All right. Thank you. Please continue, Ms. Allen. Your Honor, you're okay?

MR. SMITH: Yeah.

THE COURT: Okay. Great. Go ahead.

THE WITNESS: The third transaction or the third criteria we used was prior to Nadia obtaining a credit card, I believe it was sometime in 2011, there was similar charges -- there were charges that were similar to those on her credit cards for personal care, such as Ms. Capsalas often frequents places for salon, nails, eyelashes, those types of things that we would consider personal care. Those transactions that were observed on other credit cards, those of Dennis', we included on this list.

And the fourth criteria were those that referenced Nadia and her relatives, so these could be payments to Ms. Capsalas' relatives, flights for those relatives, those kinds of transactions. The fifth category is transactions that related to the children. These are going to be the Yafa Marcus (ph), which was, I believe, a daycare or a Montessori school, other school related expenses; Montessori, nanny payments, shopping at children's store, toy stores, those

types of transactions.

The sixth is going to be payments related to a book that Nadia had published. These transactions were for publishing fees. I believe she had a translator that was converting her book from Russian to English. So the transactions are related to her book. The seventh is going to be payments related to the 12 -- I believe it's Moway, LLC, but everybody seems to refer to it as Mo, so the 12 Mo investment. And this was based upon her deposition testimony that Ms. Capsalas indicated that Dennis had invested in this particular entity to -- I believe the word -- it's tied to this footnote -- was to get her into the fashion industry, so those were included.

And the eighth -- well, another criteria was going to be Western Union payments. In Dennis' first deposition, he indicated that he sent money via Western Union and there's a quote here to help out Nadia's family in Kazakhstan, some translation services on her book to Ukraine and if Dennis was away and the nanny needed money, so we included the Western Union payments.

And if you turn the page, we included the legal fees related to Nadia's -- it says lawsuit, but I think it was a pending lawsuit or I don't know if it went forward. But those would be the fees that Dennis both had to pay to defend that;

I believe those were to Phillip Gesner and the fees that Nadia incurred for her attorney.

The tenth one is going to be automobile payments. These are just for a portion of time. These are going to include payments to BMW and Mercedes. And the way we looked at these were at that time that we observed these payments, there were two payments a month. So you would see a BMW payment; in the same month, you would see another BMW payment for a different amount.

We took the payment that was less so I believe from BMW, for example, I believe in sometime in '08;'09, there was two payments. One was for 1100 and one was 1400 a month. We then took all of the 1100 payments and considered those vehicles for Nadia, the BMW, and did the same with the Mercedes. Those automobile payments based upon Nadia's testimony were vehicles that she drove and that gets us to about -- I believe, if you look at Exhibit 2, it gets us to about 2012; we have vehicle payments for Nadia.

And then, the last one is going to be payments to T-Mobile. In Dennis' deposition, he indicated that the T-Mobile was Nadia's. So the aggregation of those categories that I just identified are going to be all the underlying transactions are going to be identified on Exhibit 2.

BY MR. SMITH:

Q Thank you. You also have an Exhibit 3. Can you tell me what that is?

A Exhibit 3 is an identification of cash withdrawn from the various bank accounts and cash advances on the credit cards. This list is mitigated by since Gabrielle and Dennis both shared the 6446 Trust Account, at a point -- at some time in 2010 I believe is when Gabrielle began to access the account. We asked Gabrielle to go through and identify the withdrawals that were from her usage of cash.

The remaining cash withdrawals are going to be those that were within Dennis' accounts and cash advances on his credit cards. So Exhibit 3 is just an identification of the cash, because based upon the deposition testimony, Dennis would often give Ms. Capsalas cash to spend.

Q Okay. Did -- you were -- okay. And then, Exhibit 4, can you tell us what that is?

A Just to go back to Exhibit 3, because it's on the same page, the page I'm on is page 10. We then -- based upon Dennis' deposition testimony, we provided an estimate of cash. He said at one point he believed he was giving her about 3,000 a month in cash. We used that estimate to provide how much he possibly could have given Nadia between the period of March 2008 and November 2015. So that is based on Exhibit 3 and that flowed through to the summary schedule.

Q Would you have needed to use that estimate if you had received documented associated with the cash spending?

A No, we would not have. We could have just used whatever information that supported how much was given to Ms. Capsalas.

Q But that type of accounting was never provided to you?

A We did not receive an accounting from the Defendant or his expert.

Q Exhibit 4 -- have you -- have you fully explained Exhibit 3 yet?

A Exhibit -- well, Exhibit 3 goes -- in addition to Exhibit 2, there's some qualifications here that those amounts listed directly related to Nadia and the children could be understated based upon a couple of factors; one being that we know the relationship began in November 2004 and our analysis begins in March 2008, so there's a discrepancy between the time periods that we have. So additional -- you know, since Nadia and Dennis have both testified that Nadia didn't have any income, it's reasonable to assume that between November 2004 and March 2008, Mr. Kogod was paying for all of the living expenses.

And I believe, if we're looking at page 11, which just also describes Exhibit 2, during Dennis' deposition, he

identified a couple charges that were related to him specifically; those being mens' shopping centers and Mr. Clean Cleaners, and where he get his haircuts and we had removed those. So --

Q And doesn't that effectively remove all the dry cleaning charges?

A That does.

Q So even though you found that Ms. Capsalas shops at Saks and Neimans and various other places, you don't think she ever does dry cleaning?

MR. MARKS: Objection, leading, calls for speculation.

MR. SMITH: Well, let me --

THE COURT: Well --

MR. SMITH: Let me establish --

THE COURT: Overruled as to leading, but sustained as to speculation.

BY MR. SMITH:

Q Did you find that Ms. Capsalas purchased clothing at -- or other items at Neiman Marcus, Saks 5th Avenue and other high end stores?

A We know that she had transactions at those stores.

Q All right. But you didn't attribute any of the dry cleaning expense to her; is that correct?

A All of the dry cleaning was considered Dennis' and is considerable reasonable.

Q Exhibit -- and just on your -- the issue of the 2004 to 2008 information, you requested that information through our office, correct?

A That is correct.

Q And none of that information was ever provided, was it?

A That is correct.

Q In -- and I've asked you this question before, but can't we just extrapolate the spending backwards to 2005? I mean, if he spent an amount in 2008, isn't it reasonable to say since he earned similar earnings in the previous years, to say that he spent that same amount in 2005 through 2008?

MR. MARKS: Calls for speculation, Your Honor.

THE COURT: Overruled.

THE WITNESS: You could potentially perform some analyses of the spending in 2008 and 2009 and extrapolate that backwards with other considerations. You wouldn't want to go into the further years since the income increased in those years, so --

BY MR. SMITH:

Q The -- looking at Exhibit 4, can you tell me what that constitutes?

A Exhibit 4 is going to be the Jennifer Steiner related outflows. This exhibit was created base -- was created based upon Dennis' answers to second set of interrogatories where he identified transactions that were for the benefit of Ms. Steiner. In addition to those transactions, we also identified additional flights which are identified on page 12.

And then, in addition to those identified transactions that either Mr. Kogod has identified or those that specifically reference Ms. Steiner, based upon the locations -- so if Dennis said that he and Ms. Steiner were in Florida for a period of time and we saw other Florida-related charges that were not included on that list, we also included that on the schedule and those are identified as Jennifer -- expenditures for Jennifer Steiner, possible expenses.

Q And when did you this analysis, you actually came up with a figure that was slightly less than the figure that was identified by Mr. Kogod or not? Am I right about that?

A Originally, on the November schedule, there was transactions for Ms. Steiner based upon Ms. Steiner being in Las Vegas, because Mr. Kogod identified that him and Ms. Steiner went to Las Vegas. We included other charges in Las Vegas at that time at the Wynn and things like that. But then in Mr. Kogod's second deposition, he actually said that Ms.

Steiner left on a particular date and Ms. Capsalas came the next day. So we basically re-categorized those transactions from Ms. Steiner to Ms. Capsalas.

Q And that's because they were staying in the same hotel?

A Yes.

Q All right.

A But you said that --

Q But on different days?

A But you said that our number was less. If you look at our rebuttal reports to Mr. Teichner, we include an update to our number.

Q I see.

A Those include additional fees related to Ms. Steiner and two of the charges were from Ms. Steiner's attorney in this matter for her deposition, which totaled about 20,000. So if you were to include those in this, the number would then be greater than Dennis' identify number.

Q We'll get to the rebuttal report if Mr. Teichner testifies. So the -- and in the -- so Exhibit 4, would you -- yeah, that's it. Okay. Exhibit 5, what is that?

A Exhibit 5 is going to be the yacht related outflows. It's going to contain both the purchase of both of the yachts, all of the related -- yacht related expenses such as fuel,

maintenance and then that number is going to be reduced by the sale that occurred in 2015 of 990. So Exhibit 5 will get you to a number that is all of the funds that were spent on the yacht in excess of the sale proceeds.

Q And then, the Exhibit 7 -- or excuse me -- Exhibit 6?

A Exhibit 6 is going to be all of the potential community waste that was not elsewhere classified throughout the report. I believe in Nadia's deposition, she identified that if she was with Dennis, you know, she wasn't using her credit card, that Dennis was paying for things. So in order to capture -- if you look at it, we put the various transactions that we've analyzed into different buckets. We have transactions that we know are related to Gabrielle. That's in one bucket that we've excluded from this analysis. We have transactions that were for the marital residence that we've excluded.

And then, you have the buckets that we've already talked about; those of Ms. Capsalas, those of Jennifer Steiner, those of the yacht. The last bucket that you have is basically everything that is not elsewhere classified. Those would be all of the activity within Dennis' accounts that we looked through to determine how much of that -- those funds in excess were related potentially for the benefit of others.

Some of those items as identified by the note, we've made adjustments to those numbers. And if -- would you like me to walk through the adjustments?

Q Please.

A Okay. If you were looking at Exhibit 6 and --

MR. MARKS: Your Honor, do we have a question standing because it's becoming a narrative? Could we have some questions or are you just going to let her just do a narrative through the --

THE COURT: Well, the --

MR. SMITH: I'll ask questions. It's fine.

THE COURT: Okay. Thank you.

BY MR. SMITH:

Q Can you go through the section of Exhibit 6 that shows the allowances you made and briefly describe those allowances?

A If we look at Exhibit 6 in conjunction with the notes on page 14, so if you're looking at the columns 2008 through 2015, all of these summations going down the rows, which I believe there's references through 1 through 26, these are going to be our categorization of those -- of the underlying transactions that were in that not elsewhere classified bucket. We've then -- so these are the amounts. Then, you have an adjustment column on -- closer to the right

of the page. Those adjustments that we made, one was to remove -- note one is to remove the outflows that are addressed on the marital asset schedule.

So if, for example, if I find a note one, if you look at reference 93, it's on the second page, Pray for Ukraine. I apologize for the font. You see if you go across, 81,000 was paid to Pray for Ukraine. Since that is an asset on the marital balance sheet, we've removed that from the potential community waste. So that --

Q Okay. And that's consistent all the way down that schedule?

A So if you were to look at all the note ones, I believe there's another one on 124, these are wire transfers from investments, about 300,000. Those are reflected on the marital balance sheet, so we've removed those, including the property purchases.

Q Okay. And then, if you look at the other notes, they describe all the other nature of allowances that you've taken from the report. So if I look at a note, I categorize it on that allowance and that's the -- what you've indicated on those various allowances --

MR. MARKS: Objection, leading.

MR. SMITH: Judge, I have such a limited time. It's --

THE COURT: I understand --

MR. MARKS: Then, why can't she testify?

THE COURT: -- but it's sustained.

BY MR. SMITH:

Q Well, how did the notes apply to the allowances?

A So they would tie back, so the note would be the rationale for the adjustment --

Q Okay.

A -- or lack of adjustment.

Q Is it true that you can look down the scheduled allowances, apply the notes and understand the basis for that allowance?

A I believe you can.

Q And the data -- Mr. Leauanae of your firm, your co-author of the report, was deposed in this action, correct?

A Yes.

Q And Mr. Leauanae was asked to provide all of the back up data associated with the various allowances; is that true?

A I believe he was asked to provide the back up data for all of the amounts that ended up in the adjusted column, which would be the potential waste, so not the allowances, but --

Q Thank you. Thank you for that clarification. If

you look to Exhibit 59.

MS. VARSHNEY: Can we have 59 too?

MR. SMITH: Okay. Your Honor, did we not admit 58?

THE COURT: I don't believe it was offered.

MR. SMITH: That was where the excerpts from all the depositions and other documents that were utilized by Ms. Allen; Mr. Leauanae for the factual determinations that have been referenced.

THE COURT: Any objection to the admission of Exhibit 58.

MR. MARKS: No.

THE COURT: Exhibit 58 is admitted.

(PLAINTIFF'S EXHIBIT 58 ADMITTED)

BY MR. SMITH:

Q And Exhibit 59, do you recognize that document?

A It's an email. Yes, I recognize it.

Q Okay. And you recognize it as an email from Mr. Leauanae to myself and Dan Marks addressing the information requested in the deposition?

A Yes.

Q Did you aid him in this process?

A I did.

MR. SMITH: Okay. And move for the admission of 59, Your Honor?

MR. MARKS: No objection.

MR. SMITH: And on --

THE COURT: Exhibit 59 is admitted.

(PLAINTIFF'S EXHIBIT 59 ADMITTED)

BY MR. SMITH:

Q -- Exhibit 60, can you tell me what that is?

A If you're looking at Exhibit 59, it references a couple schedules. This first schedule is going to relate to the bullet three on the email. It's going to auto-related charges. This is going to be all of the detailed transactions of the auto-related charges specifically for the vehicles on Exhibit 6 of our report.

Q Now, I want to understand something. You -- your initial analysis in the November 15th report that is Exhibit 56 was done using the FDF. Did you alter that criteria for your December 15th report?

A We still relied upon the FDF in our December 15th report.

Q Did you rely on any portions of the deposition of Mr. Kogod when he went through and verified the information or addressed the information contained in his FDF in his second volume?

A Yes, we did.

Q Okay. You were present at that deposition, correct?

A At both, yes.

Q Okay. In fact, you were provided the questions to ask Mr. Kogod about the specifics of his FDF. Do you recall that?

A We've been involved in the deposition process by providing lists of questions based upon the transactions we've reviewed.

Q And his answers in that deposition, when I went through question by question and said Mr. Kogod, how much do you spend for this, is this reasonable for this, did you rely on that?

A We did.

Q And it was from his own statements that you determined the -- I'll rephrase the question. Was it from his statements or some other source that you relied on the information used to determine his reasonable expenditures?

A We relied upon his statements for the note four adjustments.

Q Are the -- you also did an analysis of the cars. How many cars did you allot to Mr. Kogod as part of that analysis?

A If you're looking at Exhibit 6 and you total up the auto-related for the -- I'm just going to refer back to it quickly. If you total up the -- I believe it's auto-related

Lexus? Here we go. The Allied Bank which Mr. Kogod indicated in his deposition was related to a car payment, if you add up the reference four, five, six, eight -- I'm sorry -- four, five, six, ten, eleven and twelve, so not including the Cadillac, Harley or Luxury, if you just include the Porsche, Mercedes, BMW, Audi and Allied Bank lease payments and you aggregate those over a period of time, divided by the number of months, it was an allocation of $3700 a month in auto-related payments.

MS. VARSHNEY: Could we move for the admission of 60?

MR. SMITH: Move for the admission of 60, Your Honor?

MR. MARKS: No objection.

THE COURT: Exhibit 60 is admitted.

(PLAINTIFF'S EXHIBIT 60 ADMITTED)

BY MR. SMITH:

Q And then finally, 61. Can you tell me what that is?

A Just for clarification on 60, when we prepared the schedule, there was additional payments because we had received updated statements, but we also had not included in our December 7th report payments for Lexus. We had included those as Gabrielle's, but there was a period of time when both Gabrielle and Dennis had a Lexus and we had included both

payments as Gabrielle. So on Exhibit 60, this would also include the additional Lexus payments that were for Dennis and so that would increase my number I just gave you.

Q Based on -- let's look at the Exhibit 60 then. So Exhibit -- excuse me -- 61.

A Okay.

Q Tell me what that is.

A This is going to be all of the transactions -- so if you're looking at Exhibit 6 and some portion of a category ended up in the adjusted column, Exhibit 61 is going to be all of the underlying support, so all of the transactions that comprise those adju -- those categories on Exhibit 6 and I believe they're sorted by category and then by date. And there's about 7900 transactions.

MR. SMITH: Exhibit 60 -- I move for the admission of 61, Your Honor.

MR. MARKS: No objection.

BY MR. SMITH:

Q 62, can you tell me what that is?

THE COURT: Exhibit 61 is admitted.

(PLAINTIFF'S EXHIBIT 61 ADMITTED)

THE WITNESS: Is that a different volume?

MR. SMITH: Yes.

MS. VARSHNEY: It's in Volume four.

BY MR. SMITH:

Q Volume four.

A This is going to be relating back to that email on 59. It's going to be bullet four of 59. This is going to be the withdrawals that we observed, both checks written to cash withdrawals and teller withdrawals from -- made by Gabrielle.

MS. VARSHNEY: Move for the admission?

MR. SMITH: The -- move for the admission of 62, Your Honor.

THE COURT: Any objection?

MR. MARKS: It's in a different volume. Let me take a look.

MS. YOUNG: Is it 62?

MR. SMITH: 62.

MS. VARSHNEY: It's 62, Volume four.

MR. MARKS: No objection.

THE COURT: Exhibit 62 is admitted.

(PLAINTIFF'S EXHIBIT 62 ADMITTED)

MS. VARSHNEY: One more thing. There is the Exhibit 55, which is an index of documents that they've used to prepare those reports.

BY MR. SMITH:

Q Could you look at Exhibit 55. That's in Volume three.

A Okay. I'm there.

Q Can you tell me what this document is?

A This document is a summary of -- it's kind of like an inverse of our Exhibit 1, so this is a summary of all of the account statements we've received and it will identify which production either from Defendant or Plaintiff that those documents came from. Since there was so many productions and so many different bank statements, this allows you to identify where a particular statement and/or cancelled check which production it was in.

Q And that's 55?

A Yes.

MR. SMITH: All right. Move for the admission of 55.

MR. MARKS: No.

THE COURT: Objection?

MR. MARKS: No objection.

MS. VARSHNEY: Can you get Jennie's CV in? Is there an objection to that?

THE COURT: 55 is admitted.

(PLAINTIFF'S EXHIBIT 55 ADMITTED)

MS. VARSHNEY: 54, we haven't gotten it in yet.

BY MR. SMITH:

Q Oh. And I'm sorry. We didn't get your CV in, so

let's look at 54. Is that your CV?

A Yes, it is.

MR. SMITH: Move for the admission of 54, Your Honor.

MR. MARKS: No objection.

THE COURT: Exhibit 54 is admitted.

(PLAINTIFF'S EXHIBIT 54 ADMITTED)

BY MR. SMITH:

Q Isn't it true that in your analysis of the expenses that you've allowed as community property, you may have identified expenses that really haven't benefitted the community?

MR. MARKS: Objection, leading.

THE COURT: Overruled.

THE WITNESS: That is fair.

BY MR. SMITH:

Q Do you -- would you describe your approach in this matter in regard to identifying the additional spending that was not attributed to Dennis; conservative, aggressive? How was it?

MR. MARKS: Your Honor, there's no foundation to classify it. I think you have to decide based on the evidence.

MR. SMITH: It's her own --

THE COURT: (Indiscernible).

MR. SMITH: It's her own experience and how she would go about it.

MR. MARKS: There's no foundation; what's conservative, what's liberal --

THE COURT: Objection sustained.

BY MR. SMITH:

Q When -- you've done other reports of this kind, correct?

A I have.

Q And in this report, you've -- well -- do you believe that the analysis is fair to Mr. Kogod that's contained in your report?

MR. MARKS: Objection, no foundation, Your Honor.

THE COURT: Overruled.

THE WITNESS: I believe if you're looking at Exhibit 6 and you were to add up all of the allowances that we have given him under the note four, the note five and the note six, those equate to about 2.4 million, which does not include the spending on the other exhibits, so on Nadia. It doesn't include the spending that we discussed in the marital bucket, in the Gabrielle bucket and I believe there was comments made in opening statements and throughout this trial that if you were to look at Gabrielle's FDF, her spending would equate to

-- I believe the number was 1.8. So if you're looking at what we've allowed him on Exhibit 6, that number is 2.4 so we've allowed him an excess over what Gabrielle --

BY MR. SMITH:

Q In regard to the -- there's been statements that Gabrielle would end up with 23 million dollars and he would end up with 17 million dollars, isn't that -- is that an accurate characterization of how the community would be divided?

MR. MARKS: Objection, no foundation for this witness. There's been no foundation --

THE COURT: Sustained.

MR. SMITH: I'll pass the witness, Your Honor.

THE COURT: All right. Cross examination?

RECROSS EXAMINATION

BY MR. MARKS:

Q Ms. Allen, as I understand it, you work for Mr. Leauanae at Anthem Forensics?

A Yes, I do.

Q Okay. Is he your boss?

A He's the principal of the firm.

Q He owns Anthem Forensics?

A He does.

Q And you're an accountant that works there?

A I work for Anthem Forensics, yes.
Q You don't -- do you own part of Anthem Forensics?
A I do not.
Q Okay. And you've worked for Anthem Forensics for some seven years, correct?
A Approximately seven years.
Q Okay. And isn't it true that you only recently became licensed as a CPA because of changes in the certification process in the State of Nevada?
A Prior to the license changes, my -- I was unable to get the CPA license based upon the work requirement experience. Due to lobbying to change those rules with the legislative, we were then able to count the work experience. And then, after that change, I applied for my CPA license.
Q So what I said was correct; isn't that right?
A What was your statement?
Q Let me just rephrase it. You didn't have work experience in the auditor tax field with a public accounting firm, correct?
A I do not have auditor tax experience.
Q With a public accounting firm, correct?
A Correct.
Q And the extent of your accounting experience is primarily with Anthem Forensics over seven years, correct?

A In forensic accounting, yes.

Q That's what you've been doing the last seven years, correct?

A That is correct.

Q And until what, 2014, the Nevada State Board of Accountancy did not recognize working in forensic accounting as qualification to allow you to have the work experience to be certified as a public accountant in the State of Nevada; isn't that correct?

A That is correct.

Q And it's my understanding you've never had your deposition taken?

A I have not.

Q At all -- at any time?

A At any time.

Q Okay. And the sum total of your testimony before any court anywhere in the United States is one case in front of Judge Duckworth; is that right?

A No, I've testified twice.

Q Regarding -- regarding waste?

A In the other case, there was also forensic accounting involved. I would consider that forensic accounting testifying experience as well.

Q Wasn't that a business valuation case?

A Involving forensic accounting as well, yes.
Q I'm asking -- your sum total of court testimony regarding alleged community waste is one time?
A I believe forensic accounting and business valuation also could fall into that category of community waste, so --
Q So when you do a business valuation, you consider that testimony on community waste?
A It depends on the matter.
Q You have two matters. I thought yesterday you said one was business valuation and one was alleged community waste?
A Yes. And when you're doing a business valuation, there's times when you have to recreate financial records, analyze those records in order to make adjustments to remove personal claims of waste in that business, so a business valuation can also include forensic accounting.
Q I know it could, but in this situation you've had one court testimony regarding community waste in your whole life; isn't that right?
A I believe the other one also included forensic accounting.
Q And both of those were before you became certified, correct?
A I actually was thinking -- I think the other one may

have been a few days after I was certified.

Q Okay. And in this case, did you work closely with the Plaintiff, Ms. Cioffi-Kogod?

A I think you would have to define closely.

Q Okay. Did you -- when -- let me back up. You were retained -- Anthem was retained by Mr. Smith, correct?

A That is correct.

Q Your office, do you know how many cases you have with Mr. Smith right now?

A A few.

Q Did you read Mr. Leauanae's deposition?

A I did.

Q Do you believe everything he said there was true and correct?

A I do.

Q Okay. Do you know that Mr. Smith and Anthem work on a regular basis?

A I believe there's lots of firms that we work with on a regular basis.

Q But I'm asking you about Mr. Smith, not about other firms --

A What would --

Q -- correct?

A What would you consider a regular basis?

Q That Mr. Smith and Anthem have had 40 to 50 cases over the last several years? Do you believe that's accurate?

A I can't speak, because Mr. Leauanae has obviously been doing this longer than I have and he's worked with Mr. Smith before I came on. During my employment, throughout the years, we've had several cases with Mr. Smith.

Q Is it 40 or 50?

A I can't speak to that.

Q Do you have about five cases with Mr. Smith right now?

A I believe it's less than that, but I would have to go through all of our cases and determine.

Q You were hired by Mr. Smith, correct?

A Anthem Forensics was retained, yes.

Q Yeah. All right. And you were paid what? Do you know how much Anthem was paid?

A I believe through January, which is where our invoices are up to date through, I believe it was approximately 96,000.

Q Okay. And how much time did you spend with Mr. Smith? Do you have the number of hours?

A With Mr. Smith specifically?

Q Yeah.. (Indiscernible).

A I don't know that number. I --

Q What about Mr. Smith, Garima, anyone in his office?
A It would be contained in the billing statements, but I don't know that number off the top of my head.
Q Okay. But did you work -- when you had receipts -- when you were going through your analysis and you were looking at various receipts, checks, et cetera, did you consult with people in Mr. Smith's office to determine what bucket it should go into?
A No, we did not.
Q Okay. Did you discuss the matter with Ms. Cioffi-Kogod to decide whether she recognized the receipt or the charge?
A When we were meeting with Gabrielle, it was to identify the transactions that should be in her bucket or in the marital bucket.
Q But you would consult with her as to whether she felt it should be in the marital bucket versus another bucket, correct?
A I don't believe that's accurate.
Q Did you ask her do you recognize this charge and what bucket it should go into?
A For every charge for 27,000?
Q Not every charge, but for a number of charges?
A We met with Gabrielle; me specifically, and

discussed some transactions, if she knew what they were about. But I -- the way you're characterizing it, I don't believe that's an accurate statement.

Q But did you rely on Gabrielle's input in making determination whether the bucket was for the community or for Dennis?

A No. We relied on Gabrielle's input to identify the charges that were for Gabrielle and related to the marital residence.

Q Okay. Did you rely on Gabrielle as to whether or not she recognized other charges that may have been for Dennis?

A No, we did not.

Q Okay. Did -- you have no definition of community waste in your report; is that correct?

A That is correct.

Q And you're not an attorney, correct?

A I am not an attorney.

Q You're not making any conclusion from an accounting point of view that any of the items in your report are specifically community waste, correct?

A I believe that we've analyzed the transaction activity and whether or not they're community waste is a decision to be made by the trier of fact.

Q So your sole analysis is to put various transactions in buckets, explain that to the Court and the Court would decide whether that specific bucket should be community waste; is that correct?

A I believe that's fair.

Q Okay. And in doing that, you would -- you're analyzing the inflow and outflow of various transactions, correct?

A That is correct.

Q Okay. And in this case, either Mr. Smith or Ms. Cioffi-Kogod wanted you to identify every transaction that you could get records for; isn't that right?

A I believe the Court has asked us to do an accounting of the funds that came from both the Court and Counsel.

Q But the Court didn't direct your work product of 27,000 entries, correct?

A Based upon that criteria, we decided how to approach the matter, which would be to look at the account statements and that led to the results of 27,000 transactions.

Q Okay. But you decided to look at every transaction, meaning every credit card statement, correct, that you could get your hands on?

A We looked at all the accounts identified on Exhibit 1.

Q That included every credit card?
A It did not include every credit card.
Q That you could find.
A That we received identified on Exhibit 1.
Q Every bank statement that you could receive?
A Identified on Exhibit 1.
Q Okay. Every ATM withdrawal that you could get?
A Those would be contained within the bank statements and credit cards you just referenced.
Q Okay. But in looking at all of that information over eight years, that was 27,000 various entries, correct?
A That is correct.
Q And isn't it a fact that you couldn't get records prior to '08 because of various banking issues, correct?
A I believe we did not receive them from any source.
Q Okay. But it's not -- you're not implying that it's our problem that the banks didn't keep records prior to 2008, correct?
A If that is the reason we didn't receive the statements, then that's -- from my understanding, I don't know if that's true for every statement on the -- identified on Exhibit 1.
Q You didn't -- you didn't file a motion. You didn't have Mr. Smith file a motion to compel with the discovery

commission to get records prior to 2008, correct?

A I don't know if that was done or not.

Q Okay. Now, isn't it a fact that the Court had said he was mostly concerned about items of 5,000 or more? Weren't you here for that comment by the Judge?

A I don't recall specifically.

Q You don't recall the Court saying he was mainly concerned about expenditures of in excess of 5,000? You don't recall that?

A I don't recall that he was mainly concerned of trans -- I don't -- I don't recall that.

Q On your list of 27,000 items, you list every item including a dollar for parking, correct?

A It's more efficient for our office to go through every transaction rather than to pick and choose, because there can be errors in that process. So for us, over time we have found that it's actually more accurate and more efficient for us to look at all transaction activity rather than to have someone go and try and identify some kind of materiality limit.

Q Since I'm on the clock, wasn't the answer yes, you look at every transaction including a dollar?

A We did not have a materiality limit. That is correct.

Q Isn't my statement correct though, you looked at every transaction including down to a dollar?

MR. SMITH: It's asked and answered. She just said --

MR. MARKS: Well, I would like her to say yes --

MR. SMITH: -- (Indiscernible).

MR. MARKS: -- and --

THE COURT: No, I get it. And it's asking -- Counsel is asking for a yes or no answer.

THE WITNESS: That is correct.

BY MR. MARKS:

Q Are you trying to waste my time because we're on a clock limit?

A No, I'm not.

Q Will you answer yes if it's yes, please?

A If it's a direct yes, I will.

Q Okay. Isn't it true, prior to doing your report I believe in the middle of September, the month of September of 2015, you produced a document that was circulated that had 27,000 entries give or take; isn't that correct?

A I don't believe we produced every transaction we looked at. And at that time, it wouldn't have been 27,000, so I don't believe that's correct.

Q How many would it have been at that time?

A I don't recall.
Q It was a huge, thick document, correct?
A It would have been large, yes.
Q It was in the 20,000-plus range?
A I can't specifically say.
Q But you had -- that was your accumulation of the bank statements, the credit cards, the ATM withdrawals that you had done up to that point in time prior to the depositions taking place; isn't that right?
A I don't believe it was all transactions. I believe it was certain buckets of transactions, but I'd have to look at it to tell you.
Q Do you have that?
A I don't know if it's been produced today or not.
Q Isn't that something that was -- that you used at Ms. Capsalas' deposition?
A We did.
Q Isn't that something you used at the depositions of Dennis' relatives, the parents, the brother and the sister?
A I don't --
Q Brother and sister-in-law?
A I don't believe we used that at their depositions.
Q You didn't ask them about certain transactions?
A We asked them about the checks that were attached as

exhibits to those depositions, but not the entirety.

Q Okay. But you were at Ms. Capsalas' deposition, correct?

A I was.

Q And you had a precursor let's say, a prequel to your report, to your exhibits, attached to your report regarding the buckets, you had certain items of Gabrielle and Dennis, Ms. Capsalas, from the bank statements and the credit cards and you went line by line or asking certain questions of Ms. Capsalas about her expenditures; isn't that correct?

A I don't believe that whole statement is correct. You mentioned Gabrielle in there. Well, we asked Ms. Capsalas about her spending, yes.

Q Okay. But the initial chart for want of a better word, your initial exhibit, didn't break things into buckets. Wasn't it an -- wasn't it a document that included expenditures of Dennis, Gabrielle and let's say others and you had produced that prior to doing the buckets in your report. Do you recall that?

A Again, I don't specifically recall what was on that schedule. I believe it was just related to Ms. Capsalas, but I would have to look at it to tell you.

Q But that's the document you used at Ms. Capsalas' deposition, correct?

A We ended up using a laptop, I believe. I don't believe we referenced that document.

Q Didn't you attach that to her deposition?

A I don't recall if that was attached or not.

Q Okay. All right. Did you rely on any specific case law in your analysis -- legal cases?

A We were directed -- I believe it's referenced in one of our reports, we referenced the NRS Code that we were given by Mr. Smith's office, but that's all.

Q Other than that one NRS Code, did you rely on any case law?

A No, that would be determining a legal conclusion.

Q You didn't rely on the Putterman case or the Laufen case?

A We analyzed the transaction activity. We didn't rely on any legal matter.

Q So you didn't read Putterman or Laufen?

A I believe I read it at some point, but I don't --

Q You didn't rely on it for this report?

A That's fair.

Q And you didn't rely on any other publications for this report?

A That's fair.

Q Okay.

(COUNSEL AND CLIENT CONFER BRIEFLY)

BY MR. MARKS:

Q If you turn to 3U.

A What binder?

Q It would be in Binder Volume three.

A Did you say 3U?

Q Correct.

A Okay. Let me find it. Okay. I'm there.

Q Okay. It's a production by Mr. Smith's office. Do you recognize that from the production of document, the very small type?

A Yes, this is a schedule prepared by our office.

Q And it was -- it's considered a work in process transaction register sorted by category then date?

A That's what it says, yes.

Q Did your office prepare that?

A We did.

Q Do you know when you prepared it?

A The reference on the document says it's as of September 9th, 2015, so I would --

Q Okay. And you --

A -- go with that date.

Q Okay. And what was the purpose in preparing 3U?

A I believe we were asked -- as the depositions were

starting to come up, I believe we were asked to prepare the schedule of the transactions we would be asking about so that there was support in the depositions and I believe that's how this schedule came to be.

Q Okay. And what did you include in 3U?

A Let me look at it for a second.

MR. MARKS: Your Honor, I don't know if you have 3U? You're not going to look until it's admitted?

THE COURT: Yeah. It needs to be admitted before I --

THE WITNESS: I believe this is all of the transaction activity that we had reviewed up until that point.

BY MR. MARKS:

Q Up to September of 2015?

A September 9th, yes.

Q Okay. And wasn't that produced to me?

A I believe it was, yes.

MR. MARKS: Okay. Move the admission of 3U.

MR. SMITH: No objection.

THE COURT: Any objection?

MR. SMITH: No objection, Your Honor.

THE COURT: 3U is admitted.

(DEFENDANT'S EXHIBIT 3U ADMITTED)

BY MR. MARKS:

Q And do you know how many thousands of transactions are in 3U?

A I can look. The last reference number on page 261 says 22,649.

Q 22,649 transactions.

MR. MARKS: Your Honor, do you have that?

THE COURT: I'm looking for it.

MR. MARKS: It's in our binder.

(PAUSE)

BY MR. MARKS:

Q Okay. So what I was talking about before was accurate, that your office produced 22,649 entries before Ms. Capsalas' deposition on -- which was on September 12th and we got this document on or about December 9th of 2015, correct?

A That is fair.

Q And the 22,649 entries included up to that point credit cards, checks, bank statements, ATM withdrawals, not just of Dennis, but also of Ms. Cioffi-Kogod too, correct?

A That is correct.

Q It included, for instance, we saw Ann Taylor and we're like -- we know Dennis doesn't shop there, but Ms. Cioffi-Kogod shopped there, correct?

A Ms. Kogod does shop there, yes.

Q Okay. We saw Kohl's where we thought she shopped

because she had a credit card, correct?

A Ms. Kogod shops at Kohl's, yes.

Q Okay. And your purpose in doing this accounting was to list each and every transaction that you had up to that point in time for use later at depositions and ultimately to help you identify the buckets that would go into your expert report; isn't that right?

A I believe that's fair.

Q Okay. And in Exhibit 3U, you included various ATM withdrawals of both the Plaintiff and the Defendant, correct?

A This appears to be all activity, yes, so it would be both. Both.

Q All activity of the community?

A Within the accounts, yes.

Q Okay. And didn't you rely on 3U's to later segregate and put in buckets the various activity?

A The electronic version is constantly updated in our office, so it would have been a progress. That's why it says work in progress. We would have continued to analyze that analysis and later it would have been in the buckets.

Q Okay. But -- okay. The Court -- it's fine about electronic, but we're still in a paper for the court system, a paper system.

MR. SMITH: Is this a question?

MR. MARKS: It's a question.

BY MR. MARKS:

Q 3U, which is a paper document in evidence, you have an electronic version, right?

A Yes.

Q Okay. What I said is, in September 9th, this was every -- 3U contained the universe of information and you updated from September until you did your report in November and in December. Is that what you're saying?

A That is correct.

Q But the 22,649 entries are the same part of what became, I guess, 27,000 by the time you did your report in November and/or December; isn't that right?

A That is correct.

Q Because you were constantly updating it?

A With the new information, yes.

Q Okay. And you would -- you were at -- you were at the various depositions, including Mr. Kogod's deposition, correct?

A I was at a majority of the depositions.

Q Okay. And you helped Mr. Smith ask questions at the depositions?

A I did.

Q Correct?

A I did.

Q And, in fact, you wrote questions for him to ask?

A Prior to the deposition, yes.

Q And during the deposition, he'd consult with you regarding questions?

A Yes, he did.

Q And you also did the same with Ms. Kogod -- Cioffi-Kogod? You got her input at various issues regarding the deposition process and questions, correct?

A I don't believe I received input from Ms. Kogod regarding the depositions, no.

Q She never told you what questions to ask or had questions or concerns about it?

A No. I prepared my own questions based upon the financial analysis. I believe she may have also prepared questions that she wanted asked, but that wasn't through me.

Q Okay. But everything that's in your report was filtered through Exhibit 3U, the 22,000 entries that you already had on September 9th --

MR. SMITH: Objection, vague and ambiguous as to filtered. I don't know what that means.

MR. MARKS: An --

THE COURT: Sustained.

BY MR. MARKS:

Q The 22,000 was the basis, the building blocks, to what was then in your report?

A Some parts of it, yes.

Q Well, you didn't -- you -- you analyzed every single transaction of the parties, correct?

A That is --

Q In an eight-year period?

A Within the accounts we received.

Q So this 22,000 had to be part of your report in some way, correct?

A That is fair.

Q And you just updated it by new information that you got in September, October, November and December until you did your December 15th report, correct?

A That is fair.

Q And at the deposition process, you would ask witnesses various line items from Exhibit 3U's and get their reaction did they spend at a given store. For instance, you asked Ms. Capsalas, did you spend at a given store?

A We asked Ms. Capsalas about various spending, yes.

Q But you would be using Exhibit 3U's at the time of her deposition to show an entry and say did you spend it?

A I was using the electronic version on my laptop. I don't know if it was updated between September 9th and

September 12th. But generally, yes.

Q Okay. The point was at the deposition, a hard copy was used in the room, correct? You were sitting there and Mr. Smith had a hard copy and that was circulated to the witness and to myself, correct?

A I don't recall referencing this, giving a hard copy of this in the deposition, no.

Q But you were on your computer then with what's 3U's, correct?

A That's fair.

Q Okay. And 3U's was later re-analyzed for want of a better word and became various Exhibits; 2, 3, 4, 5 and 6 to your December 15th report, which is in evidence; isn't that correct?

A That's fair.

Q So Mr. Kogod was asked at his deposition regarding extensive line items of spending; whether that was for him, whether that was for Nadia or who that was for, correct?

A I don't believe that to be correct.

Q You ask -- didn't Mr. Smith ask Mr. Kogod various line items ultimately that were part of your exhibits to your December 15th report?

A Those were different exhibits than this. Those were -- I believe there was various exhibits that we had

categorized, but not this exhibit if that's what you're referencing.

Q Right. But the information in this -- in other words, if there was an expenditure South Shore Country Club, that would then -- you would look at that expenditure and decide does that go into any of your exhibits or is that, you know, Gabby and Dennis spending, correct?

A Generally, that describes the process, yes.

Q Okay. Now, in your analysis, did you try to compare Gabby's spending to Dennis' spending?

A I believe we considered Gabby's spending when it came to the auto allowance, but as a whole, we considered various aspects but not a dollar for dollar.

Q But did you look at, okay, Gabby spends 15,000 a month, so Dennis should spend in that ballpark and try to reach some parity in spending?

A Not necessarily. We were more looking at the underlying transactions themselves.

Q Okay. So you're not -- you didn't look at the fact that Gabby had access to a certain amount of money per month and she had discretion on how she spent? You didn't look at that fact at all in your analysis?

A Can you repeat the question?

Q In your analysis, which is your December 15th

report, did you consider that Gabby would have access to a certain amount of spending per month over the same eight-year period and did that fact factor into your analysis of the December 15th report in any way?

A I don't believe her access to money came into play in our report.

Q Excuse me?

A No, I don't believe it came into play.

Q Okay. So you didn't take into account that Gabby would have spent in excess of one million dollars or 1.4 million dollars over the same eight-year period that you analyzed Dennis' spending. That's not in your report in any way, correct?

A Again, just portions of that when I was discussing the auto allowance, but as a total, no, I think that's correct.

Q Okay. So let's look at your report.

A Okay.

Q Specifically, if we go to --

A (Indiscernible) a change. Are we done with --

Q Yes.

A Okay.

Q By the way, you agree that Nevada doesn't require

equal spending by the parties, correct?

MR. SMITH: Objection, calls for a legal conclusion.

THE COURT: I missed the question. What's the question?

BY MR. MARKS:

Q You agree Nevada law doesn't require equal spending by the parties?

MR. SMITH: Calls for a legal conclusion.

BY MR. MARKS:

Q It does -- well, you relied on the NRS, right? 123, that's in your report, correct?

MR. SMITH: Could you rule on the objection, Your Honor?

THE COURT: Yeah. The objection is it calls for a legal conclusion. I overrule the objection to the extent the witness has any knowledge, she may answer the question.

BY MR. MARKS:

Q Did you rely on an NRS -- did you rely on an NRS cite in your expert report of December 15th?

A Our analysis, we received guidance from Counsel, which the guidance they had given us was from that NRS, which I believe is referenced in our February 5th report and I believe it's a footnote to that report.

Q You cited an NRS -- an NRS cite 123, correct?

A I'd have to look at the footnote to -- but I believe it's 123, yes.

Q Okay. So are you familiar with that -- are you familiar with that NRS section?

A I've reviewed it, yes.

Q Okay. Do you believe that requires economic parity between the spouses?

A I'd need to refer to it again. Where's the foot?

Q Your supplemental report, I don't believe it's been offered. You don't recall sitting here today when you did your analysis whether you considered economic parity between the spouses?

A I believe a majority of our analysis was again analyzing the transactions and putting them into the different buckets. And whether or not that equals parity or community waste is up to the trier of fact.

Q Okay. Then, let's talk about the buckets.

A Okay.

Q Exhibit 2 is the Nadia bucket, correct?

A That's correct.

Q And you have Exhibit 2 and then, you have the actual wording of Exhibit 2, which is on page eight and page nine of your December 15th report; is that correct?

A And page ten.

Q Okay. So we may flip back and forth between the wording on page eight, nine and ten and the Exhibit 2.

A Okay.

Q Okay. As I understand Exhibit 2, you took every credit card transaction that was in Nadia's name and put that on the Nadia bucket, correct?

A I believe the account is actually in Dennis' name, but it's solely used by Nadia, but that is correct.

Q But you put everything, correct?

A On the Wells Fargo 1032 and 4727, yes.

Q Okay. And you understood Dennis and Nadia were living together, correct?

A That is my understanding.

Q Okay. You understood that Nadia -- there was grocery shopping on that credit card, correct?

A I observed groceries, yes.

Q You included all of the grocery shopping on your Exhibit 2, correct?

A That is correct.

Q You included anything like Bed, Bath and Beyond that would have been for the household on Exhibit 2, correct?

A That is correct.

Q You included all of the expenses of the M-o-e, the Moe investment in fashion on Exhibit 2, correct?

A Based upon my understanding of Nadia's testimony, yes.

Q Okay. But I'm asking you, did you it include it all on Exhibit 2?

A They are all on Exhibit 2, yes.

Q You included every child transaction on Exhibit 2, correct?

A That we could identify, yes.

Q All right. And you included a certain amount of automobile payments on the theory that there was a couple of cars and Nadia would use a car part of the time and Dennis would use a car part of the time, you included that as a Nadia-related expense on Exhibit 2, correct?

A I don't believe on the theory that either one. I believe we based it upon Nadia's deposition testimony where she stated she drove the -- these were her vehicles and that at that time, we at least two payments to those same institutions.

Q She didn't own those vehicles, correct?

A I don't believe she owned anything.

Q Okay. And Dennis was taking on his marital balance sheet every vehicle, correct?

A On his -- yeah, I believe he is on his --

Q Okay.

A -- PCPD, yeah.

Q All right. And those vehicles were titled in Dennis' name, correct?

A I don't know how they're titled.

Q All right. But you don't have any evidence that anything was titled in her name, correct?

A Again, I don't believe she owned anything.

Q Right. So there was no gift of a vehicle to her. All these vehicles are titled in Dennis' name, correct?

A And you're using the word gift, but if the vehicle was given for her to drive, then whether or not they're -- they were gifted wholly or they were held in Dennis' name --

Q If somebody was allowing somebody to drive a vehicle, you're putting what, the gas, the payments in the bucket, even though it's owned by Dennis?

MR. SMITH: The question is compound.

THE WITNESS: Yeah.

MR. MARKS: I'll rephrase it.

BY MR. MARKS:

Q Let's start with food. You gave -- if Dennis -- if Nadia bought groceries for the home, you gave Dennis credit for no food in his own home, correct?

A That is not correct.

Q How -- where did you -- where on your list did you

give Dennis credit for food in Exhibit 2?

A If you look at Exhibit 6, the groceries that were allocated from Dennis' card is then adjusted for what he said on the FDF. If were you to combine all groceries on Exhibit 2 and Exhibit 6, another way to look at it, put them together, apply that same FDF adjustment that Dennis testified to, you would get to the same number, but it's just split up between two different exhibits.

Q But I've got to go exhibit by exhibit. On Exhibit 2, the 1.6 million includes no groceries for Dennis, correct?

A The way you're characterizing that I don't agree with.

Q You listed every transaction. If Nadia went to Trader Joe's and spent $50, that credit card transaction you listed on Exhibit 2?

A If it was on Nadia's card, it is on Exhibit 2.

Q Okay. And you took -- you did not take into account whether Nadia could be buying groceries for the home in that $50 charge, correct?

MR. SMITH: Asked and answered.

THE COURT: Overruled.

BY MR. MARKS:

Q Isn't that correct?

A That allocation is on Exhibit 6.

Q I'm not asking about Exhibit 6. Right now, I'm on Exhibit 2. If Nadia paid 50 bucks at Trader Joe's, you literally wrote or put on your computer the $50 charge for Trader Joe's and put it on Exhibit 2, correct?

A I just don't believe you can look at Exhibit 2 in a vacuum. It is also in relation to Exhibit 6.

Q But I'll come back to Exhibit 6, but as I understand what you did is you listed every Nadia credit card transaction on Exhibit 2?

A As stated in my report --

Q Is that true?

A -- that is correct.

Q Okay. And all of Nadia's credit card transactions, you totaled that on Exhibit 2?

A That is correct.

Q Okay. And for purpose of Exhibit 2, you did not distinguish between any food in the home that Dennis would have eaten, correct, on Exhibit 2 alone?

A I don't believe you can look at it in a vacuum, so I believe that's incorrect.

Q Well, on Exhibit 2, the $50 for Trader Joe's, you list on Exhibit 2?

A If it was on Nadia's credit card, it is on Exhibit 2.

Q Okay. And you had no regard on Exhibit 2, whether Dennis would have eaten any of the food that was part of the $50 on Exhibit 2, correct?

A Using your example, that is fair.

Q Okay. Because I'm going through Exhibit 2 and then I'll go through Exhibit 6, because each exhibit is separate and you add them up at the end --

MR. SMITH: Objection --

MR. MARKS: -- isn't that correct?

MR. SMITH: -- move to strike the comment by the --

MR. MARKS: It's not a comment.

BY MR. MARKS:

Q You took each exhibit separately and then add them up at the end of your report, correct?

A But I believe you don't look at them in a vacuum. It's all of the activity. They've been put into these different buckets, but they still relate to each other.

Q I understand, but I'll come to Exhibit 6 when I get chronologically to Exhibit 6. We're on Exhibit 2. You put everything in Moe as a loss, correct?

A We put it as relating to Nadia, so it's on Exhibit 2.

Q Well, you don't know whether that was a legitimate investment Dennis made to help a young designer?

MR. SMITH: Objection --

BY MR. MARKS:

Q Do you?

MR. SMITH: -- (indiscernible) and ambiguous as legitimate.

BY MR. MARKS:

Q And investment that Dennis made to help a designer based on his testimony. You discounted that a hundred percent.

A Based upon we used Nadia's deposition testimony.

Q Not Dennis?

A That is correct.

Q Now, if Moe had been successful, wouldn't you have wanted that to be an asset divided 50/50?

MR. SMITH: Wouldn't --

BY MR. MARKS:

Q In your report, wouldn't you have put it on the marital balance sheet as an asset?

A If Moe was still a viable investment --

Q Yeah.

A -- it would be treated as an asset on the marital balance sheet.

Q And you understand you can't cherry pick investments and if 90 percent of the investments are good, you can't say

the 10 percent is potential waste, but I'll take half of the 90 percent?

MR. SMITH: Objection to the word cherry pick and I think this is irrelevant. She did not perform any function of determining what investments were good or bad.

MR. MARKS: Your Honor, it's what she --

THE COURT: Overruled as to the issue of relevance, but sustained as to the form of the question.

THE WITNESS: Can you --

BY MR. MARKS:

Q In your analysis, if assets were valuable, they went on your -- on the marital balance sheet that your office prepared, correct?

A If they existed today, they're on the marital balance sheet.

Q Okay. And if the -- and if Moe didn't exist, you considered the money spent on Moe to be potential community waste because it's not in excess?

A Because Nadia said it was for her.

Q And Dennis said it was an investment he made in a young designer and you decided to choose -- to take Nadia versus Dennis; isn't that right?

A We based it on Nadia's testimony, not Dennis' testimony.

Q But I thought Mr. Smith asked you whether you thought you were being fair to Dennis in your report and I thought you said you were being fair to Dennis. Do you recall that earlier today?

A What's the question?

Q Mr. Smith asked you, did your analysis -- was your analysis fair to Dennis.

A Regarding the spending? Yes, he asked me that.

Q But on Moe, you took Nadia's answer versus Dennis' answer regarding his investment, correct?

A That is correct.

Q Whose money was it?

A All of the money was the community's.

Q Okay. So who would have known better whether what the theory behind the investment would be? Would it be Dennis or would it be Nadia?

A I'm not sure. It would depend on the specific investment.

Q Well, based on this community and its investments, do you think Dennis tries to make money in his investments?

A I believe that's fair based upon his testimony.

Q Do you think Dennis has been successful in investing?

A I believe that's --

MR. SMITH: That's beyond the scope of an opinion contained in her --

MR. MARKS: Well, Your Honor --

MR. SMITH: -- report.

MR. MARKS: -- if she's taking it as a potential --

THE COURT: The objection is overruled.

BY MR. MARKS:

Q Don't you think Dennis has been a successful investor and a person that makes money?

A His investments have made money, yes.

Q And if Dennis says I made an investment to try to support a young designer, you decided to ignore that testimony and take it as potential community waste, correct?

A We based it upon Nadia's testimony.

Q So my answer is correct?

A I'm not --

Q That question.

A That was if -- the question was?

Q You ignored Dennis' opinion and went with Nadia's; isn't that true?

A I don't know about ignored. We relied upon Nadia's over Dennis.

Q Okay. Didn't Nadia testify at her deposition if there was difference of opinion on spending or finances

between her and Dennis, Dennis had more knowledge?

A (No audible response)

Q Didn't she say that at the end of her deposition?

A I don't recall specifically, but --

Q Well, the Court can read that. Now, you agree that Exhibit 2 has cars on it that you're attributing to Nadia, meaning gas, various car expenses on Exhibit 2?

A Exhibit 2 includes payments for the BMW and the Mercedes and it includes gas and fuel charges observed on her credit card.

Q And you're attributing those as potential community waste beyond just what's on Nadia's credit card, but various autos that you're saying she used, correct?

A That is fair.

Q Okay. And you don't know whether Dennis would have paid for those autos and used those autos whether Nadia existed or not, correct?

A Well, we know at any particular time there was two BMWs, so the question becomes did he need two BMWs or was one -- whether or not him and Nadia both used both BMWs or if you want to add them together and divide by two or if you want --

Q That's why --

A -- to include one payment.

Q That's my point. You were making assumptions that

somebody like Dennis should only have a certain number of cars, like two cars, correct?

A I don't believe that's accurate. We used Nadia's testimony to identify the payments to BMW and Mercedes.

Q Right. But you're not saying that a guy that makes 21 million dollars can have more than two cars if he wants to; isn't that right? You're making an assumption. You're making a value judgment of how many cars he's allowed to have, aren't you?

A No. We were trying to identify the transactions that were for the benefit of Nadia and the children. Nadia would be the cars that she used as well.

Q Okay. But if Dennis owned the car, that Dennis testified he would drive the car part of the time, didn't Dennis have the absolute right to have as many cars as he thought he could reasonably afford?

A The question is did he have the absolute right to have --

Q Yeah. Did he have the legal right or --

A I don't know if he had a legal right.

Q Okay. Did he have the right to buy whatever cars he wanted and could afford?

A Again, I'm not speaking to whether he has a right to do something. I'm trying to analyze the transactions that

could have benefitted Nadia and the children.

Q So on Exhibit 2, you're including car items that you say could have benefitted Nadia as potential community waste, even though Dennis testified he would use those cars at various times?

A Based upon Nadia's testimony that she -- those were her vehicles, even if Dennis used them once, twice, four times a month, they're still included on Exhibit 2.

Q You don't know how many times Dennis used those cars, correct?

A I do not.

Q And Nadia wouldn't have had any cars if Dennis didn't have cars to use, correct?

A Given that she had no source of income, that is correct.

Q And Dennis had the right to buy whatever cars he wanted with the money he made, didn't he?

A Again, whether he had the right to, I don't believe I can speak to.

Q Isn't -- aren't the cars are on the marital balance sheet?

A The vehicles that exist today.

Q Okay. All right. Let's move on to the next exhibit. Exhibit 3 are withdrawals?

A That is correct.

Q And in Exhibit 3, you just list all the cash withdrawals, correct?

A Mitigated for the withdrawals that Gabrielle has -- that happened within Gabrielle's accounts or the ones Gabrielle wrote a check for cash or the ones that she identified as being her withdrawals --

Q Okay. But the poi --

A -- which was in the Exhibit 50 --

Q And in Exhibit 3, you're identifying over an eight-year period basically cash withdrawals, either teller or ATM withdrawals?

A Or credit card advances and checks written to cash. That is correct.

Q Okay. And later on Exhibit 6, I believe you allocate the cash between Nadia and Dennis, correct?

A We allocate an estimate of cash based upon the deposition testimony and then the remainder of the cash is on Exhibit 6.

Q Okay. But in Exhibit 3, you're not doing your analysis of the cash. That's on Exhibit 6, correct?

A That is correct.

Q All right. Then, Exhibit 4 is Jennifer Steiner, correct?

A Correct.

Q And -- so in Jennifer Steiner exhibit, I think you identified in your December 15th report, 45,000 relating to Jennifer Steiner? That's on page -- it's on page 12?

A I believe the number is on page 13.

Q $45,100?

A Not including the 14,000 sapphire ring.

Q Which Dennis has in his possession, correct?

A That is my understanding.

Q Okay. And what's half of 45,100?

A 22,000 approximately.

Q Okay. And let me show you Exhibit -- it would be in the Plaintiff's exhibits. I think it would be 80.

A 80? What volume? Oh, I see it.

Q Volume four?

A Yeah, I got it.

Q Exhibit 80. That's in evidence. If you go to page -- if you go to page four, line four, Mr. Jimmerson had said one-half of the -- Ms. Steiner's (indiscernible) believe to be less than 20,000.

A I'm not there yet. Let me -- okay. Line four? Okay.

Q There's a reference to less than 20,000. In your analysis, after analyzing 27,000 or so transactions, you

concluded the amount spent on Ms. Steiner was 22,100; is that right?

A As of that report. There's been additional transactions.

Q I'm just talking about the report that's in evidence. You can't talk about something that's in a rebuttal. It's not in evidence. Your counsel didn't put it in evidence. Your report, that's what we're crossing you on, the December 15th report, Exhibit 58 is 45,000. Half of that is 22,500, correct?

A That's correct.

Q After analyzing 27,000 individual transactions, correct?

A That is correct.

Q And did you ever review Exhibit 80 to say that Dennis in the beginning had said it was about 20,000 or less than 20,000?

A I have reviewed this exhibit when it was given to our office.

Q So it was given to your office in June of 2015?

A I don't recall specifically.

Q Well, that's when it was filed. So after 26,000 entries you reviewed, you found two more thousand dollars that may have been spent on Ms. Steiner as of December 15th; is

that correct?

A And a gift that was purchased for intent to Ms. Steiner.

Q Which he hasn't given, correct?

A That is my understanding.

Q Okay. Let's go to the next schedule. On the yacht, Exhibit 5 is related to the yacht, correct?

A That is correct.

Q Do you know whether Dennis had had any other hobbies? Did you look at what -- at whether he has spent money on any other hobbies prior to purchasing the yacht? Did you look at that or consider that?

A Did I consider whether he had hobbies?

Q Any other hobbies, sporting activities prior to purchasing the yacht.

A I'm not aware of his hobbies, no.

Q Okay. You are aware people spend money on various activities?

A People spend money on various activities?

Q For instance, various sporting activities?

A People generally? Do people -- is that your question?

Q Let's look at what you did on Exhibit 5. Did you --

MR. SMITH: Are you withdrawing the question or are

you --

MR. MARKS: I'll withdraw it.

BY MR. MARKS:

Q Did you look at each and every -- you looked at each and every expenditure for the yacht over the two-and-a-half year period, correct?

A We've identified those transactions on Exhibit 5.

Q So you basically listed each and every transaction, correct?

A Yes, on Exhibit 5.

Q Starting with reference one, so you went some hundred and -- 51 yacht transactions, correct?

A That is the total in this exhibit, yes.

Q And this is your Exhibit 5, correct?

A Yes.

Q And as I understand the parentheses, That -- that's money out?

A That is correct.

Q Okay. And you're indicating the total money out was -- okay. Let's go through this. Dennis had a yacht, had bought one boat, correct, and you have that, the cruiser, for 531,000 plus the 55,000, correct?

A Reference one and two, that is correct.

Q Okay. And then he traded that in for another boat,

correct?

A That is my understanding, yes.

Q Okay. And at the end of the transaction, he sold the boat. If you go to Exhibit 5, transaction number 149, he sold the second boat for 990,000, correct?

A That is correct.

Q Okay. And that went into the community, correct?

A It went into an account held in Dennis' name, but a community account, yes.

Q It went into the UBS account?

A UBS 45, yes.

Q Okay. That 990 is an asset, correct?

A To the extent that it's held within the UBS account, yes.

Q And that's on the marital balance sheet, that 990,000, almost a million dollars, correct?

A I don't know if it's been dissipated since the

Q July, but --

Q Why would you think it's dissipated if it's in the UBS account?

A I shouldn't have said dissipated. I mean if monies were withdrawn from that USB account since July 2015 with the extent to which the whole 990,000 is in that UBS account, I can't specifically say.

Q Okay. Doesn't that call for speculation what was spent or not? I'm saying --

MR. SMITH: Calls for -- is he making his own objection --

MR. MARKS: I'll withdraw.

MR. SMITH: -- as to the answer?

MR. MARKS: Doesn't -- I'll rephrase it.

BY MR. MARKS:

Q After the boat was sold, you were aware the 990 was placed in the UBS account, correct?

A As reflected on the schedule, Account 45.

Q Okay. And the difference between the purchase price of the first boat, the trade in and the second boat and the 990, do you know what that is? Do you know what that number was?

A I don't know. You're saying the purchase of the first, plus the second, minus the 990?

Q Yeah. Do you know what that is?

A We could add it up based upon --

Q But do you know?

A Not off the top of my head, no.

Q Okay. Was it under $200,000?

A I don't know off the top of my head, no.

Q In your Exhibit 5, you didn't consider boat one was

rolled into boat two and ultimately sold and 990 came in. You looked at every boat-related -- gas, washing, dock fees, added every single thing that could be boat related over a three-year period in your Exhibit 5, correct?

A That is correct. These are all yacht-related expenses.

Q But you were including expenses versus the capital of buying and selling a boat, correct?

A They're both included.

Q But you were including the cost of dock fees, gas, every single boat-related expense, not just the buying the boat and the selling of the boat; isn't that correct?

A That is correct.

Q Okay. And that's where the 660 comes from, correct?

A That is correct.

Q Did you review the UBS account to know whether boat money was there? Did you -- you had all the account statements, including the UBS, correct?

A Specifically, Account 45? Is that what you're asking? We've received statements for 45, yes.

Q Okay. And that had the 990 boat money, correct?

A That is correct.

Q Okay. And Dennis sold the boat and put that money in that UBS account, correct?

A That is correct.

Q Okay. But you were directed by Mr. Smith to go through every single boat-related transaction to create a category of potential community waste above just the buying and the selling of the two boats; isn't that right?

A Based upon the fact that the community was -- the community being Gabrielle was unaware of the purchase of the boats, we were asked to analyze all related yacht transactions.

Q Okay. You were told by Mr. Smith not just to take here's a boat, here's the purchase price, here's the sale price. You were told -- directed by Mr. Smith to include every single boat-related transaction over a three-year period, correct?

MR. SMITH: It's the same question. It's asked and answered.

THE COURT: Overruled.

BY MR. MARKS:

Q Isn't that right?

A I don't believe, told by Mr. Smith, no. As we were analyzing the transaction activities, these transactions got put into this bucket, which was the yacht and it's on this exhibit.

Q But you were consulting with Mr. Smith regarding

what to put in the various buckets such as this boat-related expense, correct?

A Throughout our engagement, I'm sure we discussed identifying the yacht's expenses.

Q Okay. And that was as you just said because Gabby wasn't involved in the yachts, so you felt you should include it as potential community waste, correct?

MR. SMITH: Mischaracterizes her testimony. That's not what she said.

MR. MARKS: It's a different question.

THE COURT: Overruled.

MR. SMITH: You said that's what you just said.

THE COURT: Overruled.

THE WITNESS: What was the question?

BY MR. MARKS:

Q You answered one of my questions by saying you put it as potential community waste because Ms. Cioffi-Kogod was not aware of this boat; isn't that part of it?

A It was part of the consideration, yes.

Q So you made a decision of certain items that she was aware of and certain items that she wasn't aware of in determining what's potential community waste, correct?

A More (indiscernible) understanding that she was unable to enjoy the use of the yachts.

Q Okay. And didn't Ms. Cioffi-Kogod have various things that she did over an eight-year period or at least since 2010 that she enjoyed at Lake Las Vegas that Dennis didn't enjoy?

A Did Gabrielle enjoy things over the eight-year period that Dennis didn't enjoy?

Q Yes. Isn't that true?

A I'm sure that's --

Q For instance, Lake Las Vegas was a big expenditure

A -- there was a golf club, correct?

A That was --

Q That she lived at a golf club, right?

A That we treated as a marital expense, yes.

Q But she enjoyed that at least from 2010 onward and he had nothing to do with it, correct?

A I don't believe that was the testimony that he had nothing to do with Lake Las Vegas.

Q He didn't golf from 2010, July 2010, on at Lake Las Vegas, did he?

A I can't recall the testimony.

Q He didn't go to the country club and use that country club at Lake Las Vegas after July of 2010, did he?

A I can't recall what he --

Q These people were living in two separate cities for

at least five years, weren't they?

A That is fair.

Q And you looked at his expenses that she didn't know about as potential community waste and you didn't include anything that she spent during that five-year period at all in your analysis at all, correct?

A That's fair.

Q Okay. Let's go to the next exhibit, Exhibit 6. This is the unallocated?

A Not elsewhere classified.

Q Now, for Exhibit 6, I have the summary sheet, which may be marked as a different number. I have the back up that I know was just marked as a different number. Do you have all those?

A No. I don't know what you're referring to.

(COUNSEL AND CLIENT CONFER BRIEFLY)

BY MR. MARKS:

Q So your back up is Exhibit 60, 61 and 62.

A Can I have like a Post-it note to -- are we going to be flipping back and forth?

Q Yeah.

A Okay. Sorry. Thank you. You said Exhibit 60?

Q 61 and 62. I just have it loose, but I think it's marked as an exhibit --

A All right. That's another book. Hold on. 62 is the cash withdrawals?

Q That would be 60 and 61.

A Okay.

Q And the last page of the assessments of potential community waste else -- well, the last two pages of your Exhibit 6 containing adjustments. And then, Exhibits 60 and 61 contain the back up for the last two pages of Exhibit 6; is that correct?

A Well, Exhibit 6 is only two pages. But the exhibits, they include the amounts that ended up in the adjusted column. That is correct.

Q Okay. Just so the Court understands so we can do this, Exhibit 6 are two pages that contain, I guess, 3.6 million dollars of unallocated?

A Not elsewhere classified.

Q Okay. And then, you read Mr. Leauanae's deposition where I asked how he came to these adjustments and he said he had certain back up that he was going to submit a week later. Do you recall that from his deposition?

A I recall that the support was going to be given for the amount in the adjusted column --

Q And that --

A -- yes.

Q And that support is, I believe, Exhibit 60 and 61, correct?

A That is correct.

Q And it -- when you say support, it's not back up receipts. It's back up listings of expenditures that make up what is in the two pages of Exhibit 6; isn't that right?

A I don't believe Defendant produced any receipts.

Q But I'm saying -- well, I'm asking what you produced. You produced another spreadsheet, line items, of what you put in Exhibit 6. There's no back up in the sense of receipts, bank statements, checks, cancelled checks, credit cards or anything like that, correct?

A I disagree. I think the summary -- the transaction detail is pulled specifically from the bank statements and credit cards.

Q But what the Court's looking at and what we're looking at is transaction detail, meaning it's a listing of an expense. It's not a back up receipt for that expense, correct?

A It's pulled from the source documentation, which is the bank and credit card statements.

Q But I'm asking what has been placed in evidence before the Court is a transaction log; it'll list, a date and an amount. It's not an underlying receipt, cancelled check or

credit card; isn't that correct?

A That is correct. It is our analysis of that information.

Q So the Court -- the Court has Exhibit 6 and the Court will have 60 and 61, which is a breakdown of Exhibit 6, but doesn't contain true back up information or true source information; isn't that correct?

A That would be in the disclosures.

Q But I'm asking what's in evidence, six -- there's no back up, meaning there's no credit cards, bank statements, cancelled checks in Exhibit 60 or 61 for the Court; isn't that right?

A That is correct --

Q Okay.

A -- but it's pulled from that information.

Q I -- you keep saying that, but I'm only -- I'm asking what the Court has. Let's go to Exhibit 6. All right.

A Exhibit --

Q Item 7, so the item as I'm reading this and from the deposition, I learned that -- I'm going to go reference number in the far right-hand column is what you adjusted. The adjustment, all these adjustments, of your not otherwise classified add up to 3.6 million?

A That is correct.

Q Okay. Is that right? Is that fair?
A That is correct.
Q Okay. So the first one is number 7, is auto-related --
MR. SMITH: Since we're just starting this, would this be a good time to take a break?
THE COURT: Sure.
THE WITNESS: Yeah, I would like to go.
THE COURT: All right. Let's take a break. Let's take our morning ten-minute break.
(THE COURT RECESSED AT 10:24 AND RESUMED AT 10:37)
THE COURT: We are back on the record in the Cioffi-Kogod matter. We'll continue with cross examination --
MR. MARKS: Thank you, Your Honor.
THE COURT: -- of our witness.
BY MR. MARKS:
Q Okay. I'd like to start with Exhibit --
A I'm there.
Q -- the two pages of Exhibit 6. The first one you have is item 7, auto-related GMAC Cadillac. Do you see that?
A That is correct.
Q And you're considering potential community waste in the amount of $273,300, correct?
A That is correct.

Q And then, in your back up, which is I believe your Exhibit 60, if you go to page three in the middle of the page, Item 17 -- starting at Item 117 --

A I'm there.

Q -- isn't that a GMAC mortgage payment?

A That is what the transaction says, yes.

Q It's a mortgage payment. It's not a Cadillac Escalade, correct?

A We were unaware of what this was for --

Q I'm asking you now. It's a 71 -- you're not saying a Cadillac Escalade payment is $7100 monthly recurring charge, are you?

A Based upon Dennis' testimony, yes, I am.

Q You're saying a $7100 a month Cadillac Escalade?

A Based upon Dennis' deposition testimony.

Q We'll let Dennis clarify, but isn't GMAC Mortgage a mortgage on a home; isn't that correct?

A I would have to see the underlying statement, the mortgage --

Q Where are your under --

A -- statements.

Q But this is your report and you've given as your underlying statement Exhibit 60 and specifically on line item 17, it says bill pay GMAC Mortgage Company recurring, 4969 and

it has a series of transactions, correct?

A Correct.

Q And as a certified public accountant, you know a Cadillac Escalade payment is not 7100 a month?

A I don't know specifically. It could be. I believe it was for two Cadillacs.

Q So you just take the numbers, put them on the sheet and basically say it's potential and let everybody try to rebut it. Is that what you're doing?

A That is not correct.

Q All right. The next item you have is item number 9, auto-related luxury not elsewhere classified and you have 466,694 on that, correct?

A That's correct.

Q As I understand from Mr. Leauanae's deposition, you gave Dennis credit for 3700 a month in auto and anything above the 3700 a month basically was the -- was potential community waste?

A Above the 3700 and the note one on reference nine for the amount that's reflected on the marital balance sheet.

Q Okay. Okay.

A That is correct.

Q So you're making a value judgment that he's on a car allowance that you decided, correct?

A We were trying to identify the charges that could have been for Nadia, the additional vehicles for Nadia.

Q But you already had vehicles for Nadia on Exhibit 2, Nadia, correct?

A Only through a certain period of time.

Q Okay. But you're say -- even though these vehicles are owned by Dennis and they wouldn't exist if not for the money Dennis had, you're saying that there's 466,000 in auto-related that are above your certain car allowance that you've given in this case; isn't that right?

A Can you repeat the question?

Q You and Mr. Leauanae determined there was a car allowance based on certain factors, correct?

A We analyzed how much the other amounts equated to, which was 3700.

Q But your 466 -- 466,000 number is based to some extent on your determination of an arbitrary car allowance of 3700 a month, correct?

A It's the excess over that to identify how much could have been for the benefit of Nadia.

Q Could have been?

A That's correct.

Q But you can't testify under oath that this amount was for the benefit of Nadia, correct?

A That is correct.

Q Okay. The next -- I don't have time to go through everything --

A Sure.

Q -- but foreign transaction charges, for instance, item number 18, doesn't Dennis travel internationally?

A The foreign transaction is actually reference 19. But yes, he --

Q Did Dennis travel international?

A That is my understanding.

Q Does he have to convert money for work?

A I would assume so.

Q Okay. So -- all right. Loan -- loan interest, item 21. Do you know what -- do you know what loan that is?

A I believe those are the interest charges related to UBS account 27 that Dennis opened.

Q Okay. So those are part of -- those accounts are part of the community that's being divided. It's interest on his line of credit at UBS, correct?

A That is correct.

Q And do you know why he uses his line of credit at UBS?

A I'm not aware.

Q Isn't it because it's cheaper than borrowing money

other places or using cash because it's such a low interest rate?

A I'm not aware of the interest rate.

Q Why are you calling a loan -- a line of credit at UBS potential community waste?

A Based upon the fact that there was cash available to make the purchases from that line of credit.

Q But you don't know whether it was more beneficial for the community for Dennis to use the line of credit than to use cash, do you?

A That is fair.

Q You have fitness center, 23,000. Do you see that?

A What line item?

Q 43.

A Okay.

Q Dennis had a -- was into fitness, had a fitness membership, didn't he? But you attribute a certain amount of this to potential community waste?

A The adjustment six is to account for the double payments in Equinox Moto. So there was two payments every month, one of those was for Nadia. So we account for all of the Equinox Motos that could have been for Dennis, plus all of the charges that related to, I believe, it's Crav McGaw (ph) that we assumed was Dennis. So that adjustment six of 39,000

is what we believe is -- could be related to Dennis. The excess is for the payments for Nadia.

Q Okay. But Dennis is allowed to have a fitness club membership?

A Allowed? I mean, I believe it's reasonable.

Q You're assuming that the 23 -- somehow that 23,000 somehow benefitted Nadia, correct?

A Based upon her testimony that she had a membership there.

Q If you go to home-related art, Wilshire Apartment. You're calling that potential community waste. Wasn't Dennis taking the Wilshire Apartment, that's where he lives?

A To the extent that the art is not included on the marital balance sheet, then it would be included here.

Q Well, you don't know what -- in other words, they each took a certain amount of money to buy apartments and furnish them. Gabby got her 3.6 million also, didn't she?

A That's my understanding.

Q But that artwork in his -- Dennis' own apartment isn't benefitting Nadia, correct?

A That artwork is above the 3.6 that was already divided.

Q It's not waste to have artwork, is it?

A If it's not included on the marital balance sheet

and allocated there, then it would be allocated as potential --

Q But why don't you put it on the marital balance sheet if you want to?

A It could be on the marital balance sheet or it could be on the schedule.

Q But why would you call it potential community waste if it's for Dennis' benefit?

A To the extent that it doesn't get divided, then that would be something that Gabrielle was unable to spend the same money.

Q But who said it wouldn't be divided?

A I haven't seen it referenced on the marital balance sheet.

Q Does Gabrielle have artwork in her house?

A I'm unaware.

Q It doesn't benefit Nadia. They're not living together, correct?

A That is my understanding.

Q Then, you have insurance 126,269. Isn't that the insurance -- didn't you include Chubb and State Farm, which includes insurance, for actually Lake Las Vegas?

A We did not include those. Those were put into the marital bucket and already was excluded from this amount.

Q Well, what insurance are you including?

A I believe this is other Kaiser, some State Farm, some -- I'm trying to recall -- other -- other insurances, not the Chubb and State Farm related to the marital residence.

Q Okay. But if you go to page 41 of Exhibit 61 --

A Okay. Hold on.

Q -- I see a bunch of Chubb references.

A There was additional Chubb, so there was -- there was these Chubbs and then the other ones that --

Q Isn't Chubb the marital residence?

A I'm not aware of all the policies.

Q Okay. But you're putting something as potential community waste that you're not sure of; isn't that right?

A With a note three that we would need additional information in order to determine which policy each person is benefitting from.

Q Okay. But as of today, the day of the trial, you can't determine that, correct?

A We did not receive additional information --

Q Okay.

A -- regarding that.

Q The point is if you have real property, even if it's Dennis', he needs insurance, right, to preserve it for the community, correct?

A I would say that's fair.

Q And you understand he's taking all the real property in California, correct?

A I heard that testimony.

Q So how does it help your client -- how does it help Ms. Cioffi-Kogod if there's no insurance and it burns down? How would that be responsible action for the community? Would that be responsible to not have insurance and allow something to burn down?

A I believe it's reasonable to have home insurance, yes.

Q Okay. So why were you putting insurance as potential community waste? Because you weren't clear what house?

A Because we didn't under -- we didn't have an understanding of which policy and who the beneficiaries were.

Q Okay. But you were at a two-day deposition of Mr. Kogod, correct?

A I was.

Q And you didn't ask -- and Counsel didn't ask, I guess, enough questions about insurance; is that right?

A I believe from the deposition testimony, we were still -- we still had questions regarding insurance.

Q Okay.

A That's fair.

Q Would you concede that a number of the items that you're putting as potential community waste are not potential community waste?

A I believe that's for the trier of fact to determine.

Q Would you concede that, for instance, insurance isn't potential community waste?

A Again, I believe that's for the trier of fact --

Q Would you concede having a line of credit is not potential community waste?

A Again, I believe that's for the trier of fact to determine.

Q Okay. Going to page two of this exhibit, I see shopping at 104.

A I'm there.

Q Does 192,000 -- you're saying is potential community waste and that's Dennis' shopping, not Nadia's shopping, correct?

A That is the excess over what he reported. That's correct.

Q From his FDF?

A Right.

Q So you went back eight years. You took the one snapshot of his FDF and said anything above that -- meaning

you said he's only entitled to 46,500 in shopping over eight years?

A I believe entitled is not the correct word. We based it upon his deposition --

Q Okay.

A -- testimony and his FDF.

Q But based on his deposition and FDF, you gave him 46,500 in shopping over an eight-year period, correct?

A That is the adjustment, yes.

Q So -- but my statement is correct?

A What was your statement?

Q Okay. So his excess is 192, that's about -- under 200,000 over an eight-year period, correct?

A That is correct.

Q And that's about 25,000 a year, correct, for eight years?

A Roughly. That is correct.

Q And that's about 2,000 a month, correct?

A That is correct.

Q And what is the number of shopping, clothes, et cetera on Gabrielle's financial disclosure form?

A I believe it was in the 1500 to 2,000.

Q Okay. So isn't that pretty close?

A Pretty close to the adjusted amount?

Q Yeah.
A Those numbers are similar.
Q Okay. Thank you. Now, you went down to lodging. Let's see. Lodging is back on page --
A Okay.
Q -- on page -- item 75.
A I'm there.
Q And you took 226,000 of potential community waste regarding lodging, correct?
A That is correct.
Q And if you look at your back up on lodging, that included -- it included foreign trips to Singapore. It included foreign trips to Amsterdam, didn't it?
A That is correct.
Q And those are trips that Dennis took for business, correct?
A I can't say specifically.
Q Well, weren't you at Dennis' deposition when he was asked by Counsel about his business trips?
A I don't recall. I believe that was discussed.
Q Didn't Dennis use his personal credit card for business trips and then get reimbursed through the business travel?
A At times, yes.

Q So he would use his AMEX or his Visa Black card, correct?

A That is fair.

Q Prior to or recent time, he didn't use a business credit card, correct?

A I don't recall specifically, but --

Q You took the lodging directly off his AMEX and Black Visa card and listed it here, correct?

A From various accounts, yes.

Q Okay. And if Dennis got reimbursed, it would have been deposited back into his account, right?

A That is correct.

Q It would have gone back into the 6446 account, correct?

A That is correct.

Q And you on your potential community waste analysis didn't credit back the checks that came from his employer back into the 6446 account, correct?

A I have to amend my prior answer. The deposits, the reimbursement deposits switched to the Wells Fargo account at one point, but the answer is still correct.

Q It mainly was in the -- it mainly was in the B of A 6446 account, right?

A I believe once the Wells Fargo opened, the

reimbursements from Concur go into that account.

Q Okay. Didn't from Concur -- Concur is the third-party travel coordinator that Davita used, correct?

A It's my understanding it's the reimbursement system, yes.

Q Okay. Where somebody goes on a business trip, they can use their own personal credit card. They fill out a form. They mail it in and a check from Concur comes back, correct?

A That's my general understanding, yes.

Q Okay. And from your review of the 6446 B of A account, Concur checks would regularly come back into that account, correct?

A During some period of time, yes.

Q And that account was a joint account with Gabby, correct?

A It's a trust account, yes.

Q And it's a living trust account, correct?

A I'm not sure.

Q You did not in your analysis on Exhibit 6 to your report credit Dennis back with all the Concur payments that came back in? Correct?

A I believe if you look at page 14 of our report, it says specifically subject to both adjustments referenced above and potential adjustment for Davita reimbursements.

Q Okay. But I'm asking you what you did, not what could happen later in -- in -- I'm looking at Exhibit 6, 226,485, you're saying to this Judge is potential community waste, right?

A Exhibit 6 does not include a reimbursement or an adjustment for the reimbursement. That is correct.

Q And you're including every single trip as potential waste, even if it's clearly a business trip, correct?

A We included all lodging. That's correct.

Q Every lodging he did, right, for eight years?

A That is correct.

Q And you knew he traveled internationally and domestically for work, didn't you?

A I was aware of that, yes.

Q So you weren't being fair to Dennis in this report, were you, by including every single lodging as potential community waste?

A Again, it's with a note three, which was, we would need additional information in order to make that adjustment, and we did not receive an accounting from Dennis or his experts.

Q I'm not asking about note three. I'm asking -- you gave the Judge a report that says 229,000 of potential community waste without regarding notes, you're concluding on

the page two of that that 3.6 million is potential community waste. You included every single lodging that Dennis did for eight years as potential community waste; isn't that right?

MR. SMITH: It's compound and it's asked and answered.

THE COURT: Overruled.

THE WITNESS: Subject to the caveats in our report, that is correct.

BY MR. MARKS:

Q Okay. Now, if you go to meals and enter -- if you go to meals and entertainment, which is line 77, you base --

A I'm there.

Q -- you base that on Dennis' FDF and you gave him credit for 23,250 in meals and entertainment for an eight-year period; isn't that right?

A That is correct.

Q And that's based on his FDF in May of 2015, correct?

A And his deposition testimony.

Q So therefore, everything above that, 201,000 and change, you considered potential community waste for meals and entertainment, correct?

A That is correct.

Q And if you divide 220 -- 201 by eight, that's -- again, about -- under -- it's about 25,000 a year, correct?

A Sounds about right.
Q That's about 2,000 a month, correct?
A Again, sounds about right.
Q And what do you think the Plaintiff spent on the meals and entertainment over that same period of time?
A I believe on her last FDF, she reported about 1500 to 2000.
Q Okay. Which is pretty close to what Dennis is saying; isn't it?
A Those numbers are similar.
Q Okay. And again, in your line 77 --
A Actually, I need to --
Q -- you -- you --
A -- advise --
Q In your line 77, you didn't --
MR. SMITH: Can you allow her to finish her answer, please?
BY MR. MARKS:
Q I thought you did finish.
A You said which is similar to what Dennis is -- what Dennis has stated --
Q No. I'm saying she spent an amount similar to 25,000 a year.
A Those amounts are similar, yes.

Q Yeah. That's all I'm asking.
A Okay. There was another --
Q Now, on meals -- going back to meals, which is line 77, Dennis also used -- used his credit card; AMEX and Black Visa, for business-related meals that he got reimbursed on the Concur system, correct?
A That is my understanding.
Q So in your 201 number --
MR. MARKS: And when I say 201, Your Honor, $201,000.
BY MR. MARKS:
Q -- you didn't credit back to that number all the checks that came back from meals from Concur, correct?
A Exhibit 6 does not have an adjustment for reimbursements. It's referenced in our report.
Q So my answer is -- my question is correct?
A That is correct.
Q So -- I'm running out of time, so I'm trying to hit the high points. For cash withdrawals --
A Okay. I'm there.
THE COURT: Which line item is that?
MR. MARKS: So that's number 123.
(COUNSEL CONFER BRIEFLY)
BY MR. MARKS:

Q Okay. Let's go to 68 first.
A Okay.
Q The Bank of America loan payment, 249,821?
A Okay.
Q That was related to real estate in California that Dennis has taken, isn't it?
A I'm not aware of that.
Q And what do you think the loan of 249 is?
A I do not know what that loan is related to. And based upon Dennis' deposition, he didn't know either. So I don't know what asset that relates to.
Q So you're considering it potential waste? Even though it's a loan or a mortgage, you're still considering that potential community waste?
A We would need more information to determine what asset it relates to to remove it. That's correct.
Q You agree it wouldn't be waste if it related to a home that he's taken, correct?
A That's fair.
Q Isn't there also on here some -- you said you couldn't -- need cancelled check, if you go to line 80 on page two. You have 172,435 of need cancelled check?
A That is correct.
Q And that's because in 2008, the bank didn't actually

have the back up for certain expenses that you couldn't get the checks, correct? That's why you needed it?

A These are checks we did not receive. That's correct.

Q From two -- and they're mainly from 2008, correct?

A I believe a majority are, yes.

Q And from working on this case, wasn't there a problem getting certain bank statements and documents back to 2008 because the bank didn't keep them that long?

A I didn't communicate with the bank, but that sounds reasonable.

Q Okay. And that's what Mr. Leauanae even admitted in his deposition, correct?

A I don't recall.

Q Okay. The point is, you're calling it potential community waste just because the bank didn't keep a document.

A With a note three that we need more information. That's correct.

Q Okay. But I don't know if the Court's going to look at note three. You're putting it in a chart that says a hundred -- 300 and -- 3.6 million of potential community waste when the bank didn't keep a cancelled check; isn't that right?

A And Dennis was unaware what those checks were for. That's correct.

Q He couldn't recall. He didn't have cancelled checks going back to 2008.

A That's my understanding.

Q Then, lines 24 through 30, those are credit card payments?

A They are.

Q And you're calling all of those potential community waste?

A Because we did not receive the corresponding credit card statement.

Q And that's the only reason you're calling them all potential community waste, correct?

A Yes, with a note three. We would need more information to analyze the activity on those cards.

Q But sitting here today, you can't say because you don't have the information, they're potential community waste, correct?

A I would need more information to --

Q So my question --

A -- make that judgment.

Q The answer is correct?

A You're --

Q Without the information sitting here today, you cannot testify it's community waste because you don't -- you

couldn't get the back up information from the credit card company, correct?

A That's fair.

Q Okay. If you go to checks written to cash, 15,190, that's item 33, both Dennis and Gabby would typically go to the bank and take out cash. They had a pattern of doing that during their marriage, correct?

A They both withdraw cash, Dennis more than Gabby, yeah.

Q All right. And Dennis uses it for tipping, correct? Travel; isn't that right?

A I would assume some portion of it, yes.

Q And he -- when he goes abroad, he has to exchange money, correct?

A Sounds reasonable.

Q You ever travel in foreign countries where you need cash?

A I have.

Q And sometimes they don't take credit cards or it's you're in places you got to use cash?

A I --

Q Correct?

A -- personally have never been anywhere that doesn't take credit card.

Q Okay. But Dennis travels in various third-world countries; Middle East, South America, correct?

A I heard that testimony.

Q Okay. And he also testified that he gives tips -- in L.A., he gives valet tips, people at airports, people at the various planes, baggage. You heard that testimony, correct?

A I heard that testimony --

Q Okay.

A -- this week, yes.

Q So if we go to -- you're concluding that checks written to cash for '09, '10 and '11, you're including the total, that total, amount -- well, it -- actually, for a five-year period, 15,190, you're concluding that's all community waste, correct?

A Without additional information, it's potential community waste.

Q You don't know that it's real waste. You're just saying you don't have back up information of where that went, correct?

A Dennis stated he did not have an accounting of cash. That's correct.

Q Of that amount back then, correct?

A At any time, I believe.

Q To those amounts. Dennis told you he frequently used cash, correct?

A He stated in his deposition that he uses cash, yes.

Q Okay. So now, if we go to 122 -- let's go to 123, withdrawals and cash advances. My understanding is the total withdrawals and cash advances not including Gabby is 629,500?

A If you're excluding the checks written to cash, yes. That's correct.

Q I'm excluding Gabby's exhibit?

A Yes.

Q Because you would exclude Gabby?

A It was excluded, yes.

Q Okay. So the total, excluding Gabby, for an eight-year period is 629,500, correct?

A That's what was reflected on the schedule, yes.

Q And that -- that's correct. That's what you found, right?

A Yes.

Q And you then, based on Nadia's testimony and Dennis' testimony, you attributed 279,000 in cash to Nadia?

A That is correct.

Q And that's based on Dennis saying that he would give her a certain amount of money when he would leave on these trips. He would pay certain nannies cash, correct?

A That is correct.

Q Didn't he also say he paid lawn care, gardener, people like that, in cash for the benefit of the home that he's taking?

A I don't recall specifically the lawn care and stuff, but it was for ongoing expenses, yes.

Q But he would use cash in L.A. to pay, for instance, the lawn guy or the gardener. Didn't he say that?

A I don't -- I don't recall specifically.

Q And you understand that if you have a house, you have to maintain the lawn to keep its value?

A That sounds reasonable.

Q Okay. So when you deducted the 279 from the 629, that came to 350?

A That --

Q 350,000, correct?

A That is correct.

Q And that's over an eight-year period, correct?

A It is. That is correct.

Q So how much per year is that?

A I don't know off the top of my head.

Q About 45,000 a year?

A That sounds reasonable.

Q And how much then a month is that, 3500 a month?

A Approximately.

Q Less than a thousand a week?

A That sounds reasonable.

Q Okay. So you're saying that this -- out of -- this is all the cash withdrawals, other than Gabby, over an eight-year period. You're saying that 350 that is spent by Dennis is potential community waste, correct?

A That is correct.

Q And you're giving no credit for him giving cash to his lawn person, correct?

A We did not make an adjustment for that, no.

Q For tips for valet, correct?

A That is correct.

Q For international travel?

A Yes.

Q You have cash in your pocket, don't you?

A I do not.

Q You don't carry any cash?

A Typically, no.

Q The average person does have some cash?

A It's fair to say people carry cash.

Q And different people have different habits regarding how much cash they like to take -- to carry?

A That's reasonable.

Q And some people like to carry a lot of cash, some people like to use credit cards for everything?

A That's reasonable.

Q And you were at Dennis' deposition regarding, his testimony regarding, his habits containing cash, correct?

A Yes.

Q And you credited -- then, according to your report, you're giving him credit for no legitimate non-wasteful spending of cash at all for eight years, correct?

A Without additional information from Dennis --

Q But the answer --

A -- regarding that cash.

Q -- to my question is yes, you're giving him absolutely no credit for spending any cash legitimately for an eight-year period?

A That is correct.

Q Every single cash withdrawal, you're calling potential community waste for all eight years; isn't that right?

A That is correct.

MR. MARKS: Your Honor, I'll pass the witness.

THE COURT: All right. Do you have any redirect in your limited time left?

MR. SMITH: I do, just a few minutes.

FURTHER REDIRECT EXAMINATION

BY MR. SMITH:

Q The -- were you expecting an accounting from Dennis?

MR. MARKS: Objection.

MR. SMITH: What?

THE COURT: What's the evidentiary objection?

MR. MARKS: She's an expert. She would not be involved in the process of knowing what she's going to get --

THE COURT: What --

MR. MARKS: -- from our side.

THE COURT: What is the evidentiary objection?

MR. MARKS: There's no foundation. It assumes facts not in evidence. It's -- she's supposedly an expert looking, not getting into an adversarial --

THE COURT: I'll sustain as --

MR. MARKS: -- situation.

THE COURT: Sustained as to foundation.

BY MR. SMITH:

Q What's the basis for your note three, the note three that you indicated that you needed additional information?

A These were transactions that we've identified and inquired about through the interrogatory or deposition process that we are still unaware of what the purpose and beneficiary was for. So those would be information that we would need

additional information in order to determine whether or not they are potential community waste.

Q What information were you expecting at that time?

MR. MARKS: Objection, calls for speculation as to what she expected.

THE COURT: Overruled.

THE WITNESS: An accounting of these transactions and/or additional support regarding those categories.

BY MR. SMITH:

Q It sounds like Dennis through the questions you were asked by Mr. Marks has taken issue with certain of these types of expenses. Fair statement?

A Sounds reasonable.

Q Did Dennis ever provide you an accounting of any of those areas of spending?

A He did not.

Q Has his expert provided any analysis or accounting of those areas of spending?

A He did not.

Q You had indicated in response to Mr. Marks' question about cash that you allocated all the cash to Dennis. Did you do that? I thought you had divided up that cash?

A We -- based upon, I believe, it's Exhibit 62, the withdrawals that were identified through Gabby's accounts or

her writing checks, those were, I guess, mitigated from this amount.

Q Okay. How did you determine the amount that was for Dennis? Did you just add it up or was there some allocation of cash?

A The cash is going to be based upon Exhibit 3, which is going to be all cash withdrawn and taken from credit cards within these accounts, excluding those amounts for Gabrielle.

Q What was the testimony that you said Nadia gave in terms of cash that you were replying upon?

A I believe up until 2011, when she had a credit card, Dennis often gave her cash and still continues to give her cash to this day. So we relied upon that to make the adjustment, which is also based upon Dennis' testimony of how much he gave Nadia.

Q The -- when you took -- the notion of your support -- your report seemed to get mixed in your cross examination. Were you trying to determine relative spending between the parties or were you trying to identify spending by Dennis for the benefit of others without the knowledge or consent of Gabrielle?

A The latter. We were trying to identify spending for -- by Dennis for the benefit -- for the benefit of others, other than Gabby.

Q Did you ever make any kind of comparison as to what's appropriate to spend or not to spend? Did you make that value judgment?

A We did not.

Q Mr. Marks said that you made a value judgment associated with the amount of money for Dennis to spend on cars. What was the basis for that determination?

A We were trying to identify the amount of the vehicles that could have related to Nadia, so we added up what we had categorized in the not elsewhere classified. Those amounts equated to, like I said earlier, 3700 with the adjustment for the Lexus, which is not on this report and the excess over that --

Q The Lexus is Gabby's car?

A There was two Lexus'. There is one that was Gabrielle's and one that was also Dennis' that's not included in this. And then, the excess over that would have been the potential community waste that could have been related to Nadia.

Q When doing that calculation, it's my understanding from your testimony that you used the lowest value car for the potential waste issue, correct?

A When we were allocating them to Exhibit 2, if we saw two payments -- for example, to BMW, one, I believe was

approximately 1100, the other one was 1400. We did take the 1100 onto the Nadia schedule.

Q These Concur site allocations, the expense reports from Davita associated that Dennis would have submitted, did you do an analysis of the total amount of reimbursements for those expense -- that could have been from those expense reports?

A I have an understanding of how much we've observed in our tracing as to how much the reimbursements were.

Q What's the total amount?

A I believe the Concur and other reimbursements was approximately 163,000.

Q Okay. So out of the 3.6 million, it's 163,000 --

MR. MARKS: Objection, leading, no foundation.

BY MR. SMITH:

Q So is it true then --

THE COURT: The question wasn't completed.

BY MR. SMITH:

Q Is it true then that out of the 300 -- 3.6 million dollars, the total amount of possible reimbursement adjustment under note three would be 163,000 --

MR. MARKS: Objection, leading, assumes facts not in evidence.

MR. SMITH: I wasn't done with the question.

MR. MARKS: (Indiscernible) evidence rule.

THE COURT: I can't make these rulings without the question being completed.

MR. MARKS: Sorry. I understand.

BY MR. SMITH:

Q Would the adjustments that you referred to in note three be limited to the 163,000 or would it be another number? Are there possible other numbers that could be the adjustment?

A I don't believe those reimbursements that we're discussing relate to note three.

Q Okay.

A If we're discussing the language in our report that says that these amounts are subject to Davita reimbursements, that amount, I believe we observed was 163,000.

Q Okay. I thought that was note three.

A No. I'm sorry.

Q Okay. So this portion -- in other words, the portion that Mr. Marks was asking about saying oh, he went traveling and so forth, the total amount of reimbursements possible in the world of reimbursements is 163 or another number?

MR. MARKS: Objection, leading?

THE COURT: Overruled.

THE WITNESS: I believe it to be 163,000.

BY MR. SMITH:

Q And this report has been in their hands since December 15th, correct?

A I'm sure they received the report around that date.

Q Have they ever produced these Concur -- the expense reports that outline what Dennis was reimbursed for?

A I don't believe I've seen an accounting produced by Dennis, no.

Q Did Davita ever produce the expense reports associated with the reimbursements after being requested?

A I can't -- I can't recall specifically.

Q You had indicated that -- but you've never seen any kind of reimbursement accounting, correct? And that's why you have the note in your --

MR. MARKS: Objection, leading.

BY MR. SMITH:

Q Have you ever seen a reimbursement accounting?

A Not that I can recall, no.

Q Is that why you have the note in your report?

A That is correct.

Q All right. The -- so did you compare the spending between the parties or did you just take the spending amounts that were identified specifically by Mr. Kogod as his spending?

MR. MARKS: Asked and answered.

THE COURT: Sustained.

BY MR. SMITH:

Q So I want to talk to you about some of the other things that you did in Exhibit 6. You indicated that -- and you provided an allowance for Dennis' expenses for a California home. Do you recall that?

A We did, yes.

Q But at the same time that you did that, you were aware that Dennis was having a home in Denver paid for by the company, correct?

MR. MARKS: Objection, leading, suggesting --

BY MR. SMITH:

Q Were you aware that Denver -- in Denver, there was a house that was paid for by the company for Dennis?

A That is my understanding.

Q So Dennis -- you allocated for him to have two houses; is that correct?

A That is correct.

Q All right. Were there other -- any other points where -- well, let me ask you this. There was this big issue raised by Mr. Marks about the fact that there were two interpretations; one by Nadia and one by Mr. Kogod regarding Moe, LLC, correct?

A Uh-huh.

Q Has it been your experience that individuals who are charged with giving money to others, like girlfriends, will sometimes not state that money correctly? In other words, they won't report it correctly? Have you had that experience?

MR. MARKS: Objection, leading, suggestive.

THE COURT: Overruled.

MR. MARKS: Assumes facts not in evidence.

THE COURT: Over --

MR. MARKS: No foundation for this. There's no foundation.

THE COURT: Sustained.

BY MR. SMITH:

Q Have you done reports for others in which those individuals were charged with spending money on a girlfriend?

A I have, yes.

Q Has it been your experience -- and by the way, this notion about you always doing work for my firm, in fact, your firm is on the opposite side of cases as well?

A That is correct.

Q In fact, in the one of your two times in court, I was the person cross examining you on behalf of my client?

A That is correct.

Q Your findings in regard to value and the potential

community waste was against my client?

A That is correct.

Q All right. So in regard to assignments where you've had -- in relation to people who have spent money on extramarital affairs; girlfriends, boyfriends, in those circumstances, has it been your -- is it the normal custom and practice for you to list them -- or is it your normal custom and practice for you to list expenses that are in doubt? In other words, they're denied by the person who actually expended the money?

MR. MARKS: Objection, relevance, no foundation.

THE COURT: Overruled.

THE WITNESS: That is fair.

BY MR. SMITH:

Q So in this instance, you've had two stories about Moe, correct?

A That is correct.

Q Mr. Marks characterized Dennis as saying he invested in the company, correct?

A I believe that's what he stated.

Q Right. But in his deposition, Dennis actually said we invested in the company?

MR. MARKS: Objection, leading.

THE COURT: Sustained.

MR. SMITH: Well, let me just show you his deposition. I've got a certified transcript, Your Honor. I think this is how you want it done, right, not with the --

THE COURT: Correct.

MR. SMITH: -- (indiscernible) deposition?

THE COURT: Correct.

MR. SMITH: All right.

BY MR. SMITH:

Q Look at page 273 of his deposition.

(COUNSEL CONFER BRIEFLY)

MR. SMITH: All right. Oh, this is Nadia's deposition. No wonder it didn't work. I need Dennis' deposition.

(COUNSEL CONFER BRIEFLY)

BY MR. SMITH:

Q All right. At 273, I asked the question to Mr. Kogod, tell me what Moe, LLC is. And answer, it was a clothing line that we took a chance on. We were introduced to a wonderful designer that won six or seven awards in Europe as the designer of the year. She came to Los Angeles. We had an offer at the time from Louie Vuitton to take some of her copyright. It was either going to be a big hit or it wasn't going to go anywhere. And at the end of the day, it's one of those in the portfolio that didn't perform so well.

That was his answer, correct?

A That's what it says, yes.

Q Is there anything in that answer where he indicated that it was only him who made the decision to enter into that transaction?

A I didn't hear your question. I'm sorry?

Q Withdraw the question. In Nadia's deposition, she states and I quote --

MR. MARKS: What page you on, Counsel?

MR. SMITH: Page 271.

MR. MARKS: Hold on. Let me get there. Let me get there. 279?

MR. SMITH: 271.

MR. MARKS: Okay. What line?

MR. SMITH: 271, beginning at line -- well, actually it's 263.

BY MR. SMITH:

Q Okay. And there is a -- it says okay. So there was no agreement in regard to the payment of -- well, that's a different question. Hold on.

MR. MARKS: What line are you on?

BY MR. SMITH:

Q Do you have the page number?

A I have 133 number.

Q Oh. 133? Okay.

MS. VARSHNEY: 271, line 18, Rad.

MR. MARKS: What is it?

MS. VARSHNEY: 271, line 18.

MR. SMITH: Oh, okay.

BY MR. SMITH:

Q So -- and it's actually line 15, but my question to her: All right. Do you have to your knowledge an interest in Moe, LLC or that company or I think it -- was it Black Egg?

Answer: Yes, he was trying to actually do it for me.

And question: Right.

Answer: Get me involved in his business. It's collapsed so we didn't get anything of this.

A I see that.

Q Is that the line you were referring to in terms of the statement by Ms. Capsalas?

A Partly. I believe our report references a page 133, so --

Q Okay. And she says essentially the same thing. If we begin at line four, I thought it was like Curly, Moe and Larry. Do you know what the company does? Answer: Yes, it is a design company.

MR. MARKS: Can you tell me where you're reading

from?

MR. SMITH: Page 133, line four of Nadia's deposition.

BY MR. SMITH:

Q I thought it was like Curly, Moe -- this is my question. I thought -- she -- I said how did you pronounce it. She said Moe. I said I thought it was like Curly, Moe and Larry. Do you know what the company does? Answer: Yes, it is a design company, so he would trying to help me to get into -- in the business with those people and it didn't work.

A And that's what I recall.

Q Okay. In regard to when you have two separate statements in regard to a transaction that would make it community -- potential community waste or not, what is the custom and habit in your practice in doing those types of reports?

A I would leave the conflicting testimony to the trier of fact to decide.

Q But would you exclude it based upon one party's testimony or the other?

MR. MARKS: Leading, no foundation.

THE COURT: Overruled.

THE WITNESS: Not if it's conflicting testimony.

BY MR. SMITH:

Q So, for example, when you get gambling cases -- right. You've had gambling cases where people are accused of gambling?

A I have been involved in those, yes.

Q And you'll get receipts from casinos, right?

A Sometimes, yes.

Q And those people will often say oh, no, I didn't gamble at that point, that was for some other purpose, correct?

A I've heard that excuse, yes.

MR. MARKS: No relevance to this case.

THE COURT: Overruled.

BY MR. SMITH:

Q Do you put those charges in the report nevertheless, if there was --

MR. MARKS: Relevance.

THE COURT: Overruled.

BY MR. SMITH:

Q Do you put those charges in a report nevertheless, even though there's just a potential community waste?

A We would identify them. It's an aggregation of the transaction data identified as potential community waste and allow the trier of fact to decide.

Q If the individual had not only made the statement

that it wasn't community waste, but provided you actual evidence that instead of gambling that day he used it to go to a show or in the casino in some other method, would you note that in your report?

A I believe if there was additional support, such as receipts or some other identification of how those transactions were used, I believe you could then remove that from the list.

Q Other than Dennis' statement contained in his deposition, has any -- have you received evidence whatsoever suggesting that Moe, LLC was anything different than what Nadia or -- had described, her -- an investment for her?

MR. MARKS: Compound.

THE COURT: Overruled.

THE WITNESS: We have not received any information related to Moe, LLC.

(COUNSEL CONFER BRIEFLY)

BY MR. SMITH:

Q Okay. You've prepared an income -- let's look at Exhibit 17.

A 17?

Q 17.

A I'm assuming Binder One?

MS. VARSHNEY: It's in Binder two actually.

THE WITNESS: Oh. Yes, it is.

BY MR. SMITH:

Q And that's a chart --

A Okay. I'm there.

Q That's a chart comparing incomes, correct?

A That was prepared by our office, yes.

Q And --

MR. MARKS: Your Honor, technically it's beyond the scope, but assume, just going to let us try to finish. It's beyond the scope of cross.

THE COURT: I am.

MR. SMITH: I can -- I had Mr. Leauanae testify to it. I mean --

THE COURT: The objection is overruled. I'm --

BY MR. SMITH:

Q There's a -- you also -- Mr. Marks has discussed the community property distribution workstreet (sic) sheet. That's contained at 26?

A Okay. I'm there. What about it?

Q That's the community property distribution worksheet that you had prepared?

A We prepared a portion of this and then, the rest -- the allocation between community and separate was done, I believe, by your office.

MR. SMITH: All right. I move for the admission of 26, Your Honor.

MR. MARKS: Your Honor, we had one too that we didn't mark ours as an exhibit. Do you want them both then marked?

THE COURT: That's fine. To the extent it's --

MR. MARKS: Can I have mine marked then --

THE COURT: Okay. That's fine.

MR. MARKS: -- get me next in their offer).

THE COURT: This is Exhibit --

MR. SMITH: 26. I think. 26. Yes, Your Honor.

THE COURT: Post community property distribution?

MR. SMITH: That's right.

THE COURT: Okay. Exhibit 26 --

MR. SMITH: And Your Honor, the way we --

THE COURT: -- is admitted.

(PLAINTIFF'S EXHIBIT 26 ADMITTED)

MR. SMITH: Yes. The way we've approached the proposed community property distribution, we've agreed on everything that's not agreed in our pretrial statement.

THE COURT: Pretrial memo. I know. I saw that.

MR. SMITH: All right.

THE COURT: I don't --

MR. SMITH: I don't know if I have to put on more

testimony about that. I don't have the time to, so --

THE COURT: No. I don't.

MR. SMITH: Okay.

MR. MARKS: And Your Honor, can we have ours when we take --

THE COURT: Yes.

MR. MARKS: -- a break marked? I have an asset sheet and a proposed distribution.

THE COURT: Which I believe I've received and that's fine.

MR. SMITH: No objection, Your Honor.

THE COURT: No. I'd like those marked as well.

MR. MARKS: So we don't have to go item by item.

THE COURT: Absolutely.

MR. MARKS: They're in evidence.

THE COURT: Absolutely.

MR. SMITH: Okay. That will save time.

MR. SMITH: Okay. Very good.

BY MR. SMITH:

Q And the settlement state -- he had asked you about why there was the money that was used -- this is 71, so it would be the next book.

A Okay.

Q Mr. Marks had asked you why there was 3.6 million

dollars and why she had received that. There's a settlement statement that's page 71. That's for the condo, because he'd asked you if you did -- if you included the art. Do you recall that testimony?

A I do.

Q But the settlement statement shows the amount that was paid for the home is 3.6 million dollars, correct?

A That is correct.

MR. SMITH: All right. Move for the admission of 71.

THE COURT: Any objection?

MR. MARKS: No, Your Honor.

BY MR. SMITH:

Q And the --

THE COURT: 71 is admitted.

(PLAINTIFF'S EXHIBIT 71 ADMITTED)

MR. SMITH: Right.

BY MR. SMITH:

Q And you had testified that the accounts that hold the money -- may have been -- I think you -- at first, used dissipated, but then you changed it and said that there may be additional expenses that had been incurred from that account since -- for a certain period of time, correct?

A That is correct.

Q All right. There was a -- there's a chart showing expenses that were paid on behalf of Ms. Capsalas and the children at -- that's 72 -- from May 2014. Do you see that?

MR. MARKS: What exhibit, Counsel?

MR. SMITH: 72.

THE WITNESS: I see that.

MR. SMITH: What --

MR. MARKS: Hold on. I need to look.

(PAUSE)

MR. MARKS: Is this something that was part of your report previously?

MR. SMITH: It's been --

MR. MARKS: Because I don't think we've seen this. I don't think this was --

MS. VARSHNEY: It's part of our motion for order to show cause.

MR. MARKS: So it's part of the Court's record. We didn't see this as an exhibit or some --

MS. VARSHNEY: We are in an evidentiary hearing for --

MR. MARKS: I don't think this was produced. I don't think it was part of the motion and the order.

MR. SMITH: It was part of the motion.

MS. VARSHNEY: It's part of the motion.

MR. SMITH: It's part of what the (indiscernible) court filed. Frankly, Your Honor, if you could just tell me that those thing that are in the court file and the order show cause since you've already issued that order are going to be submitted as exhibits? They're 72, 73, 74, 75 and 76. Those are all documents that I believe were attached to the order to show cause.

THE COURT: Okay. Any evidentiary objection, Mr. Marks?

MR. MARKS: No, objection.

THE COURT: Those exhibits are admitted, 72 through 76.

(PLAINTIFF'S EXHIBITS 72 THROUGH 76 ADMITTED)

BY MR. SMITH:

Q And you had indicated that you had relied on certain interrogatory responses as part of your overall report?

A We did, yes.

Q Okay. If you'll look 111, 113 and 116.

A 111? I'm sorry? 111?

Q 111.

A Yep.

Q 113 and 116. Do you recognize those as the interrogatory responses on which you relied?

A 113. I believe you're pointing me to the questions,

not the answers.

Q The questions. Those are the questions --

MS. VARSHNEY: Yes, questions.

BY MR. SMITH:

Q -- upon which -- that were foundations for the interrogatory responses upon which you relied.

A 116? Yes.

MR. SMITH: All right. Move for the admission of 111, 113 and 116.

MR. MARKS: No objection.

THE COURT: 111, 113 are 116 --

MR. SMITH: Pass the witness --

THE COURT: -- are admitted.

(PLAINTIFF'S EXHIBIT 111, 113 AND 116 ADMITTED)

MR. SMITH: Pass the witness, rest.

MR. MARKS: Your Honor, I don't think -- I don't know if they're answers -- These are not the answers. They're just questions.

MR. SMITH: But the questions --

MS. VARSHNEY: Right. The questions are on the flash drive.

MR. SMITH: The questions --

MS. VARSHNEY: The answers --

MR. SMITH: The answers are on the flash drive that

is 108 or part of 108, because those are part of the submissions.

THE COURT: Right.

MR. SMITH: But let me just note that these contain exhibits. So in trying to tie the two together, you'll need to see the exhibits on the interrogatory requests, so that's why that they're submitted and that was all part of the file that was provided to Ms. Allen.

THE COURT: Okay.

MR. MARKS: I have a couple of follow up. Your Honor, could I ask a couple questions?

THE COURT: Yes. Yes, you may proceed.

FURTHER RECROSS EXAMINATION

BY MR. MARKS:

Q Ms. Allen, in the deposition that was read to you regarding Ms. Capsalas, I think Counsel read to you from page 271, line 20. Right. Get me involved in his business. You read that. It was his business, correct?

A Can you show me?

Q Sure. In fact, she had no money so anything that -- involving business was going to be his business, correct?

A Nadia has no source of income. That's correct.

Q Okay. Counsel showed you line 20?

A Yes.

Q Right?
A Uh-huh.
Q Get me involved in his business, correct?
A It says his business, yes.
Q Okay. That's what she told -- that's what she -- and you were sitting there that day, weren't you?
A I was at -- I did attend Nadia's deposition, yes.
Q You were sitting at the -- in the conference room with the big table, either next to Mr. Smith or one seat away, weren't you?
A That is correct.
Q And if there were some confusion or questioning you'd pass him notes to ask follow up questions, correct?
A I did provide additional questions.
Q You were sitting at both depositions of Mr. Kogod, correct?
A That is correct.
Q So if you had any questions or clarifications needed, you could write a note to Mr. Smith and get those questions answered, correct?
A That's fair.
Q And were you involved in the process of giving Mr. Smith questions for the answers to interrogatories, the interrogatories, that were sent to Mr. Kogod?

A Some of them, yes.

Q And you reviewed his answers, correct?

A I did, yes.

Q And you worked with Mr. Smith in trying to get this discovery all together?

A His office, yes.

Q Okay. And is -- and again, as far as you know, no motion to compel discovery for lack of cooperation was ever filed, correct?

A I'm not aware of any.

Q And beyond just asking Mr. Kogod, there was voluminous subpoenas of records, both here and in California, correct? You were aware of documents being subpoenaed?

A I'm aware of subpoenas. I don't know voluminous.

Q Okay. Maybe voluminous is the wrong word, but voluminous discovery of thousands of pages of discovery, correct?

A There was a lot of discovery in this matter.

Q But you subpoenaed -- you helped in cooperation with Mr. Smith regarding subpoenaing records, both in Nevada and in California, correct?

A I'm aware that they subpoenaed for records.

Q Okay. And in California and Nevada, correct?

A That's my understanding.

Q And Davita records regarding travel were subpoenaed, correct?

A I believe they were subpoenaed.

Q And my understanding is you've seen Concur records, because you wouldn't have known a hundred -- the 163,000 number if you hadn't seen something, right?

A I observed the deposits that referenced Concur.

Q So you knew that existed?

A Yes, I was aware of that.

Q And when Mr. Smith said it's only 163,000 of 3.6, con -- what is it, Conture (sic)?

A Concur.

Q Concur is only related to reimbursement of travel, so that would either be lodging or meals, correct? It wouldn't be these other categories on Exhibit 6, correct?

A I don't know specifically. You'd have to ask Mr. Kogod.

Q But when he said out of 3.6, it's not out of 3.6, it's out of the 200,000 in lodging or whatever the meals (indiscernible) were, correct?

A I believe it's reasonable to assume that the reimbursements for Davita would be offsets against the lodging, the meals, those types of categories, yes.

Q And Dennis, you were at his deposition where he said

he would often not send in certain business expenses; if he bought pizza for a clinic or had other -- if he spent more than what he thought was a fair allotment for meals or wine or whatever. He wouldn't even submit them to Davita. Didn't you hear that testimony?

A I heard testimony that he sometimes did not reimburse everything, yes.

Q Because he thought it might not be good for corporate optics or for his -- the people that he was supervising, correct?

A I believe that was his testimony in court this week.

Q All right. And you agree, do you not, that all these decisions regarding what is going to be ultimately compensable waste would have to be made by the trier of fact, correct?

A I believe that's fair.

Q And that all you're doing is allocating -- these are in certain categories with various degrees of certainty, some for Nadia, the yacht. I think you're more certain of certain expenditures than on Exhibit 6, correct?

A I believe that's fair.

Q Isn't it fair to say you're least certain about Exhibit 6 because it's potential unallocated categories, than you are, for instance, for Exhibit 2?

A I believe that there's categories within Exhibit 2 that we would need more information. That is fair.

Q But isn't -- aren't there categories in Exhibit 6 that you're less certain of than in, for instance, Exhibits 2 or 3?

A You're saying less certain. I would just -- I would clarify; it's we would need more information in order to make a determination.

Q Okay. And in terms of the value judgments regarding spending, I think while you say you didn't compare, is it clear just so -- in conclusion, you did not compare the Plaintiff's spending with the Defendant's spending in any sort of analysis?

A (No audible response)

Q Is that a fair statement?

A I believe that's fair.

Q Okay. And is it fair to say that in terms of your analysis, you did rely heavily on the financial disclosure form filed by Dennis to set some baseline categories, the May 2015 FDF; isn't that correct?

A For some of the categories on Exhibit 6, we relied upon the FDF and his depo --

Q But you didn't --

A -- deposition. That's correct.

Q But you didn't rely at all on the Plaintiff's FDF in any of your analysis, correct?

A Because that would fall into a different bucket --

Q I'm not concerned about buckets. My question is just did you? I'm not -- did you rely at all on the Plaintiff's FDF at all in this analysis in this report?

A For these exhibits, no, we did not.

Q Okay.

MR. MARKS: That's all I have.

FURTHER REDIRECT EXAMINATION

BY MR. SMITH:

Q You did a lot of work in putting this stuff together, correct?

A Spent a lot of hours, yes.

Q You went through thousands and thousands of pages of documents, correct?

A Yes.

Q And you went through -- and did you go through thousands of transactions?

MR. MARKS: Your Honor, is this -- is this more redirect? Isn't this beyond the scope of cross? I only asked four or five questions.

MR. SMITH: That's right. For --

THE COURT: Right. No. It's within the scope, but

again I caution you on time. I don't know how much I need any -- any further.

MR. SMITH: I'll --

BY MR. SMITH:

Q Dennis promised an accounting, didn't he?

MR. MARKS: Objection, leading, suggestive.

BY MR. SMITH:

Q Did Dennis promise an accounting?

MR. MARKS: What foundation is there for this?

THE COURT: Overruled.

THE WITNESS: It's my understanding that he did through his counsel.

BY MR. SMITH:

Q And at 403 of his deposition at Volume two, he states -- question: But you are now in the process of having an accounting prepared?

A That was my recollection.

Q And his answer is I think that's why we hired this gentleman.

Question: Okay. Is it your understanding that the reason you hired Mr. Teichner was to have you prepare an accounting or just review hours?

Answer: All of the above.

Question: So it's your understanding that Mr.

Teichner is going to go through each of your statements and perform the exercise that we did by looking at the expenses and categorizing them as either legitimate community expenses or not, correct?

Answer: I have discussed that with him and how he's going to go about it. I haven't discussed that with him, but directionally that's what would be one of my expectations.

Did that lead you to believe that you were going to have additional information upon which to base your report?

A That is part of it, yes.

Q Thank you.

MR. SMITH: Pass the witness.

THE COURT: All right. Anything further?

MR. MARKS: No, Your Honor.

THE COURT: You may step down.

THE WITNESS: Thank you.

MR. SMITH: Can we have a time check?

THE COURT: Plaintiff is at 40 minutes remaining. And then -- we're almost at lunch break. And the Defendant has used --

(COUNSEL AND CLIENT CONFER BRIEFLY)

THE COURT: I have 178 minutes, so just under three hours. So you may call your first witness.

MR. MARKS: Did they rest?

THE COURT: Yes, he rested.

MR. SMITH: We did.

THE COURT: I heard him say we rest.

(PAUSE)

MR. MARKS: Your Honor, do you want to do lunch now and then we'll go straight through or do you want me to --

THE COURT: No. I'd like to start and get into it a little bit and then, we'll break for lunch.

MR. MARKS: Okay. All right. I call Mr. Teichner.

THE COURT: Please remain standing and raise your right hand to be sworn.

THE CLERK: You do solemnly swear the testimony you're about to give in this action shall be the truth, the whole truth and nothing but the truth so help you God?

THE WITNESS: I do.

THE COURT: You may be seated. Counsel, you may proceed.

RICHARD MICHAEL TEICHNER

called as a witness on behalf of the Defendant and being first duly sworn, testified as follows on:

DIRECT EXAMINATION

BY MR. MARKS:

Q Please state your name, please.

A Richard Michael Teichner.

Q And your business address?

A My main office is in Reno, 3500 Lakeside Court, Reno, Nevada, 89509.

Q Okay. And your educational background?

A I have a degree in accounting at the University of Southern California.

Q And after that, could you give the Court an overview of your work experience?

A Well, it's quite extensive. I've been doing this for quite a number of years. But I started off doing test functions, which is auditing, reviews and compilations of financial statements and tax work and I did that for many years at varying degrees. I was a partner in charge of the audit functions and the test functions at a large local firm. I also was involved in many, many different tax issues and services, not only preparation returns and review of returns, but tax advice, income tax advice, estate planning, just a whole gamut of tax types of services.

Q Were you a certified -- were you working in public accounting in Los Angeles?

A Yes, Beverly Hills primarily.

Q Okay. And in the Beverly Hills area of Los Angeles, did you -- you were working in a public accounting firm doing tax and audit?

A Yes and --

Q How long did you do that?

A Over 40 years, about 40 -- well, again there was overlap, so there was overlap between the forensic accounting work and valuation that I did and some of the other serv -- traditional accounting services that I did, but over 40 years.

Q When did you start in the forensic accounting and evaluation work?

A I started getting involved in it about 18 to 20 years ago and sort of worked my way into that area of practice.

Q And is it helpful to have an auditing background in order to do your forensic accounting?

A Well, it certainly is very helpful, yes.

Q And are you a certified public accountant?

A Yes.

Q Okay. And did you move to Reno at some point?

A Yes, 12 years ago.

Q Okay. And primarily what's your practice like in Reno? What do you do?

A Primarily forensic accounting, service of economic damage, business litigation, divorce work, business valuations in those areas, tracing.

Q Okay. Have you testified in court?

A Yes.

Q And approximately how many times?

A Well, since I've been keeping track, it's 37 times.

Q Okay. And have you been accepted as an expert witness in the eigh -- this district, the 8th Judicial District Court?

A Yes.

Q And have you been accepted as an expert in issues regarding tracing and alleged community waste?

A Yes.

MR. MARKS: Your Honor, I'd ask that he be accepted as an expert.

MR. SMITH: No objection.

THE COURT: The Court recognizes Mr. Teichner as an expert qualified to testify.

BY MR. MARKS:

Q Mr. Teichner, you have certain designations after you name. Could you briefly tell the Court what those are? Obviously, he knows -- I think the Court knows what a CPA is. You're a licensed CPA?

A Yes.

Q Okay.

A In Nevada and California, yes.

Q Okay. What other designations do you have?

A Accredited business evaluator, certified valuation analyst, a master analyst in financial forensics, a certified financial forensic, certified financial accountant, a forensics CPA. I'm a chartered global management accountant, a certified divorce financial analyst. I think I listed all nine of them.

Q Okay. If you go to Exhibit D in our report.

A Exhibit 3 is --

Q D. Exhibit D, which is in Book one.

THE COURT: It's going to be one of the, the white notebooks.

BY MR. MARKS:

Q It's to your right.

A Okay.

THE COURT: Volume one, if you can find it.

(COUNSEL CONFER BRIEFLY)

THE WITNESS: Exhibit --

MR. MARKS: Exhibit D.

THE WITNESS: C, as in Charlie.

MR. MARKS: D as in Daniel.

THE WITNESS: Oh, D as in Daniel; sorry.

MR. MARKS: Or D as in Judge Doumar. Be fair.

BY MR. MARKS:

Q It's in Volume one.

A I have it.
Q We Bates stamped the number, so if you go to Exhibit D, page four.
A Yes.
Q Starting at page four, is that your report in this case?
A It's -- yes, it's one of my reports.
Q Okay. That's your first report dated January 25th, 2016?
A Yes.
Q And if you go to page 40, 040?
A I'm sorry. 40 did you say?
Q Yes, D040.
A Oh, V -- okay. V040?
Q D040.
A All right. Gotcha.
Q D040, in the middle of the exhibit.
A Okay. Yes.
Q Is that your CV?
A Yes.
Q And that lists all your certifications?
A All my designations, yes.
Q That lists your publications over the last ten years?

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IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD,

Appellant,

vs.

GABRIELLE CIOFFI-KOGOD,

Respondent.

Case No. 71147

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX
Volume 8

Docket 71147 Document 2017-11537

DOCUMENT	VOLUME	PAGE NO.
Acceptance of Service filed on April 24, 2014	1	14
Acceptance of Service Filed on November 6, 2015	2	394
Amended Notice of Cross-Appeal filed on September 23, 2016	46	9032-9148
Answer to Complaint for Divorce and Counterclaim filed on November 24, 2014	1	19-24
Case Appeal Statement filed on August 23, 2016	44	8590-8593
Case Appeal Statement, filed on December 13, 2016	47	9287-9290
Case Cross-Appeal Statement filed on September 21, 2016	46	9028-9031
Case Cross-Appeal Statement, filed on December 23, 2016	47	9298-9301
Certificate of Service filed on March 2, 2015	1	66
Certificate of Service filed on June 2, 2015	1	85-86
Certificate of Service filed on January 25, 2016	4	712
Certificate of Service filed on June 21, 2016	42	8082
Certificate of Service filed on September 14, 2016	45	8704-8802
Certification of Copy of Exhibits Presented at the 2/23/16-2/26/16 Non-Jury Trial, dated December 8, 2016	10	1876-1894
Certification of Copy Clerks List	41	7980-7983
Complaint for Divorce filed on December 13, 2013	1	1-6
Defendant's Closing Brief filed on August 1, 2016	43	8415-8473
Defendant, Dennis Kogod's, Reply to Plaintiff's, Gabrielle Cioffi-Kogod's, Opposition to Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the deposition of Jennifer Crute Steiner and Opposition to Plaintiff's Countermotion for Attorney Fees and Costs filed on June 25, 2015	1	151-178
Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	1	87-110
Defendant's Exhibits Vol. I:	33	6161-7979

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit D- Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	33	6162-6209
Defendant's Exhibit F- Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	33	6210-6215
Defendant's Exhibit S- Bank of America Joint Checking Account Ending 6446 Statement From December 1, 2015 to December 31, 2015	33	6216-6223
Defendant's Exhibit T- Bank of America Checking Account ending in 0129 Statement from December 1, 2015 to December 31, 2015	33	6224-6229
Defendant's Exhibit U- Wells Fargo Complete Advantage Checking Account Ending 5397 Statement from January 9, 2016 to February 5, 2016	33	6230-6239
Defendant's Exhibit V- Wells Fargo PMA Account ending 8870 Statement from January 9, 2016 to February 5, 2016	33	6240-6242
Defendant's Exhibit W- UBS Trust – Fee Base ending 743 Statement From January 2016	33	6243-6252
Defendant's Exhibit X- UBS Checking ending 745 Statement for January 2016	33	6253-6264
Defendant's Exhibit Y- UBS Trust – PWS/GAM ending 134 Statement for January 2016	33	6265-6282
Defendant's Exhibit Z- UBS Stock Option ending 999 Statement for January 2016	33	6283-6290
Defendant's Exhibit AA- Merrill Lynch Ending 588 Statement from December 01, 2015 to December 31, 2015	33	6291-6360
Defendant's Exhibit BB- UBS Trust – Fee Base ending 43 Statement for January 2016	34	6361-6368
Defendant's Exhibit CC- Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	34	6369-6372
Defendant's Exhibit DD- Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	34	6373-6375
Defendant's Exhibit EE- Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015	34	6376-6378
Defendant's Exhibit LL- UBS Premier Variable Credit Line ending 027 Statement for January 2016	34	6379-6384

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit MM- American Express Centurion Account ending 3005	34	6385-6396
Defendant's Exhibit NN- American Express Platinum Account ending 2003 Statement from January 18, 2016 to February 6, 2016	34	6397-6401
Defendant's Exhibit OO- American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	34	6402-6406
Defendant's Exhibit PP- Master Card Account ending 1588 Statement From January 07, 2016 to February 06, 2016	34	6407-6412
Defendant's Exhibit QQ- Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	34	6413-6419
Defendant's Exhibit RR- Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	34	6420-6423
Defendant's Exhibit SS- Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	34	6424-6427
Defendant's Exhibit TT- Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	34	6428
Defendant's Exhibit UU- Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	34	6429-6431
Defendant's Exhibit VV- Nordstorm Account ending 992 Statement from November 13, 2015 to December 13, 2015	34	6432-6436
Defendant's Exhibit WW- TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016	34	6437-6439
Defendant's Exhibit XX- Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, Filed February 25, 2015	34	6440-6456
Defendant's Exhibit AAA- Email from Eugene to Dennis Dated: February 12, 2012	34	6457-6459
Defendant's Exhibit BBB- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: House	34	6460-6464
Defendant's Exhibit CCC- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: Misc.	34	6465-6467
Defendant's Exhibit DDD- Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	34	6468-6470
Defendant's Exhibit EEE- Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	34	6471-6473

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit FFF- Various Checks from Gabrielle to Stephanie Cioff Re: Stephanie's Birthday	34	6474-6476
Defendant's Exhibit GGG- Check from Dennis to Escrow of the West Re: 128 N. Edinburch	34	6477
Defendant's Exhibit HHH- Various Checks from Gabrielle to Cash	34	6478-6496
Defendant's Exhibit III- Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	34	6497-6507
Defendant's Exhibit KKK- Notice of Entry of Stipulation and Order Filed on August 12, 2015	34	6508-6513
Defendant's Exhibit LLL- Email from Dennis to Gabrielle Dated: December 8, 2011	34	6514-6515
Defendant's Exhibit NNN- Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	34	6516-656
Defendant's Exhibit OOO- Gabrielle Kogod's Resume	34	6561-6564
Defendant's Exhibit PPP- Plaintiff's Response to Defendant's First Set of Interrogatories Dated May 18, 2015	35	6565-6589
Defendant's Exhibit QQQ- Plaintiff's Response to Defendant's Second Set of Interrogatories Served on October 20, 2015	35	6590-6597
Defendant's Exhibit RRR- Plaintiff's Response to Defendant's Third Set of Interrogatories Served on October 29, 2015	35	6598-6603
Defendant's Exhibit SSS- Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	35	6604-6683
Defendant's Exhibit TTT- New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	35	6684-6706
Defendant's Exhibit UUU- Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	36	6707-6906
Defendant's Exhibit UUU- Continued Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	37	6907-7034
Defendant's Exhibit VVV- Davita Power Point Regarding 2015 Long Term Incentive Program	37	7035-7041

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit XXX- Davita Cash Performance Award Agreement, Exhibit B	37	7042-7048
Defendant's Exhibit YYY- Email from Radiology Partners regarding 2014 Tax Compliance	37	7049-7059
Defendant's Exhibit ZZZ- Radiology Partners Member Equity Statement Dated: July 31, 2015	37	7060
Defendant's Exhibit AAAA- Radiology Partners Practice Update, Dated July 31, 2015	37	7061-7067
Defendant's Exhibit FFFF- Kogod Equity Analysis of Dennis' outstanding Long-term incentives (Equity Bases and Cash-Based) and Explanation	37	7068-7070
Defendant's Exhibit GGGG- Thomasina Distribution Agreement	37	7071-7126
Defendant's Exhibit HHHH- Pray for Ukraine Agreement Dated: October 16, 2014	37	7127-7132
Defendant's Exhibit IIII- UBS Resource Management account Ending 899 Statement for February 2016	37	7133-7134
Defendant's Exhibit JJJJ- 2015 W-2 issued to Dennis L. Kogod	37	7135-7137
Defendant's Exhibit KKKK- Principle Life Insurance Company Statement for February 18 2016	37	7138-7139
Defendant's Exhibit LLLL- Email from Denise to Dennis Kogod	38	7140
Defendant's Exhibit MMMM- Filing with US Security and Exchange Commission	38	7141-7142
Defendants Exhibit NNNN- Email 2/23/16 Re: Award of 76,766 Shares And Sale of $33,290 Shares for Tax Purposes	38	7143-7144
Defendant's Exhibit OOOO- Assets & Debt Chart	38	7145-7148
Defendant's Exhibit PPPP- Martial Balance Sheet	38	7149-7151
Defendant's Exhibit QQQQ- Costs & Fees Through 1/31/16	38	7152-7174
Defendant's Exhibit RRRR- Jimmerson Fees	38	7175-7340
Defendant's Exhibit SSSS- Depo of Eugene Cioffi February 05, 2016	39	7341-7450
Defendant's Exhibit TTTT- Depo of Stephanie Cioffi February 05, 2016	39	7451-7467
Defendant's Exhibit UUUU- 9716 Oak Pass Appraisal	42	8042-8061

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit VVVV- Jennifer Bosco Resume	42	8062
Defendant's Exhibit WWWW- Hollywood Hills Escrow	42	8063
Defendant's Exhibit XXXX-_February 2016 UBS account summary statement	39	7468-7474
Defendant's Exhibit YYYY- February 2016 UBS account statement for Accounts ending 743	39	7475-7484
Defendant's Exhibit ZZZZ- February 2016 UBS account statement for Accounts ending 134	39	7485-7500
Defendant's Exhibit 5A- February 2016 UBS account summary statement	39	7501-7508
Defendant's Exhibit 5B- February 2016 UBS account statement for accounts Ending 745	39	7509-7522
Defendant's Exhibit 5C- February 2016 UBS account statement for accounts Ending 899	39	7523-7532
Defendant's Exhibit 5D- February 2016 UBS account statement for accounts Ending 746	39	7533-7540
Defendant's Exhibit 5E- February 2016 UBS account statement for accounts Ending 027	39	7541-7546
Defendant's Exhibit 5F- February 2016 UBS account statement for accounts Ending 575	39	7547-7552
Defendant's Exhibit 5G- UBS Account Summary for account ending 17, Showing no value As of February 26, 2016	39	7553
Defendant's Exhibit 5H- February 2016 UBS account statement for accounts ending 75	39	7554-7559
Defendant's Exhibit 5I- May 2016 UBS account statement for accounts ending 76	39	7560-7567
Defendant's Exhibit 5J- May 2016 UBS account statement for accounts ending 43	39	7568-7577
Defendant's Exhibit 5K- May 2016 UBS account statement for accounts ending 45	39	7578-7587
Defendant's Exhibit 5L- May 2016 UBS account statement for accounts ending 34	40	7588-7603
Defendant's Exhibit 5M- Wells Fargo PMA Package account ending 5397 Statement from February 1, 2016 through February 29, 2016	40	7604-7613

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit 5N- Wells Fargo Checking account ending 8870 Statements from February 6, 2016 through March 7, 2016	40	7614-7616
Defendant's Exhibit 5O- Wells Fargo Visa account ending 1032 statements From January 16, 2016 through February 12, 2016	40	7617-7620
Defendant's Exhibit 5P- Wells Fargo Visa account ending 1032 statements From February 13, 2016 through March 15, 2016	40	7621-7625
Defendant's Exhibit 5Q- American Express Platinum account ending 9008 Statements from January 16, 2016 through February 23, 2016	40	7626-7636
Defendant's Exhibit 5R- American Express Platinum account ending 9008 Statements from February 24, 2016 through March 25, 2016	40	7637-7645
Defendant's Exhibit 5S- American Express Centurion account ending 3005 Statements from January 16, 2016 through February 14, 2016	40	7646-7659
Defendant's Exhibit 5T- American Express Centurion account ending 3005 Statements from February 15, 2016 through March 16, 2016	40	7660-7668
Defendant's Exhibit 5U- American Express Optima account ending 2003 Statements from January 19, 2016 through February 16, 2016	40	7669-7680
Defendant's Exhibit 5V- American Express Optima account ending 2003 Statements from February 17, 2016 through March 18, 2016	40	7681-7685
Defendant's Exhibit 5W- Master Card Black Card account ending 1588 Statements from February of 2016	40	7686-7691
Defendant's Exhibits 5X- Principle Life Insurance Company Statement of Coverage as of February 26, 2016	40	7692-7693
Defendant's Exhibits 5Y- Voja DaVita Retirement Savings Plan statement From 01/01/16 through 03/31/16	40	7694-7696
Defendant's Exhibits 5Z- DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016	40	7697-7699
Defendant's Exhibit 6A- Cigna Health Savings Plan account balance of April 24, 2016	40	7700-7703
Defendant's Exhibit 6B- DaVita Stock Award Grant Statement, exercisable as of 06/01/16	40	7704-7705
Defendant's Exhibit 6C- Documents regarding sale of Ferrari	40	7706-7707

DOCUMENT	VOLUME	PAGE NO.
Detailed Financial Disclosure Form filed on February 25, 2015	1	28-44
Detailed Financial Disclosure Form filed on February 27, 2015	1	45-65
Detailed Financial Disclosure Form filed on May 29, 2015	1	67-84
Detailed Financial Disclosure Form filed on February 16, 2016	4	721-738
Detailed Financial Disclosure Form filed on February 19, 2016	4	819-835
Discovery Commissioner's Report and Recommendations filed on January 11, 2016	2	421-424
Discovery Commissioner's Report and Recommendations filed on January 22, 2016	4	707-711
Discovery Commissioner's Supplemental Report and Recommendations filed on February 22, 2016	4	843-846
Errata to Pre-Trial Memorandum filed on February 22, 2016	4	841-842
Errata to Notice of Filing Cost Bond for Appeal filed on August 30, 2016	44	8603-8606
Ex-Parte Motion to Enlarge Time for Service of Summons and Complaint filed on April 4, 2014	1	7-11
Ex-Parte Order to Enlarge Time for Service of Summons and Complaint filed on April 10, 2014	1	12-13
Ex Parte Request for Leave of Court to File Supplemental Pleading (With Notice) Filed September 21, 2016	45	8914-8944
Joint Preliminary Injunction filed on May 15, 2014	1	15-16
Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015	2	207-274
Motion to Compel Discovery and for Attorney's Fees and Costs filed on December 23, 2015	2	407-420
Motion in Limine to Exclude Updated Real Estate Appraisals and Newly Disclosed Rental Values Submitted by Plaintiff filed on February 19, 2016	4	836-840
Motion in Limine to Exclude Defendant's Witness Disclosed After Deadline to Disclose witnesses and Request for Attorney's Fees and Sanctions filed on February 22, 2016	4	847-858

DOCUMENT	VOLUME	PAGE NO.
Motion to Stay Enforcement of Decree of Divorce and for Other Related Relief filed on August 24, 2016	44	8594-8600
Motion for Attorney's Fees and Costs filed on September 13, 2016	44	8607-8703
Notice of Appeal filed on August 23, 2016	44	8588-8589
Notice of Appeal, filed on December 13, 2016	47	9280-9286
Notice of Cross-Appeal filed on September 21, 2016	45	8823-8940
Notice of Cross-Appeal, filed on December 23, 2016	47	9291-9297
Notice of Entry of Order filed on August 12, 2015	1	205-206
Notice of Entry filed on November 30, 2015	2	395-399
Notice of Entry of Order filed on December 3, 2015	2	400-404
Notice of Entry of Order filed on May 6, 2016	42	8064-8065
Notice of Entry of Order filed on May 11, 2016	42	8068-8069
Notice of Entry of Order filed on June 29, 2016	42	8086-8089
Notice of Entry of Findings of Facts, Conclusions of Law and Decree of Divorce filed on August 22, 2016	44	8474-8587
Notice of Entry of Order filed on October 24, 2016	47	9272-9275
Notice of Entry of Order from October 18, 2016 Hearing filed on December 5, 2016	47	9276-9279
Notice of Filing Cost Bond for Appeal filed on August 29, 2016	44	8601-8602
Objections to Plaintiff's proposed deposition Testimony and Submission of Additional Deposition Testimony filed on March 25, 2016	40	7721-7739
Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015	2	287-335
Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner, and Countermotion for Attorney's Fees and Costs filed on June 23, 2015	1	111-150

DOCUMENT	VOLUME	PAGE NO.
Opposition to Motion to Compel Discovery and for Attorney's Fees and Costs and Countermotion for Protective Order filed on January 11, 2016	3	425-579
Opposition to Plaintiff's Motion for an Order to Show Cause why Defendant Should not be Held in Contempt of Court for His Multiple Violations of the Joint Preliminary Injunction, for an Order Limiting Access and Payments from Community Accounts, and for Sanctions, Attorney's Fees and Costs; and Countermotion for Attorney's Fees and Costs filed on February 8, 2016	4	713-720
Opposition to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's fees and Costs; and Countermotion for Sanctions, Attorney's Fees and Costs filed on July 8, 2016	42	8090-8153
Opposition to Motion for Attorney's Fees and Costs filed on October 13, 2016	46	9167-9174
Order to Show Cause filed on February 24, 2016	4	859-860
Order filed on May 6, 2016	42	8066-8067
Order from April 6, 2016 Hearing filed on May 11, 2016	42	8070-8071
Order filed on June 28, 2016	42	8083-8085
Order From October 18, 2016 Hearing, filed on December 5, 2016	47	9278-9279
Plaintiff's Closing Brief filed on August 1, 2016	43	8242-8414
Plaintiff's Ex Parte Motion with Notice for Extension of Time to File Motion for Attorney's Fees and Costs filed on September 15, 2016	45	8803-8822
Plaintiff's Motion for the Issuance of an Order to Show Cause why Defendant Should not be Held in Contempt for his Multiple Violations of the Joint Preliminary Injunction; Plaintiff's Motion for an Order Limiting the Access and Payments from Community Accounts filed on January 19, 2016	4	647-706
Plaintiff's Pre Trial Memorandum filed on February 19, 2016	4	780-818
Plaintiff's Exhibit 1- Financial Disclosure Form Filed on February 16, 2016	10	1896-1912
Plaintiff's Exhibit 2- Financial Disclosure Form Filed on February 16, 2016	10	1913-1930
Plaintiff's Exhibit 3- Detailed Financial Disclosure Form Filed on May 29, 2015	10	1931-1951

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 4- Detailed Financial Disclosure Form Filed on February 27, 2015	10	1952-1972
Plaintiff's Exhibit 5- 2014 Individual Income Tax Return	10	1973-1980
Plaintiff's Exhibit 6- 2013 Individual Income Tax Return	11	1981-2241
Plaintiff Exhibit 7- 2012 Individual Income Tax Returns	12	2242-2378
Plaintiff's Exhibit 8- 2011 Individual Income Tax Returns	13	2379-2427
Plaintiff's Exhibit 9- 2010 Individual Income Tax Returns	13	2428-2456
Plaintiff's Exhibit 10- 2009 Individual Income Tax Returns	13	2457-2489
Plaintiff's Exhibit 11- 2008 Individual Income Tax Returns	13	2490-2515
Plaintiff's Exhibit 12- 2007 Individual Income Tax Returns	13	2516-2542
Plaintiff's Exhibit 13- 2006 Individual Income Tax Returns	13	2543-2572
Plaintiff's Exhibit 14- 2005 Individual Income Tax Returns	13	2573-2595
Plaintiff's Exhibit 15- 2004 Individual Income Tax Returns	13	2596-2612
Plaintiff's Exhibit 16- 2003 Individual Income Tax Returns	13	2613-2627
Plaintiff's Exhibit 18- Text messages between the parties	14	2629-2772
Plaintiff's Exhibit 19- Emails between the parties	14	2773-2813
Plaintiff's Exhibit 20- Text messages between the parties	15	2814-2921
Plaintiff's Exhibit 21- Text messages between the parties	15	2922-2925
Plaintiff's Exhibit 22- Emails between the parties	15	2926-2962
Plaintiff's Exhibit 23- Emails between the parties	15	2963-3040
Plaintiff's Exhibit 24- Text messages between the parties	15	3041-3048
Plaintiff's Exhibit 25- Text messages between the parties	15	3049-3061
Plaintiff's Exhibit 26- Proposed Community Property Distribution Worksheet	15	3062-3063
Plaintiff's Exhibit 54- Jenny Allen's Curriculum Vitae and List of Cases	16	3064-3066
Plaintiff's Exhibit 55- Index of documents in Support of Spreadsheets in Anthem Forensic's Reports	16	3067-3121

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 56 Anthem Forensics' Expert Witness Report	16	3122-3232
Plaintiff's Exhibit 57- Anthem Forensics' Supplemental Expert Witness Report	17	3233-3368
Plaintiff's Exhibit 58- Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report	17	3369-3402
Plaintiff's Exhibit 59- Email from Joe Leauanae to Daniel Marks, Esq.	17	3403-3404
Plaintiff's Exhibit 60- Auto Related Exhibits listed on Exhibit 6	17	3405-3409
Plaintiff's Exhibit 61- Transactions that comprise the "adjusted" column on Exhibit 6	18	3410-3549
Plaintiff's Exhibit 62- Withdrawals and checks written to cash - Gabrielle Kogod	18	3550
Plaintiff's Exhibit 63- Anthem Forenscics' Response to Rebuttal Report	18	3551-3578
Plaintiff's Exhibit 65- Anthem Forensics' Supporting Documentation for Facts set fourth in The February 5, 2016 Report	19	3579-3640
Plaintiff's Exhibit 69- Joint Preliminary Injunction Order	19	3641-3642
Plaintiff's Exhibit 71- Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California	19	3643
Plaintiff's Exhibit 72- Spreadsheet showing expenses for Khapsalis and children From May 2014	19	3644-3674
Plaintiff's Exhibit 73- Spreadsheet showing updated Outflows greater than $10,000 Since Anthem's December 15, 2015 Report based on updated statements provided by Dennis	19	3675
Plaintiff's Exhibit 74- Spreadsheet showing Outflows more than $10,000 Since May, 2014	19	3676
Plaintiff's Exhibit 75- Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	19	3677-3678
Plaintiff's Exhibit 76- Spreadsheet showing payments to Jennifer Steiner since September, 2014	19	3679-3682
Plaintiff's Exhibit 77- Email from Bob Gehlen dated November 25, 2015	19	3683-3685
Plaintiff's Exhibit 78- Email from Dennis to Robert Gehlen dated December 8, 2015	19	3686-3690

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 79- Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis Not adding Gabrielle to the UBS Account dated December 2, 2015	19	3691-3696
Plaintiff's Exhibit 80- Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	19	3697-3720
Plaintiff's Exhibit 87- Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents From DaVita dated October 1, 2015	19	3721-3725
Plaintiff's Exhibit 88- Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock Options dated June 12, 2015	19	3726
Plaintiff's Exhibit 89- Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options Dated August 14, 2015	19	3727-3729
Plaintiff's Exhibit 90- Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing Dennis' position dated September 2, 2015	19	3730-3731
Plaintiff's Exhibit 91- 2008 Annual Proxy Statement	19	3732-3807
Plaintiff's Exhibit 92- 2009 Annual Proxy Statement	20	3808-3873
Plaintiff's Exhibit 93- 2010 Annual Proxy Statement	20	3874-3959
Plaintiff's Exhibit 94- 2011 Annual Proxy Statement	21	3960-4081
Plaintiff's Exhibit 95- 2012 Annual Proxy Statement	21	4082-4202
Plaintiff's Exhibit 96- 2013 Annual Proxy Statement	22	4203-4298
Plaintiff's Exhibit 97- 2014 Annual Proxy Statement	22	4299-4432
Plaintiff's Exhibit 98- 2015 Annual Proxy Statement	23	4433-4526
Plaintiff's Exhibit 100- Radford J. Smith, Chartered's Billing Statements	23	4527-4560
Plaintiff's Exhibit 101- Marc Herman's Billing Statements	23	4561
Plaintiff's Exhibit 102- Anthem Forensic's Billing Statements	23	4562-4627
Plaintiff's Exhibit 103- Clark Barthol's Billing Statements	23	4628
Plaintiff's Exhibit 107- Nadya Khapsalis' Facebook printout	24	4629-4691
Plaintiff's Exhibit 111- Plaintiff's Third Set of Interrogatories to Defendant	24	4692-4709

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 113- Plaintiff's Fourth Set of Interrogatories to Defendant	24	4710-4717
Plaintiff's Exhibit 116- Plaintiff's Sixth Set of Interrogatories to Defendant	24	4718-4761
Plaintiff's Exhibit 118- Summary of emails prepared by Plaintiff	24	4762-4765
Plaintiff's Exhibit 119- 2011 Tax Return	24	4766-4767
Plaintiff's Exhibit 120- 2012 Tax Return	24	4768-4772
Plaintiff's Exhibit 121- 2013 Tax Return	24	4773-4780
Plaintiff's Exhibit 122- 2014 Tax Return	24	4781-4784
Plaintiff's Exhibit 123- Kogod equity analysis	24	4785
Plaintiff's Exhibit 124- Dist. Comm prop as of February 2016	24	4786-4788
Plaintiff's Exhibit 125- 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	25	4789-5065
Plaintiff's Exhibit 125- Continued 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	26	5066-5170
Plaintiff's Exhibit 126- 9/15/15 Deposition of Patricia Murphy	27	5171-5305
Plaintiff's Exhibit 127- 9/26/15 Deposition of Mitchell Kogod	28	5306-5498
Plaintiff's Exhibit 128- 9/25/15 Deposition of Marsha Kogod	29	5499-5592
Plaintiff's Exhibit 129- 9/25/15 Deposition of Sheldon Kogod	29	5593-5745
Plaintiff's Exhibit 130- 9/26/15 Deposition of Dana Kogod	30	5746-5832
Plaintiff's Exhibit 131- 12/10/15 Deposition of Jennifer Crute Steiner	31	5833-6019
Plaintiff's Exhibit 132- Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016	32	6020-6023
Plaintiff's Exhibit 132-2- Marc Herman's Curriculum Vitae	41	7984
Plaintiff's Exhibit 132-5- Gabrielle's expert, Mr. Marc Herman's updated Appraisal dated January 30, 2016	41	7985-8021
Plaintiff's Exhibit 132-6- Dennis' expert, Ms. Jennifer L. Bosco's appraisal Dated March 7, 2016	41	8022-8041
Plaintiff's Exhibit 133- Gabrielle's Banana Republic Luxe X4713 Dated March 4, 2016	32	6024-6026

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 134- Gabrielle's Discover Card X5161 dated February 11, 2016	32	6027-6029
Plaintiff's Exhibit 135- Gabrielle's Discover Card X5161 dated March 11, 2016	32	6030-6033
Plaintiff's Exhibit 136- Gabrielle's Kohl's Card X2557 Dated January 7, 2016	32	6034-6036
Plaintiff's Exhibit 137- Gabrielle's Kohl Statement X2557 dated February 5, 2016	32	6037-6039
Plaintiff's Exhibit 138- Gabrielle's American Express Statement X9677 dated February 12, 2016	32	6040-6042
Plaintiff's Exhibit 139- Gabrielle's Nordstrom X992 dated February 11, 2016	32	6043-6048
Plaintiff's Exhibit 140- Gabrielle's Nordstrom X992 dated March 13, 2016	32	6049-6052
Plaintiff's Exhibit 141- Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016	32	6053-6058
Plaintiff's Exhibit 142- Bank of America Merrill Lynch X6446 Statement Dated February 29, 2016	32	6059-6066
Plaintiff's Exhibit 143- Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)	32	6067-6124
Plaintiff's Exhibit 144- Gabrielle's UBS account FN-20329 GM Dated March, 2016	32	6125-6132
Plaintiff's Exhibit 145- Gabrielle's UBS account FN 13134 GM Dated March, 2016	32	6133-6146
Plaintiff's Exhibit 146- Gabrielle's UBS account FN 12743 GM Dated March, 2016	32	6147-6160
Plaintiff's Motion to Compel Discovery, For Sanctions, and Attorney's Fees and Costs filed on June 21, 2016	42	8072-8081
Plaintiff's Opposition to Defendant's Motion to Stay Enforcement Of Decree of Divorce and for Other Related Relief and Countermotion for Attorney's Fees filed on October 12, 2016	46	9149-9166
Reply to Counterclaim for Divorce filed on December 5, 2014	1	25-27

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DOCUMENT	VOLUME	PAGE NO.
Reply in Support of Motion for an Order to Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs; and Opposition to Countermotion for sanctions and Attorney's Fees filed on October 12, 2015	2	336-345
Reply in Support of Defendant's Motion to Compel Discovery and for Attorney's Fees and Costs, and Opposition to Plaintiff's Countermotion for Protective Order filed on January 13, 2016	3	583-586
Reply to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's Fees and Costs and Opposition to Countermotion for Sanctions, Attorney's Fees and Costs filed on July 13, 2016	42	8154-8192
Reply in Support of Motion to Stay Enforcement of Decree of Divorce and For Other Related Relief; and Opposition to Countermotion for Attorney's fees filed on October 14, 2016	46	9175-9180
Reply to Opposition to Motion for Attorney's Fees and Costs filed on October 17, 2016	46	9181-9186
Stipulation and Order filed on August 10, 2015	1	201-204
Stipulation and Order filed on December 15, 2015	2	405-406
Summons filed on May 15, 2014	1	17-18
Supplemental Billing Statements of Attorney's Fees and Costs filed on March 11, 2016	40	7708-7720
Supplement to Plaintiff's Motion for Attorney's Fees and Costs filed on September 21, 2016	46	8945-9027
Transcript Re: All Pending Motions (Hearing on June 26, 2015) filed on July 9, 2015	1	179-200
Transcript Re: Motion to Stay (Hearing on Wednesday September 21, 2016) filed on December 29, 2016	2	275-286
Transcript Re: All Pending Motions (Hearing on Wednesday October 14, 2015) filed on December 29, 2016	2	346-393
Transcript Re: All Pending Motions (Hearing on Friday January 15, 2016) filed on December 29, 2016	3	587-646
Transcript Re: All Pending Motions (Hearing on Wednesday, February 17, 2016) filed on December 29, 2016	4	739-779
Transcript Re: Non-Jury Trial (Tuesday, February 23, 2016) filed on April 28, 2016	5	861-1037

DOCUMENT	VOLUME	PAGE NO.
Transcript Re: Non-Jury Trial (Wednesday, February 24, 2016) filed on April 28, 2016	6	1038-1222
Transcript Re: Non-Jury Trial Vol. I (Thursday, February 25, 2016) filed on April 28, 2016	7	1223-1399
Transcript Re: Non-Jury Trial Vol. II (Thursday, February 25, 2016) filed on April 28, 2016	8	1400-1592
Transcript Re: Non-Jury Trial Vol. I (Friday, February 26, 2016) filed on April 28, 2016	9	1593-1766
Transcript Re: Non-Jury Trial Vol. II (Friday, February 26, 2016) filed on April 28, 2016	10	1767- 1875
Transcript Re: Status Check (Hearing on Wednesday April 6, 2016) Filed on April 28, 2016	40	7740-7808
Transcript Re: Hearing (Hearing on Wednesday May 4, 2016) Filed on December 29, 2016	41	7809-7979
Transcript Re: All Pending Motions (Hearing on Wednesday July 13, 2016) Filed on December 29, 2016	42	8193-8241
Transcript Re: All Pending Motions (Hearing on Tuesday October 18, 2016) filed on December 29, 2016	47	9187-9271

TRANS

ORIGINAL

FILED
APR 28 2016
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD, Plaintiff, vs. DENNIS L. KOGOD, Defendant.	CASE NO. D-13-489442-D DEPT. Q (SEALED)

BEFORE THE HONORABLE BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON JURY TRIAL - VOL. II

THURSDAY, FEBRUARY 25, 2016

APPEARANCES:

The Plaintiff:	GABRIELLE ROSE CIOFFI-KOGOD
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INDEX OF WITNESSES

	DIRECT	CROSS	REDIRECT	RECROSS
THURSDAY, FEBRUARY 25, 2016				
PLAINTIFF'S WITNESSES:				
Dennis L. Kogod	6/34	38	72	--
Gabrielle Cioffe-Kogod	79/157/182	214	329/345	340/346
Jennifer Allen	348	--	--	--

INDEX OF EXHIBITS

		ADMITTED
PLAINTIFF'S EXHIBITS:		
1	Plaintiff's Financial Disclosure Form	196
21	Texts and emails	149
22	Texts and emails	149
24	Texts and emails	149
25	Texts and emails	149
77	Exhibit Regarding Adding Gabrielle to the UBS Accounts	197
78	Exhibit Regarding Gabrielle Being Added to the Accounts	200
88	Letter Between Mr. Jimmerson to Mr. Smith	204
89	Letter from Mr. Smith to Mr. Marks	205
90	Letter from Mr. Marks to Mr. Smith	206
100	Invoice of Attorneys fees, expert witness fees, costs	207
101	Appraisals for Property in California	207
102	Expenses from Anthem Forensics and California Attorney's Fees	208
103	Appraisal On Yacht	209
107	Google Search Results for Nadine Kapsalis	195
118	Text Messages categorized	220
119	Form 8879 2011 Tax Return	332
120	Form 8879 2012 Tax Return	332

INDEX OF EXHIBITS (CONT.)

	ADMITTED
PLAINTIFF'S EXHIBITS:	
121 Form 8879 2013 Tax Return	333
122 Form 8879 2014 Tax Return	334
DEFENDANT'S EXHIBITS:	
XX Financial Disclosure Form	253
BBB Series of Checks for Brooklyn Household Account	320
CCC Check to Gabrielle's Brother	321
DDD Check to Gabrielle's Brother	321
EEE Checks to Gabrielle's Sister	321
FFF Checks to Gabrielle's Sister	322
GGG Checks Re: Edinburgh Property	324
HHH Checks for Cash	325
KKK Stipulation and Order	326
OOO Gabrielle's Resume	326
PPP Answers to Interrogatories	327
QQQ Second Set of Answers to Interrogatories	327
RRR Third Set of Interrogatories	327

THE COURT: We are on the record on the Coiffe-Kogod matter. We'll go ahead and continue with our evidentiary proceedings, and we had the Plaintiff on the witness stand.

Did you want to resume, Mr. Smith?

MR. SMITH: I do. Thank you, Your Honor.

THE COURT: Okay.

I remind you you're still under oath.

All right, Counsel, you may proceed.

DIRECT EXAMINATION CONTINUED

BY MR. SMITH:

Q Okay, Ms. Kogod, because we're sort of running out of time, I want to move you to different -- a couple different things, and then we're going to be at least done with my portion.

On the Edinburgh home, did you know that Mr. Kogod had purchased the Edinburgh home?

A I knew after he had made the purchase.

Q Okay. And what did -- what did he tell you about the purchase? Was it consistent with his testimony that the Russian mafia was partners --

MR. MARKS: Objection, leading.

MR. SMITH: All right. I'm just trying to establish foundation so I can get her answer. I -- I'll withdraw the question.

BY MR. SMITH:

Q Is -- What did he tell you about the Edinburgh home?

A He told me that it was a real estate investment that he made with people that were bad people. They were people that were in the Russian mafia and it was vacant and he, at one point, because he was having trouble selling it, he was staging it for sale.

Q Did at any time he told you he lived there?

A No.

Q Did at any time he told you he lived there with anyone else?

A No.

Q Did -- You went to visit the home?

A I went to visit -- I went to try and confirm that his parents had moved to Florida as he -- back to Florida -- as he had told me.

Q And how were you there to confirm that?

A I went to the Beverly Boulevard apartment that he told me he was renting for them and -- just to see if, you know, is there a name on the door, and --

Q Did you care about the expenditures that he was paying on his parents?

A They are his parents. You support your family.

You discuss it with your family who is your wife, and then you provide the support that you come to a decision on together.

Q Is -- On -- Look at Exhibit 23.

A Volume?

Q Volume 2, Exhibit 23, 12199 of Exhibit 23.

THE COURT: 12199?

MR. SMITH: Yes.

BY MR. SMITH:

Q You have a -- Have you found it?

A Yes, I have.

Q You have an email to Mr. Kogod dated November 23rd, 2010; do you see that?

A Correct.

Q This was an email from you to Dennis in which you addressed how you wanted to handle the finances; is that a fair statement?

A Correct.

Q What was it -- what were you trying to express to Dennis in this email?

A It was at the point where Dennis was unable to tell me verbally that he had to consult with -- allegedly consult with his psychiatrist about how to do that, and the psychiatrist suggested that he do it in an email. So the

point of my response to him was to say, I can't believe how difficult this was, but thank you so much. I know that this was hard, but all I'm asking is that, let's talk about these things. I just need to hear what we're going to do with things.

Q From that point forward was Dennis honest with you about his expenditures?

A Dennis shared additional expenditures, but I have subsequently learned that he was not honest about them.

Q How -- let me point you to Exhibit No. 20, No. 12252. Let me ask you -- Before I ask you about this particular page, let me ask you the foundational question. Did you keep the very promise you -- you asked for Dennis in the email that was 12199 --

A Yes.

Q -- to advise him of expenditures beforehand?

A Yes, I did.

Q Okay. In this -- Can you tell me what you're referring to in 12252, when you say -- in the text that starts, Dennis, I'm sorry to bother you with this?

A Dennis was -- Dennis had alleged to me that he was in a residential treatment program. So I'm beginning by saying, I'm sorry to bother you with this, but I had a friend in need of a -- She had three small children and she had need

of a washing machine, and we had a washer and dryer in our storage unit since we moved to Las Vegas.

So I said, I'm really sorry to bother you, but is it okay with you if I give the dryer to Jen, because she needs it?

Q And you -- Did you think that was consistent with what you had requested that Dennis do, just talk to you about things that you were giving away or expenditures?

A To this day, I do -- I mean, to this day, I will do that through you, if I need to make a purchase of something that I think is a question, but, yes, I did.

Q Did you advise him of other expenditures you made in or about that time, so that he knew you were going to be spending money and seeking his approval to do so?

A Over the course of time we've had maintenance and upkeep that was due -- that was needed on the house, so two summers ago, the pool had to be renovated, and I spoke with him and sent him the estimates. We also had the house painted at that time, and I sent him the estimate for that and I think we have the email that he responded and said these look reasonable. Do you need anything, you know, like, are you going to go ahead and get started?

Then, I think it was either in 2011 or 2012, we had significant water damage in our bathroom, and they had to

tear the whole thing out. My sister flew in to help us with that project, because we needed somebody to be at the house while I was at work, but I sent him all the estimates, and I was sending him the pictures of the renovation project, so he could see what it looked like with the shower torn out and the progress.

Q One of Dennis's pieces of testimony is that you could spend whatever you like. Did you ever do that with any significant expenditure?

A No.

Q Did you -- Other than the things that you've mentioned, did you actually make any significant expen -- expenditures, like, did you buy a new car or purchase another piece of real property; give a large amount to someone?

A I lease my car so, over time, when the lease is up, I've gotten my new cars.

Q Did you advise Dennis of those facts?

A Yes. In fact, after this had started, after July of 2010, my lease was coming due, and he came with me to the Lexus dealership when it was time to trade the car in and get the next year's --

Q Did Dennis -- Now that you've learned the cars that Dennis has purchased during this action, did Dennis advise you that he was purchasing any of the cars he purchased from

2010, forward?

A No.

Q Did he advise you of the cars he was purchasing prior to 2010?

A No.

Q At any time during your marriage, did Dennis own two cars at the same time, to your knowledge?

A There was a period of time when we lived in North Carolina that he bought a Porsche, and it was his little roadster, so he rarely drove it. Dennis, I think, when we lived in California, I think he also had a Porsche for a time, but Dennis wasn't home a lot to drive the cars, so he was always -- When he traded them in, they were very attractive to the dealer, because he didn't come home --

Q If I understand your answer, you're saying there were times when Dennis would have two cars available for his use and then you would have another car?

A Correct.

Q Was there ever a time where he had three cars available for his use?

A No.

Q At least to your knowledge?

A Correct.

Q Okay. The -- There was an email in which Mr. Marks

showed you, in which you made a reference to Kent Thiry --

A Yes.

Q -- and about Mr. Kogod speaking to Mr. Thiry. Was that a threat, an implied threat, or a veiled threat, to go to DaVita?

A No.

Q Can you tell me how that comment arose?

A Over time one of the issues that we were dealing with -- with fixing our marriage -- was the stress and the amount of time that Kent expected Dennis to be traveling and, again, going to be in Colorado or California for meetings and away from Las Vegas. So we talked a lot about, I thought you were going to be able to live in Las Vegas. That's why we have the office, that's why you -- we set this up.

He said, as we were working through this, that I'm going to talk to Kent. He's going to have to offload me, he's going to have to hire an Asian person, you know, for the Asian division, he's going to have to do this.

So I kept asking, how is that going? Is he -- is he offloading you, you know, what's going on? So in that particular email I'm saying, so, by the way, when you told him, like you told me, that you're going through marriage counseling, and he -- you said that he said, take the time you need to fix this, how did he react to that?

Q What were you trying to express by what sounds like sarcasm?

A I was trying to express, Dennis, what's going -- have you done that? How are we going to fix this if you're not giving me the time. Let -- Let's -- Come on, let's go.

Q And were you ever under the belief that Dennis was promising you that you were going to spend more time together?

A Yes.

Q And that was based upon his -- we've seen that in his emails and texts. Did he ever express that in your face-to-face conversations --

A Yes.

Q -- that you had in your weekly dinner?

A Yes.

Q The -- Mr. Kogod testified that you didn't spend any holidays together; is that true?

A In what period of time?

Q And -- and, that was what -- I should have asked you that, thank you.

A Sorry.

Q Between 2003 and 2000 -- July 2010, did you spend holidays together?

A Yes, we did.

Q When did that change?

A I'm just trying to put a frame of reference. I turned 50 in 2008, and he had a big party for me at a restaurant, and had people come and celebrate it, and had one of my friends assist him. The following year -- probably -- the Christmases became --

Q He came in 2008 and not 2009 --

A Correct.

Q -- we've established that.

A Yes.

Q What about other holidays? Mr. Marks had a list of them, Valentine's Day?

A He sent me flowers on Valentine's Day, but -- but I will say there were times that he didn't. But I remember being at St. Rose Hospital, and somebody would come from the volunteers with somebody saying, where is this person, where is her office? He sent me flowers.

He -- on his 50th birthday I wanted to have a party with him, and he said he really didn't want to do anything like that to celebrate, so we had a small dinner with another couple, and that -- and that was probably the last birthday. That was -- that would have been 2009.

Q You referenced earlier certain Facebook and other social media that was maintained by Ms. Kapsi (sic) Khapsalis

Kogod, Nadya?

A Yes.

Q I'd like you to look at Volume --

MS. VARSHNEY: It is Volume V.

MR. SMITH: Volume V.

MS. VARSHNEY: I think I have it here.

MR. SMITH: Okay.

MR. MARKS: Your Honor, could we just have her called Nadya at this point to move it along without multiple names?

MR. SMITH: Well, if you'll -- even on the first page of this she has multiple names, but Nadya would be acceptable, we'll use Nadya.

MR. MARKS: Okay.

THE COURT: Okay.

BY MR. SMITH:

Q The -- I'm having you turn to Exhibit 107.

A Okay.

Q Can you tell me where you came by these documents? Is this -- You had referenced earlier that you did a Google search of Nadya Khapsalis.

A Yes. And -- and -- these -- these were what came up.

MR. SMITH: Move for the admission of Exhibit 107.

MR. MARKS: Your Honor, it's hearsay. They are trying to get it in for the truth of the matter asserted.

MR. SMITH: They are certainly not offered for the truth of the matter asserted in them, they are offered as what was available to Ms. Coiffe-Kogod when the name was made known to her, and the importance of that -- the relevance of that, is that Mr. Kogod has expressed that the reason he didn't divorce Ms. Kogod was that he was afraid of information associated with Ms. Khapsalis and the children would be available to DaVita. This goes to the issue of how easy it was to find that information.

MR. MARKS: We don't know when this showed up, if it showed up in 2014 or earlier. There's no way to give that proper foundation.

THE COURT: Well, I --

MR. SMITH: She actually testified as to the date she did the search, in '15, actually.

THE COURT: This was the Google search that was represented earlier today?

MR. SMITH: And there's a date on it, Your Honor, it's 2/26/15.

THE COURT: Okay. The objection is overruled.

MR. MARKS: This is Facebook, not Google, supposedly.

THE COURT: Okay.

MR. SMITH: Well, there's any number of different things in here that were on the internet.

MR. MARKS: Well --

THE COURT: But we need to lay a found- --

MR. MARKS: So is it --

THE COURT: I just want to make sure the foundation is laid for the entire --

MR. MARKS: In other words, did she take Google and Facebook and a lot of other things at different times.

THE COURT: I just need a little more of a foundation --

MR. SMITH: Yes, Your Honor.

THE COURT: So I'm sustaining the objection as to foundation at this point.

BY MR. SMITH:

Q So what search did you perform in order to get the information that is contained in 107, and if you need to look through it, please let me know. I know you provided it, but I want you to make sure that you have all this information.

A I put the name that we had on the financial disclosure form into the Google Search Box, and many things came up, Facebook, Nadine Kievsky Khapsalis Kogod's YouTube videos, Nadine Khapsalis Kogod website, her book. There were

videos independently that came up of a book signing party. There were, again, other pictures. There were many things that came up, and I just clicked on each of those and saw the different representations that were there on the social network.

MR. SMITH: I move for the admission of Exhibit 107, Your Honor.

THE COURT: Any objection to that?

MR. MARKS: I still think it's a accumulation of various social media, and not just Google.

MR. SMITH: That's not true. She's explained exactly what it was. She did a simple Google search, she followed the links, this is the information that was provided.

THE COURT: The objection is overruled.

Exhibit 107 is admitted.

(PLAINTIFF'S EXHIBIT 107 ADMITTED)

MR. SMITH: And, I don't have time to go through it with you, Ms. Kogod, I'm sorry.

(COUNSEL CONFER BRIEFLY)

BY MR. SMITH:

Q If you'll look at Exhibit 1, that's your --

MR. SMITH: Well, let me just move for the admission of Exhibit 1, Your Honor, it's Plaintiff's

Financial Disclosure Form.

THE COURT: Any objection?

MR. MARKS: No objection

THE COURT: Exhibit 1 is admitted.

(PLAINTIFF'S EXHIBIT 1 ADMITTED)

(Whispered conversation)

MR. MARKS: Is that her updated one or her first one?

MR. SMITH: Updated 2016.

(COUNSEL CONFERRED BRIEFLY)

BY MR. SMITH

Q If you'll turn to Volume --

MS. VARSHNEY: Four.

MR. SMITH: Four.

BY MR. SMITH:

Q And if you'll look at Exhibit 77. Can you tell me what that document is?

THE COURT: Which exhibit?

MR. SMITH: Seventy-seven, Your Honor.

THE WITNESS: It is an email -- an email exchange between Bob Galin (ph), Dennis, myself -- Dennis has his attorney on here, or Dennis's attorney is on here, and the other part of the team.

Q And this is regarding the adding you to the UBS

accounts?

A That's correct.

MR. SMITH: I'd move for the admission of Exhibit 77, Your Honor.

MR. MARKS: No objection.

BY MR. SMITH:

Q On 78 --

THE COURT: Exhibit 77 is admitted.

(PLAINTIFF'S EXHIBIT 77 ADMITTED)

MR. SMITH: Thank you, Your Honor.

BY MR. SMITH:

Q Seventy-eight, what's that? Are you at 78?

A Yes.

Q Okay, and can you tell me what that document is?

A It's an email document, Robert addressing Bob -- I'm sorry, Dennis it looks like addressing Robert Galin, asking him for help.

MR. MARKS: Your Honor, I don't have 78.

THE COURT: You don't have Exhibit 78?

MR. MARKS: I don't have it. It's blank in my book.

MR. SMITH: Really, what's in 79?

MS. VARSHNEY: It might be in Exhibit 79, and it looks like it's all --

MR. SMITH: Is it all stuck together?

MS. VARSHNEY: Yeah.

MS. YOUNG: How many pages is 78?

MR. SMITH: Seventy-eight is two pages. It's a email -- no, excuse me, three pages -- four pages -- five pages. Five pages. And it starts with a email exchange 12/8, 2015, Bob Galin to Dennis, and there's a string of emails prior to that.

MS. YOUNG: Because our 79 is from Garima, dated --

MS. VARSHNEY: That's the right one.

MR. SMITH: That's the right one. I think you're just missing this one.

Do we have a copy of this?

MS. VARSHNEY: Not -- no, not handy.

MR. SMITH: Okay.

MS. VARSHNEY: Yeah, Okay.

THE COURT: Here, I'm providing Your Honor, a copy. I have a copy and I'm going to provide a copy to Mr. Marks for the exhibit.

MS. YOUNG: Seventy-eight?

THE COURT: Seventy-eight.

MR. SMITH: Seventy-eight, yeah.

BY MR. SMITH:

Q Do you recognize that document, Ms. -- I think

you've already said it's an email?

A Yes.

MR. SMITH: Move for the admission of 78, Your Honor.

Any objection?

MR. MARKS: I need to look at it, Judge.

THE COURT: Okay.

MR. MARKS: Okay. This looks like it's a -- Nichole emailed Garima, Dennis to Rob Galin, then it's an email from Garima to Nicole and I.

MR. SMITH: It indicated earlier, Your Honor, that communications between counsel as representatives of the party's interests would be admissible. These were actually identified beforehand, I would note.

MR. MARKS: I'm just trying to -- I'm just verifying is --

THE COURT: I would treat that --

MR. MARKS: I'm just trying to clarify --

THE COURT: I would -- I would treat that as a statement of the party opponent, as it relates to any hearsay objection.

MR. SMITH: What's the objection.

MR. MARKS: I'm not saying there's a Joe Lonowani --

MR. SMITH: Leauanae.

THE COURT: Leauanae?

MR. SMITH: Yeah.

MR. MARKS: Your Honor, I think relevancy. I'm not sure what Mr. Leauanae's email -- that's not -- he's not an attorney. This goes to, I guess, putting her name on the UBS account, and this is dated 12/8/15, so I don't see the relevance of what we're doing today for the trial.

MR. SMITH: One of the issues raised by the motion for which you were granted an order to show cause, but also sought sanctions, which you had indicated and deferred to today, was the cooperation in getting the accounts, her name on the accounts during the time of discovery, and the time and efforts that we made to do so; and, still, to this day, she's not on those accounts.

THE COURT: The objection is overruled.

MR. MARKS: She's on two of the accounts.

THE COURT: The objection is overruled.

BY MR. SMITH:

Q And, 79, can you tell me what that document is?

THE COURT: So Exhibit 77 is admitted.

MS. VARSHNEY: And 78?

THE COURT: And 79.

(PLAINTIFF'S EXHIBITS 77 and 78 ADMITTED)

THE COURT: And now we're on 79.

MR. SMITH: Seventy-nine.

BY MR. SMITH:

Q Can you tell me what that document is?

A Yes, it's an email from Garima Varshney to Mr. Marks and Ms. Young regarding that we -- I'm trying to still get my name on the accounts, and Garima is giving them an update.

Q Okay. And there's actually a string of emails that accompany that email, correct?

A Correct.

Q All of which are between counsel for the parties in relation -- and Mr. Galin, in relation to that issue?

A Correct.

MR. SMITH: Move for the admission of Exhibit 79.

MR. MARKS: No objection.

THE COURT: Exhibit 79 is admitted.

(PLAINTIFF'S EXHIBIT 79 ADMITTED)

MR. SMITH: We might as well get those in.

MS. VARSHNEY: Okay.

MR. SMITH: Your Honor, there's a series of -- of -- Well, I guess we should --

BY MR. SMITH:

Q Look at 87.

A Okay.
Q Do you recognize that document?
A Yes.
Q Did you see that document before it went out?
A Yes.
Q It's a letter from your counsel to Mr. Marks regarding discovery progress?
A Yes.
MR. SMITH: I'd move for the admission of --
MR. MARKS: Your Honor, that's --
MR. SMITH: Eighty-seven.
MR. MARKS: -- irrelevant. There was never a motion to compel filed. This had to do with some corporate records, I think. It went to DaVita's counsel. It's a long, detailed dealing, but DaVita had their own counsel, dealt with Mr. Smith and they resolved it.
MR. SMITH: That goes to --
MR. MARKS: That's not before you today, it's not part of any order to show cause.
MR. SMITH: That goes --
MR. MARKS: It wouldn't be, because the records were not in his control. We're not going to replay every discovery dispute in the trial. I don't see where that goes.
THE COURT: What's -- Independent of discovery

issues, what's the relevance of this document?

MR. SMITH: It shows that -- that there was a lack of cooperation by Mr. Kogod in order to get the documents that were available to him through DaVita, and records that should have been produced during the time of discovery, but we had to spend time and effort and -- in dealing with DaVita and dealing with Mr. Kogod on the issues.

MR. MARKS: Your Honor, it's --

MR. SMITH: It goes to an attorney's fees issue.

MR. MARKS: It's just so bogus. They reference outside counsel for DaVita in this letter. He had meetings, phone calls -- I mean, not meetings, but telephone conferences with a Janet Swerdlow, who is outside counsel, and a Katin Mulan. As a public traded company, they had issues giving up certain records without having protective orders, and corporate things that they needed. It didn't affect -- it wasn't directly related to Dennis or myself. All it is, is a letter, and he's referencing two other attorneys that we don't have total control of.

I actually called both of those attorneys --

MR. SMITH: Now we're arguing.

THE COURT: What's the objection?

MR. MARKS: The objection is relevance. It doesn't --

THE COURT: Overruled.

MR. MARKS: -- prove there's a lack of cooperation, Judge.

THE COURT: Overruled. The objection is overruled.

BY MR. SMITH:

Q The next Number 88 is a letter from Mr. Jimmerson to me regarding the intent by Dennis to sell stock, did you see that in or about the time that it was sent to our office?

A Yes.

MR. SMITH: Move for admission of 88, Your Honor.

MR. MARKS: No objection.

THE COURT: Exhibit --

BY MR. SMITH:

Q Eighty-nine --

THE COURT: -- 88 is admitted.

(PLAINTIFF'S EXHIBIT 88 ADMITTED)

MR. SMITH: Yes.

BY MR. SMITH:

Q And 89 is a letter from me to Mr. Marks regarding the sale of Dennis's stock options dated August 14, 2015. Did you see that?

A Yes.

Q And did you review that letter prior to the time it was sent to --

Q -- Mr. Marks?

A Yes. Sorry.

MR. SMITH: I'd move for the admission of 89.

MR. MARKS: No objection.

THE COURT: Exhibit 89 is admitted.

(PLAINTIFF'S EXHIBIT 89 ADMITTED)

BY MR. SMITH:

Q And 90 is a letter from Mr. Marks to me regarding a subpoena to DaVita. Do you see that?

A Yes.

Q And did you review that letter at the time it was provided to me by Mr. Marks?

A I'm sorry.

Q It would be No. 90, yes.

A 90?

Q Yes.

A It was from them to you?

Q That's correct.

A Yes.

MR. SMITH: Move for the admission of 90, Your Honor.

THE COURT: Any objection?

MR. MARKS: No objection.

THE COURT: Exhibit 90 is admitted.

(PLAINTIFF'S EXHIBIT 90 ADMITTED)

MR. SMITH: Judge, we don't have to admit the billing statements at this time, or do you want us to do that in terms of the billings for the experts and the attorney's --

THE COURT: The attorney's fees?

MR. SMITH: The attorneys and experts and costs, and so forth. Do you want us to address that now, or do we address that as part of the 54 motion?

THE COURT: Well, no, that -- I don't have a problem with receiving that --

MR. SMITH: Okay.

THE COURT: -- into the record.

MR. SMITH: All right.

BY MR. SMITH:

Q So if you look to No. 100, Volume V at 100.

A Yes.

Q Those are your attorneys billing records incurred in this case? That was from my firm?

A Yes.

MR. SMITH: I'd move for the admission of 100, Your Honor.

THE COURT: Any objection?

MR. MARKS: No objection.

THE COURT: Exhibit 100 is admitted.

(PLAINTIFF'S EXHIBIT 100 ADMITTED)

BY MR. SMITH:

Q And Exhibit 101, can you tell me what that is?

A Yes. That was a check that was written for the initial real estate appraisals for the properties in California.

MR. SMITH: Move for the admission of 101, Your Honor.

THE COURT: Any objection?

MR. MARKS: No, Your Honor.

THE COURT: Exhibit 101 is admitted.

(PLAINTIFF'S EXHIBIT 101 ADMITTED)

BY MR. SMITH:

Q Exhibit 102, can you tell me what those are?

A 102 are a -- it looks like Anthem Forensics, who were performing the forensic accounting, and then the attorney firm that I had to retain in California, in order to be able to subpoena the -- I'm sorry, to depose the family and, in fact, Ms. Steiner, and various other witnesses that we have.

MS. VARSHNEY: They aren't together.

THE WITNESS: Anthem are in front and then they --

MS. VARSHNEY: Oh, yeah, they are.

MR. SMITH: Okay. Very good.

BY MR. SMITH:

Q Okay. So those are both the California attorneys and Anthem Forensics, correct?

A Correct.

MR. SMITH: All right. I'd move for the admission of 102, Your Honor.

THE WITNESS: Oh. I'm sorry. Okay.

THE COURT: Any objection?

MR. SMITH: And --

THE COURT: Any objection?

MR. MARKS: No objection.

THE COURT: Exhibit 102 is admitted.

(PLAINTIFF'S EXHIBIT 102 ADMITTED)

BY MR. SMITH:

Q Exhibit 103, can you tell me what those are?

A Yes. That is the invoice for the appraisal I had to perform on the yacht.

MR. SMITH: Okay. I'd move for the admission of 103, Your Honor.

THE COURT: Any objection?

MR. MARKS: No objection.

BY MR. SMITH:

Q Were you --

THE COURT: 103 is admitted.

(PLAINTIFF'S EXHIBIT 103 ADMITTED)

BY MR. SMITH:

Q Were you ever aware that Dennis was buying boats?

A No.

Q Did Dennis ever have a boat during the time -- prior to the time you later found out that he bought the yacht, to your knowledge?

A Not that I know of.

Q Did he ever express a desire to have a boat prior to that time?

A We live on a lake with an empty dock. I wanted to buy a boat when we first moved there. Dennis said that he didn't believe that we would really use it, so he talked about buying the golf cart instead.

Q Did he ever invite you to go on either of the yachts that he purchased?

A No.

Q Were you aware of how those yachts were being used?

A The only yacht I was aware of was, I believe, what is the second one, and it came when I showed him a document about the fact that he -- that his father had a yacht. His father had his name on a yacht that was docked in Marina Del Ray, and I said, what is this?

He said, oh, that was a mid-life crisis.

Q Okay. You're referring to what was testified by his father as the -- through the trust that was established in which his father held title to the yacht?

A Correct, correct.

Q Okay. The -- And the father, just for the record, is Sheldon Kogod, correct?

A Correct.

MR. SMITH: And, Your Honor, I noted that because you will receive his deposition testimony with exhibits attached.

I didn't know how you wanted to handle those exhibits. Do you want us to go through and identify those exhibits for the record to be admitted as part of the deposition transcripts?

THE COURT: Well, they need to be identified to the extent, again -- and they are not part of the exhibit books that you've offered, I'm --

MR. SMITH: I'm not sure if they are. I don't know if they are or not. We just assumed they would come in through the reading of the deposition testimony.

THE COURT: Well, that -- that comes in -- and on both sides to the extent that there are exhibits attached thereto.

MR. SMITH: Okay, so, Your Honor, what we will do is, in addition to the lists, we -- I think we have already provided the lists of the --

MS. VARSHNEY: We have not yet provided the list. I'm working on it.

MR. SMITH: The excerpts?

MS. VARSHNEY: Yeah.

MR. SMITH: Okay.

THE COURT: The excerpts?

MR. SMITH: Yeah.

MS. VARSHNEY: Yeah.

MR. SMITH: So we'll also identify the exhibits that are attached to the deposition that would be part of -- or, I guess we'll just add those as exhibits to the testimony.

THE COURT: Okay. And then Mr. Marks would have the opportunity to object.

MR. SMITH: Of course, of course.

MR. MARKS: When will we get that?

MR. SMITH: By the end of the day?

MS. VARSHNEY: I can try. Because here's my --

THE COURT: Well, we'll set a time line for both sides. We talked about that briefly yesterday, in terms of either side relying on excerpts.

MR. SMITH: Okay.

MS. VARSHNEY: I can do three today.

MR. SMITH: Okay. We will provide -- What are some of the primary ones?

MS. VARSHNEY: Nadya.

MR. SMITH: Nadya.

MS. VARSHNEY: Steiner.

MR. SMITH: Ms. Steiner.

MS. VARSHNEY: And Pat Murphy.

MR. SMITH: And Pat Murphy today, and then the others that are less -- much shorter. We'll provide those sometime in the morning.

MR. MARKS: Your Honor, in fairness to us, we wouldn't list ours until we know what their case is. Again, we're the Defendant.

MR. SMITH: I think the Court was talking about two weeks.

THE COURT: Right.

MR. SMITH: And, yesterday, Your Honor, you had indicated, did you want to do closing arguments at the end. I don't think we're going to have enough time anyway, but at the end of the day, I think it's unlikely because neither Mr. Marks or I will at that time know all of the evidence that will be in the record.

THE COURT: Well, and I'm thinking as I -- and I have thought about it more. It may make more sense to have written closings.

MR. SMITH: Okay. I think that might be --

MR. MARKS: Can we talk to our client about it. Because, as of yesterday you were saying, we're pushing it through, we're going to do closings, and that's part of your allotted nine hours. And I was kind of at a different mind set. So then I was thinking that's what we're doing, and trying to save my time. Now you're saying we're going to just do written closings.

MR. SMITH: I don't think that's what he said. I'm sorry.

THE COURT: No, basically, I said, I'm open. I -- my comment was, I don't know that we'll have enough time. But, if you have time, I'll certainly entertain closing arguments. I'm not sure that we're going to have any time for closings, and so I'm not here to prevent either party from offering a closing statement, but it would be helpful for me after the evidence that's been digested that's part of the record for both parties to submit written closings.

If we have time for oral closings, I may do both. I may let you chime in -- Because I -- I -- I recognize there's still some missing pieces with the rulings I made

regarding some -- the real estate appraisals. So there are going to be additional proceedings I'm going to set, but it's going to be limited.

Okay. We're getting -- we're getting off track here --

MR. SMITH: Yes.

THE COURT: Let's get back --

MR. SMITH: And we're out of time.

THE COURT: Right. Right.

MR. SMITH: Can you take that five minutes out.

MR. MARKS: Okay. Let me just do it, and then we'll take a break.

MR. SMITH: Due to time restraints, Your Honor, I'm going to pass the witness.

THE COURT: Pass the witness, all right.

Cross-examination?

MR. MARKS: Your Honor, do you have the time before we start?

THE COURT: You haven't used any time, so -- Where we left, when we started. I haven't looked at it -- I did -- You were in it, roughly, about a half hour or so --

MR. MARKS: Okay.

CROSS EXAMINATION

BY MR. MARKS:

Q Can I call you Gabby, to make it easy?

A Sure. Yes.

Q Gabby, if you go to Exhibit 22, which is In Volume II.

THE COURT: Exhibit 22, did you say?

MR. MARKS: Exhibit 22, Your Honor.

THE COURT: 22, all right.

MR. MARKS: It's in Volume II, excuse me. And it's bate stamped 12358, Your Honor.

THE WITNESS: Okay.

BY MR. MARKS:

Q This is an email you sent to Dennis on August 10, 2011; correct?

A Yes.

Q And you say, I just don't understand this, Dennis.

A I'm sorry, what was the number?

Q 12358.

A Sorry. Okay.

Q I just don't understand this, Dennis. In the time it takes you to text me or write an email, you can pick up the phone and talk, do you see that?

A Yes.

Q And Dennis was refusing to talk to you at that time; correct?

A Dennis wasn't calling me.

Q Okay. And every text, every email, contains a deadline and a promise that you will call me, and then you don't.

That's a true statement; correct?

A That's what I wrote, yes.

Q Where do you really expect us to go at this point? In the past more than 13 months, I've grown to love myself a whole lot more than you may remember. So now I just sit back and watch you do this over and over, expecting it every time. And, sure enough, you just keep proving me right.

Those were your true words and feelings in August of 2011; correct?

A Those were my words in this email.

Q Okay. And that's how you truly felt; correct?

A Yes.

Q Okay. And you made a decision, I guess, sometime after or around the time of July of 2010, when the email and texts with Dennis started, to keep every single email and text; correct?

A I keep every email and text that I have on my phone with -- with most people, so --

Q Okay. But you made a conscious decision after July of 2010 to keep every single text and email, correct?

A Every single text and email from Dennis?

Q Yes.

A I keep emails and texts from everyone. My phone and my Yahoo account is loaded --

Q Okay. But --

A -- with thousands of emails.

Q Didn't you make a decision regarding Dennis to keep every single text and email?

A Nope, I simply kept the emails.

Q Okay. Well, you kept every email?

A Of who?

MR. SMITH: Object, asked and answered now twice.

MR. MARKS: Of Dennis.

THE WITNESS: I have emails --

MR. SMITH: The objection is asked and answered.

THE COURT: Overruled.

THE WITNESS: I have emails from Dennis and texts from Dennis.

BY MR. MARKS:

Q After 2010?

A I have some from before when we weren't really texting or emailing, and then I have them after.

Q Okay. Have you produced all the ones from before?

A Yes.

Q Okay. Well, do you have your chart in front of you?

I forget the exhibit number. I think it's --

MR. SMITH: 118.

THE COURT: 118. Is that right?

THE CLERK: I have --

THE WITNESS: I have it.

THE COURT: Well, she has a copy.

MR. MARKS: Okay.

BY MR. MARKS:

Q Okay. So at the bottom of page 1 -- I don't have time to go through every single one of these -- but, at the bottom of page 1 --

A Yes.

Q -- you're saying you kept the pre-July 2010 emails from Dennis, correct?

A The ones that I had, correct.

Q And when you say pre-July 2010, I assume you mean before July 2010, correct?

A Yes, because I don't -- Yes, uh-huh.

Q And even though your te -- emailing was limited before July of 2010, you're saying there were emails, correct?

A Yes.

Q Okay. So lets -- the first one is 12176.

A Can I -- May I clarify? I don't know that there were emails, I know there were texts before July 1st of 2010.

Q On this chart you say, nature of Dennis and Gabby's relationship pre-July 2010 emails, and you list six emails.

A Right. Correct. Those were emails that are referring to the way we related to each other prior to 2010, but they occurred during our conversations.

Q Okay. All right. So when it says pre-July 2010, now you're saying these emails were not emails that Dennis sent you before July 2010?

A I'm saying that they referred to the nature of our relationship. I'm not putting the time frame as to when they were generated, I'm saying they speak to our relationship prior to 2010.

Q But none of this document that you produced contains any emails prior to July 1 of 2010, correct?

A I don't -- I don't believe we were emailing. If we were, they're here.

Q Okay. And are you saying you have text messages from July 2010?

A Prior to July 2010.

Q And that's only the few 12 text messages, correct?

A That's the thread, 12371 to 12383.

Q Okay. So before July of 2010, I think you testified this morning Dennis called you numerous times a day, such that even your friends were shocked when you were at the country club how much he called you when you were having lunch, correct?

A Yes.

Q And then after July 1 of 2010, he virtually could not stand the sound of your voice and wouldn't talk to you at all; isn't that correct?

MR. SMITH: Objection. There is no test- it mischaracterizes the testimony --

MR. MARKS: I'll show the email.

MR. SMITH: -- in the record.

MR. MARKS: Fine, I'll show you the email. Do you want me to pull out the email, it's cross examination.

THE COURT: Well, what's the evidentiary objection?

MR. SMITH: The objection is that it mischaracterizes the testimony.

THE COURT: The objection is overruled.

BY MR. MARKS:

Q Isn't that correct?

A I'm sorry, could you repeat the question?

Q After July 1 2010, Dennis and you did not -- Dennis was not phoning and talking to you on the phone?

A That's incorrect.

Q Didn't you say in an email, after 20 years, I can't believe you don't want to hear the sound of my voice?

A I said that in one email, but we've had -- we had phone conversations.

Q Wasn't that email true?

A That email was my perspective on why I wasn't hearing from him with the same frequency as I had been prior to that.

Q But you'll agree you went from multiple times a day talking, to virtually no phone communication after July of 2010, correct?

A His Asperger's was kicking in more frequently.

Q Isn't that correct? Not the Asp- -- Isn't it just correct, for whatever reason, you weren't talking?

A I'm sorry, I thought you said that it was, he can't stand the sound of my voice, and I believe that there were emails that substantiate that he talked about the reason being related to the Asperger's.

Q Didn't you send him an email saying, I can't believe after 20 years you can't stand the sound of my voice?

A That was my perception of why I wasn't hearing from him.

Q Okay. So that's a true statement?

A I don't know that it was true, it was my feeling.
Q Okay. Why don't you go to Exhibit 23, page 12141.
A 12141?
Q Correct.
A Okay. Yes.
Q At the first paragraph you say, I'm sorry to hear the painful sound of your voice when you might have to have any type of conversation with me. Do you see that?
A Yes.
Q This is dated June 14, 2011, correct?
A Correct.
Q I'm sorry you have to shut down your phones, et cetera, so you don't have to hear back from me. Is that what you said?
A Correct.
Q Actually, I couldn't call you if I wanted to, as your calls are coming in as blocked, from whatever phone number you're calling from. Is that true?
A That's here in the email.
Q Is that a true statement?
A I -- If I -- If it's written there, I believe it was.
Q The next paragraph. I'm sorry you would probably rather stick pins in your eyes than have to see me; did you

say that?

A I put that in the email.

Q In the first paragraph you say, I'm sorry you've made it to two months without having to see me. And I'm sorry I can count on one hand the times during that period we've actually talked, rather than texted. Do you see that?

A I'm sorry, where are you?

Q The first paragraph on 12141.

A Okay. Yes.

Q Isn't that -- So you don't dispute that your relationship with Dennis definitely changed after July 1, 2010, correct?

A I don't dispute that.

Q Okay, and you went from frequent phone calls to very infrequent, if any phone calls, correct?

A There -- Correct.

Q You don't dispute that he never, other than that one time, came back to the marital residence at Lake Las Vegas, do you?

A I do dispute that.

Q That he slept at the marital residence?

A That's not what you asked, but he did come back to the marital residence after July 11th.

Q Did he ever sleep at the marital residence?

A No, he did not.
Q Did you resume any sort of sexual relationship?
A No, we did not.
Q Did you resume any sort of personal relationship, emotional relationship?
A We were working through counseling on that.
Q I see.
A -- and one of the issues was my husband told me he was gay.
Q Okay.
A So --
Q But you didn't live together after July of 2010?
A No, we did not.
Q Okay. Now, after July of 2010, you received bank statements from the joint account, the 6446 account, correct?
A Correct.
Q Okay. And you noticed certain names that you didn't recognize, such as Nadya, correct?
A I don't know recall if I noticed those names in those current statements. But I -- but I definitely noticed names that I did not know, that I asked him about.
Q Okay. And you didn't Google those names, correct?
A No, I did not.
Q Okay.

A Excuse me, I Googled Yafa Markus (ph), and the only thing that showed up was an article that she had written on caring in the home, and I thought, as Dennis had explained to me later, that that was home care assistance for his parents.

Q But you never Googled Nadine or Nadya until 2015?

A I don't recall seeing -- I don't recall seeing checks written to her at that time.

Q Didn't you see checks written to her prior to -- prior to then 2015?

A I didn't see them during that time frame you referenced. I saw them later on.

Q Before 2015?

A Correct.

Q And you didn't Google her name at that time --

A I didn't --

Q -- earlier than 2015?

A No, I did not.

Q Okay. All right. Now, I want to switch gears and talk a little about your career. You're -- Are you contending -- You've had -- you've had the same job for approximately 10 years, here at Dignity Health, correct?

A Correct.

Q And it's 24 hours a week, part-time, correct?

A It is 48 hours in a two-week pay period, and I

divide -- I can decide how I want to determine when I do them.

Q And you can work at home, if you choose, to some extent?

A That's correct.

Q Okay. You haven't tried to get advancement in the healthcare field over the last ten years, have you?

A I don't know what you mean by advancement.

Q You love this current job, correct?

A Correct.

Q You made enough money for whatever you needed, plus whatever Dennis made, correct?

A Correct.

Q You didn't have the desire to send out applications and try to get promoted into a higher, better job, correct?

A In the early years that I was in the job, Dennis encouraged me to stay with it, because working Monday, Tuesday, Wednesday, and having Thursday, Friday, Saturday, Sunday, free to play golf with him, was ideal.

Q In the --

A So --

Q -- latter five, six years --

A Yes.

Q -- you haven't applied for any bigger or better

jobs, correct?

A I -- I have worked as an LNC in this capacity, and that's the work that's here.

Q Well, why can't you answer my question. Have you applied for --

A No, I have not.

Q -- any higher level jobs?

A I don't know what you mean by higher level.

Q Higher paying.

A I have not applied for any other jobs.

Q Okay. You haven't applied for any other jobs in how many years?

A Since I started at Catholic Health Care West, now Dignity Health, back in 2004.

Q Okay. Dennis hasn't prevented you over the last five or six years, from applying for jobs that paid more if you wanted to, correct?

A What do you mean by prevented?

Q Did he ever tell you, don't apply, in the last five or six years for other jobs?

A In the last five or six years. We didn't talk about my career in the last five or six years.

Q So the answer is no, you never went to him and said, hey, I wanted to apply for this job and he said no?

A We didn't talk about my career in the last five or six years.

Q Okay. When is the last time you talked about your career with Dennis?

A Probably prior to 2010. When we weren't talking about my career, we were talking about things related to the job.

Q You ju -- isn't it true you had no desire over the ten years to get another job because you were happy and content in the job that you had?

A I like the work with what I was doing.

Q Okay. And Dennis was fine with what you were doing, he never complained about it; correct?

A No.

Q Okay.

MR. SMITH: No, he didn't?

THE WITNESS: I'm sorry, no, he did not.

BY MR. MARKS:

Q And isn't it true he never complained?

A No.

Q All right. And even without the money you started making before 2010, you and Dennis had enough money that you could work your 48 hours every two weeks and that was fine, financially; correct?

A Correct.

Q And you had an account, your own checking account, at B of A; correct?

A Correct.

Q And you deposited your paychecks into that account?

A Correct.

Q And you paid certain bills, your car payment, your clothes?

A Utilities on the house, uh-huh.

Q And then in the joint account, Dennis's paycheck was deposited; correct?

A I didn't know, until I started looking at the accounts, that there was a check going in there. I didn't know that it was a paycheck or it was expenses, I don't know what I thought.

Q There was a huge check going in, $60,000 a month or so, correct?

A $60,000 a month? What did you say?

Q Wasn't his paycheck going in, yeah?

A I don't recall a check of -- I don't recall.

Q Okay. Wasn't Dennis paying the Lake Las Vegas mortgage out of the joint account?

A That was coming -- I learned that later, when I started looking at the account. I didn't know where he had

been paying it -- from out of.

Q Okay. So you didn't have a conversation with your husband going back to the time you bought Lake Las Vegas, that from the 6446 account the mortgage would be paid?

A We opened the trust in 2005, and that was when that account was created. So we had the mortgage from before that, so we didn't talk about where the mortgage was coming from. He paid the mortgage.

Q So you never had a conversation your husband from 2005 til this case about where the mortgage on your Lake Las Vegas house was going?

A No.

Q Okay. Now, in terms of your expenditures, Dennis did not monitor what you spent, correct?

A I don't know what Dennis did.

Q Did Dennis ever tell you not to spend money?

A Dennis did not tell me not to spend money, but Dennis -- Go ahead.

Q Did Dennis review your credit cards and criticize you for spending?

A No.

Q You have credit cards, correct?

A Yes, I do.

Q How many credit cards do you have?

A I have probably between 6 and 8. If --

Q Okay. Did Dennis ever look at your bank, your checking account, where you deposit your paycheck, and say you shouldn't spend that money?

MR. SMITH: Compound and foundation. I don't know how she would know.

THE COURT: Sustained.

BY MR. MARKS:

Q Did you ever -- Did Dennis ever have a conversation with you where he criticized your spending out of your checking account?

A My spending out of my checking account?

Q Yeah, writing checks, spending money.

A No.

Q In fact, wasn't there a time that Dennis actually said, hey, if something makes you happy, buy it?

A I think we said that to each other over the course of our marriage.

Q But Dennis would have said that to you?

A Yeah, I said that with his Porsches and he may have said that with my Anne Taylor suit jacket.

Q Okay. Now, you have the four-year nursing degree and you have a master's in public health; correct?

A Correct, yes.

Q And, in fact, you actually have more education than Dennis does, correct?

A I -- I know Dennis has certificates from certificate programs -- so I don't think you're comparing the same --

Q Well, your attorney pointed out that he doesn't have a master's of business.

A He doesn't have a master's, but I --

Q And you do have a master in your field, correct?

A I have a master's in public health.

Q Okay. Which is your field, health?

A No, it's not.

Q Well, isn't nursing and health your field?

A Public health is not a nursing degree. I was one of the few nurses in that program.

Q But you have a nursing degree.

A And a bachelor's.

Q Are you trying to tell the Court that public health isn't part of your field? It's not part of the medical field?

A It's not a clinical medical field. It's a degree about writing grants and trying to get special programs in place for fam- -- the program I went through was for something I'm totally not doing. The only thing it counts

for was it was a master's degree when I needed to be a manager and they wanted a master's.

Q Okay. But in terms of your career --

A Yes.

Q -- you've been a nurse manager, correct?

A Correct.

Q All right. You've been a nurse recruiter?

A Correct.

Q You've been a clinical nurse in your early days, bed -- I guess you call it bedside nurse?

A Very early days.

Q Correct?

A Yes.

Q All right. You've written papers, scholarly, nursing papers, correct?

A I have not written papers.

Q Haven't you published papers?

A We had an article in a journal, on a safety program that we did that was published, and then I participated in research when I lived in New York City, back in 1982, '83. That was a radiology paper. I never wrote a paper that was published.

Q Okay. You presented a paper?

A I sat in the audience, because I had done the

legwork, the physician presented it.

Q You've taken seminars on medical legal matters, correct?

A Correct, yes.

Q You work in the medical malpractice field at Dignity Health, correct?

A I work in the claims field in Dignity Health.

Q Okay. And in the claims field, you're familiar with concepts such as standard of care --

A Correct.

Q Causation, negligence, correct?

A Yes.

Q You work with lawyers?

A Yes.

Q Some in-house and some outside?

A I don't work with the in-house attorneys, I work with the local attorneys that we assign our claims to.

Q Lewis Brisbois?

A Correct.

Q A thousand man international firm, correct?

A I beg your pardon?

Q A huge, big firm.

MR. SMITH: What possible relevance could that have?

THE WITNESS: It's a national firm.

THE COURT: Overruled.

BY MR. MARKS:

Q Prior to Dignity, you worked for the North Carolina Board of Nursing, investigating complaints, correct?

A Back in the late '90s I did, correct.

Q All right. Okay. And you dealt with the Nurse Practice Act? Correct?

A Correct.

Q And you presented findings to the Board of Nursing, correct?

A Correct.

Q And your salary is $58,000, for the 48 hours over two weeks, correct?

A That's correct, yes.

Q Okay.

A $58,000 a year.

Q Additionally, aren't you a certified nurse consultant? I know you let it lapse --

A Correct.

Q -- but for 10 years you were a certified nurse consultant?

A I believe my initial certification was in 2005, and I believe I let it lapse in 2011 or '12, I -- I -- I don't

recall, but I didn't renew. It's usually a two-year certification, and I didn't renew it after --

Q So how many years were you a certified nurse consultant?

A How long did I have the credential that I bought as a cert- -- as a legal nurse consultant with a certification? From 2005 -- I'm trying to remember when I let it lapse, but it wasn't 2014. It was prior to last year.

Q So for at least 10 years -- for ten years -- at least 10 years?

A No, because I didn't get it until 2005 and I think I let it lapse before 2015.

Q So nine years?

A (No audible response.)

Q Okay. You were at some point in your career a certified nurse consultant; isn't that correct?

A A certified legal nurse consultant.

Q Okay. And you have been offered work from outside counsel, outside lawyers, but you didn't take it because you thought there could be conflicts, correct?

A I have not been offered a formal offer to work, but I -- I -- I could not -- two parts. I have not been offered formal employment, and I could not take it because it would be, potentially, a conflict.

Q Okay. Isn't it fair to say you were happy with what you were making, and you weren't trying to make more money in your present job?

A I was happy. I was satisfied with what I was making. I don't think that I sought to make more money.

Q And your lifestyle would not have changed if you made slightly more money or slightly less money in your present career, correct?

A I spend -- during these years I was spending within what I was earning and what our assets were.

Q Okay. And just so your -- we complete your resume, you worked at various Kaiser facilities --

A Correct.

Q -- including California, correct?

A Yes, yes.

Q And you were actually a project manager in one of those jobs, correct?

A Yes.

Q And you worked at Kaiser in Orange County as a risk manager, correct?

A Yes.

Q And the risk manager deals with medical legal issues, correct?

A The risk manager deals with patient safety issues.

We had a legal department that handled claims. I did not get involved in the lawsuits.

Q Okay. But you did -- you went through the program sponsored by the Council on Licensure, Enforcement and Regulation, which is CLEAR, correct?

A I did that when I was with the board of nursing, not at Kaiser.

Q Okay. And that included basic and advanced training, correct?

A Yes, yes.

Q And you were a certified investigator in North Carolina, correct?

A Yes.

Q And you would review various patient records?

A Patient records.

Q Pharmaceutical records; correct?

A Yes.

Q You would interview nurses and assess their credibility?

A Yes. I --

Q You would make recommendations to the Director of Discipline?

A I assess their practice?

Q Right. But you were also looking at them to see if

they were lying about doctor shopping or pharmacy shopping, or --

A I assess their practice and then I submitted my report as to what I found were the discrepancies between what they interviewed and what I found in the records, and someone else made that decision.

Q Didn't you testify as an expert investigative witness at a administrative hearings?

A I testified to my findings that were --

Q But you were an expert witness. You were like these guys in the back?

A Yes.

Q All right. And you interviewed nurses to determine their credibility, didn't you?

A I interviewed nurses to -- My -- My interview was used by the board members who sat on the panel to determine their credibility and whether or not they had violated the Practice Act.

MR. MARKS: Your Honor, I'd like -- Do you want me to just not publish her deposition but, for impeachment, just approach and show her her deposition?

THE COURT: Yes, you may.

MR. MARKS: Mr. Smith and I agreed a copy can be used for the same purpose as the original.

MR. SMITH: I think the Judge has indicated that.

THE COURT: Right.

MR. SMITH: My view and understanding was that depositions had to be published, but if we are in Judge Duckworth's courtroom --

THE COURT: Right.

MR. MARKS: Can I approach?

THE COURT: So you may.

MR. MARKS: Okay.

BY MR. MARKS:

Q So this is at your deposition --

A Yes.

Q -- and it was taken in my office. Could you read to the Court from page 36, line 8, to page 36, line 10.

A And so you would have interviewed the nurse to determine their credibility?

Yes.

Q You gave me that answer on October 24th, 2015, correct?

A Yes.

Q Where Mr. Smith was at your side, correct?

A Yes.

Q There was some discussion of law school. You've never actually applied to law school over the past 11 years

you've lived in Nevada, correct?

A No, I have not.

Q The most you ever did, I think, was look at the LSAT application?

A I bought an LSAT review book and looked at the application process.

Q Okay. All right. Now, I'm going to go back in time to Pilling. When you and Dennis worked at Pilling, after you started dating, didn't you and Dennis try to keep that relationship confidential?

A Yes.

Q Okay. And you agreed with that policy at the time?

A I did that for Dennis's career.

Q Well, you were also working there?

A I -- I felt that I -- I didn't have any time invested in that company. It would have been easier for me at that time to leave, if it was -- and that's why I did ultimately quit, but I did that for Dennis as a manager for his career.

Q But you guys decided to keep it confidential together?

A Yes, we did.

Q Okay. Now, I'm going to switch gears. You owned one quarter of a house in Brooklyn; is that right?

A Correct.

Q And that's the house you grew up in, in the Midwood Section of Brooklyn?

A Yes.

Q And the house is vacant right now?

A Correct.

Q You're not renting it?

A No.

Q You use the house for holidays?

A Correct.

Q And over the years you've given money to your brother to help maintain the house; is that --

A Over -- I don't know what period you're talking about.

Q I'm not asking for a given period. I'm saying over the years, after your parents died --

A Right.

Q -- you gave money to your brother to help maintain the house?

A Correct.

Q Okay. And Dennis had no problem with him doing that, did he?

A No.

Q In fact, you did just -- you did it because you

felt that reasonably you could help your brother with the expenses of the house, correct?

A Yes.

MR. SMITH: Judge, the reason I want to just interject is there are negative questions being asked and the witness is answering no, and the correct answer would probably be yes. I think we all understand the gist of it. I don't know whether I should raise that point, or --

THE COURT: Right. It becomes a double negative.

MR. SMITH: It becomes a double negative, and that was -- when she answered, I believe -- Well, I don't want to say what --

MR. MARKS: I don't want to waste my time. I think she answered it accurate. If I thought --

THE COURT: Right. Just be careful for the record purposes that if you ask a question, it creates a double negative.

MR. MARKS: I understand. I understand. I thought she answered it.

BY MR. MARKS:

Q And you believe, I think, after your dad passed away that house was worth about $600,000?

A Approximately, yes.

Q And you haven't had it appraised recently; is that

correct?

A No, we did not.

Q And you own one quarter of that house; correct?

A Yes.

Q And that's the house that you and Dennis would go to for Christmas?

A Yes.

Q Okay. And you agree Christmas was a big occasion in your family?

A Yes.

Q And then after your parents died in the late -- I guess 2000 -- after 2005 before 2010, you, your brother and two sisters, would meet at the Brooklyn house and celebrate Christmas?

A We were there, yes.

Q And Dennis and you would actually stay in the home and not a hotel?

A Yes.

Q And, initially, in your relationship with Dennis, in your marriage, you would normally spend Christmas from before Christmas through after New Years in the early days; correct?

A In the early days, yes.

Q And that dwindled and dwindled and dwindled, such

that, after 2005, Dennis would come in a little before Christmas Eve and leave the day after Christmas; correct?

A It was prior to 2005, there were years that we didn't go. Dennis was tired, Dennis didn't want to travel, Dennis felt it wasn't fair that my family didn't come to visit us, why should he go to visit them. When we resumed that it was right after my dad passed away in 2005.

Q That's what I was asking.

A We went for an extended period of time then. And then it dwindled, because Dennis had to travel for his work.

Q I'm just asking, yes or no --

A Okay.

Q -- did the time dwindle?

A Yes, it did.

Q Such that I believe in 2008, Dennis came in right before Christmas Eve, and left the day after Christmas?

A I don't recall the exact time period, but it dwindled.

Q But you admit that after Christmas 2008, Dennis did not spend Christmas with you?

A Correct, after 2008.

Q And in 2008 Dennis did not spend New Year's Eve with you?

A I -- I don't believe. I don't recall when he left,

but I don't believe that he stayed New Year's Eve.

Q Okay. And you said Dennis had sent you flowers for Valentine's Day. What year was that?

A I don't remember.

Q But after --

A Because --

Q After July 1 of 2010, you admit you didn't spend Valentine's Day, personally, face-to-face with Dennis?

A Correct.

Q You didn't spend his birthday or your birthday, correct?

A Correct.

Q You didn't spend Christmas or New Year's, correct?

A Correct.

Q And you heard Dennis's testimony regarding when your sex life changed. According to your testimony, you didn't have sex with Dennis after 2005?

A That's correct.

Q So by 2010, you hadn't had sex with him for approximately five years?

A I believe that's correct.

Q Okay. Now, after 2005 -- strike that. After 2010 you're saying you had no other relationships at all?

A I have lots of relationships.

Q But you had no other romantic relationships?
A That's correct.
Q So you're saying that from 2005, that's the last time you had sex until the present?
A That's correct.
Q Okay. And from 2010 you no romantic male relationships, correct?
A That's correct.
Q So you're out at Lake Las Vegas in, what, a 3000 square foot home, correct?
A Correct.
Q And you have a couple of cats. How many cats do you have?
A We have three.
Q And you live with three cats?
A Yes.
Q And during the course of this case you went ahead and purchased a 2.4 million dollar home; is that about right?
A I -- the -- the -- are you asking the asking price of that home?
Q No. How much did you pay for your home?
A I paid 2.375.
Q Okay. And you paid cash?
A Correct.

Q And that came out of the UBS account, correct?

A That came out of the account that was set up for my primary -- I view it as for my primary residence, because Dennis used that amount of money for a primary residence for himself.

Q Didn't it come out of UBS?

A It's -- That was where it was ordered to be put into, and it came out of UBS.

Q Okay. You're confusing me. There was money in UBS. Didn't 2 point -- didn't 3.6 million or something go into your separate UBS account?

A Dennis was ordered to put money from one of the accounts that I don't -- I don't believe I have vision of -- I don't believe I'm able to see it. There is now a UBS account in my name, in the name of my trust that is that amount of money.

Q When you say ordered, wasn't that done by agreement of the attorneys and the parties, and then the Court signed?

A There was -- There was an order, I thought, to transfer that money.

Q But didn't the money -- Wasn't the money that you got coming out of one of the UBS accounts, which was part of the money that Dennis had earned at DaVita, through his options, et cetera?

A I believe it was.

Q Okay. And during this case, because -- during this case 3.6 million, because Dennis had bought a condo, or a house, was put in a separate UBS account which you would have total control over, correct?

A Right. Yes.

Q That was done during the pendency of this case?

A Yes.

Q And from that money, you decided -- you made the decision, not Dennis, not me, Rad or anyone, to pay approximately 2.4 million for a house at McDonald Highlands?

A Southern Highlands.

Q Southern Highlands.

A Yes.

Q All right. And that's a 7,000 square foot house?

A Yes, it is.

Q All right. And that house you plan on living on -- living with you and the cats?

A Yes.

Q Okay. And you assume that you could afford that house, right?

A I paid cash, so I wouldn't have to worry about mortgage payments, and now I'm seeing what the utilities are costing as I'm setting them up so, yes, it was more than I

thought it was going to be; but, yes, I'm hoping I can -- I'll continue to make those payments.

Q You've portrayed your- -- Okay. When you went ahead and bought the house --

A Yes.

Q -- for cash?

A Yes.

Q You assumed that you could afford the house, correct?

A Because I had that cash, yes.

Q Because in addition to the cash you spent on the house, you have another 1.2 million, again, back at UBS, correct?

A That's the remainder of what was in that account, yes.

Q 1,200,000?

A Whatever the balance was from the --

Q And that's the UBS account?

A Correct.

Q So you believe you can afford, with your assets, to afford the house, or I assume you wouldn't have bought a house you couldn't afford, right?

A Correct.

Q Okay. Now, you agree with your attorney that

neither you nor Dennis needs alimony, correct, with the money you're going to divide?

A I -- Can you repeat that?

Q Okay. Let's go to your financial disclosure form, I think it's Exhibit 1. Exhibit No. 1, which is in evidence as your recent -- your updated financial disclosure form, correct?

A That's correct.

Q Okay. And this is with your purchasing of your new house, correct? This is after your purchased your new house?

A Correct. Yes.

Q And because you've included in this form expenses for Lake Las Vegas, as well as Southern Highlands; isn't that right?

A That's correct.

Q So you're -- you're basically listing in your expenses on page two of $21,295.07, two houses, correct?

A I'm sorry, what page?

Q On page two.

A I believe that's how we came to the numbers.

Q Okay. And in fact, in the document I think it references on page 6, three lines from the bottom where it says additional -- subtotal from additional real property worksheet, $4,884.25, that's your Southern Highlands

expenses, correct?

A Yes.

Q And when you bought your Southern Highlands home you didn't necessarily expect to get alimony, did you?

A I don't know that -- I don't know that connection. I-- I -- I'm trying to -- Can you explain that question a little bit?

Q No, I can't explain it, I can only ask questions.

MR. SMITH: Is he asking for a legal conclusion, if so, it's objectionable.

MR. MARKS: No, did you -- Let me rephrase it.

BY MR. MARKS:

Q You weren't getting alimony at the time you bought your Southern Highlands home, correct?

A I'm not divorced.

Q Were you getting alimony?

A From another source, no.

Q Were you getting temporary alimony from Dennis?

A No.

Q Let's look at your original financial disclosure. Could you turn to two X, which would be above you in Volume III.

THE COURT: It might be over here, I don't know that. That's Volume II.

MR. MARKS: Here's Volume III. Here's two X.

THE WITNESS: Thank you.

BY MR. MARKS:

Q That was the financial disclosure form that you filed earlier on in this case, on February 25th, 2015?

A Yes.

MR. MARKS: Okay, I'd move the admission of the exhibit.

THE COURT: Any objection?

MR. SMITH: No.

THE COURT: Okay. Exhibit XX is admitted.

(DEFENDANT'S EXHIBIT XX ADMITTED)

BY MR. MARKS:

Q And if you go to page 2, that exhibit shows total expenses you pay for, $15,255, correct?

A Yes.

Q Was that the -- your historic spending level before you bought the Southern Highlands home?

A Yes, I believe it was.

Q Okay. And that would have been over an extended period of time when you were living at Lake Las Vegas.

A Yes.

Q Okay. And you agree that your 21,000 expenses will ultimately decline, because you and Dennis are going to

ultimately sell Lake Las Vegas, right?

A Ultimately, yes.

Q So you're not going to be maintaining two homes. I don't know if Dennis will be maintaining two homes, though.

Q All right. Now, if you look at page 5 in two X.

MR. SMITH: By two X, are you saying XX?

MR. MARKS: XX.

MR. SMITH: And what volume is that in?

THE COURT: I think he said Volume III.

MR. MARKS: Volume III.

BY MR. MARKS:

Q You go to page 6 in both exhibits.

A Yes.

Q Well, let's just make it easy, let's just do two X. Let's just look at page 6 of two X. Your current need.

A I'm sorry.

MR. SMITH: Objection to the characterization of her current need.

MR. MARKS: Her current FDF, Your Honor.

MR. SMITH: Thank you.

BY MR. MARKS:

Q Okay. All right. Let -- let's go back. Let's look at two X, which was your old one, I'm sorry.

A Okay.

Q On page 6, clothing, shoes and accessories. You were spending 2,000 a month?

A Yes.

Q Okay. Appearance, hair, manicure, pedicure, facials, massages, cosmetics. You were historically spending 1,200 a month?

A Yes.

Q Books, magazines, entertainment. You were spending 1,500 a month?

A Yes.

Q Professional fees, 1,125?

A Yes.

Q And vacation 600?

A A month, yes.

Q Okay. You weren't taking any vacations other than going to New York, correct?

A Two or three times a year, yes.

Q And for entertainment, who were you spending the 1,500 on entertainment on?

A Me.

Q So you were going to shows on your own?

A Yes.

Q You were eating out on your own?

A Yes.

Q So you were spending 1,500, historically, on your own?

A Yes.

Q Okay. And when you did that, after July of 2010, that was not in consultation with Dennis, or anything like that, correct?

A No.

Q Please now go to Exhibit 1, page 6. Now you say you're spending on clothes, shoes and accessories, 2,500?

A Yes.

Q Appearance, hair, nails, manicure, pedicure, 1,200?

A Yes.

Q Entertainment 1,500?

A Yes.

Q Dues, 1,000?

A Yes.

Q And vacation 650?

A Yes.

Q And that's your current -- what you currently say you're spending?

A Yes.

Q And you agree your 21,000 will decline, once Lake Las Vegas is sold, correct?

A Yes.

Q Now you said that early in your relationship with Dennis you portrayed -- you were living in Manhattan, you went to museums and Broadway shows, and Dennis loved restaurants?

A Yes.

Q That's what you were -- answered questions by Mr. Smith regarding your relationship, in the beginning of your relationship --

A Yes.

Q -- correct?

A Yes.

Q And at the time you got married, correct?

A Yes.

Q When you and Dennis would go back to New York City, let's say after 2000, within the last 15 -- well, you went prior to 2010?

A Yes.

Q Isn't it true you never went to Broadway shows?

A No, that's not true.

Q You and Dennis didn't go to Broadway shows?

A I'm sorry, what -- when did you say? Time period, please?

Q Let's say --

A After 2000?

Q Let's say after 2004, when you moved to Lake Las Vegas. Did you and Dennis go to a Broadway show?

A I remember we went to see Jekyll and Hyde, but I don't recall the year.

Q Okay. So you can think of one Broadway show?

A Yeah, we -- Yes.

Q Did you and Dennis ever go to Museums in New York, after 2004?

A I don't -- I don't -- After 2004, I don't recall.

Q Did you and Dennis ever go to sporting events in Manhattan?

A No.

Q Did you and Dennis ever stay in hotels in Manhattan, rather than your parents' house?

A No.

Q So isn't it true that the nature of your relationship that you and Dennis had in the '90's when you first met, was totally different than the relationship you and Dennis had in New York City, starting in 2004?

A Dennis wasn't as tired when we first got together and wasn't under the influence of medications that he was just wanting to relax and --

Q For whatever reason, wasn't your relationship different?

A We did different things in our relationship at that point.

Q In New York City, when you come for Christmas, wouldn't you mainly be staying at your parents' home and not even venture into Manhattan after all those years, after 2000?

A We would -- We would stay at home and go out to dinner at local restaurants.

Q In Brooklyn?

A Correct.

Q Now, isn't it true that once you and Dennis didn't have kids early on in your marriage, you and Dennis had no further discussion of kids, correct?

A I don't know what time frame you might be referencing, could you be more specific?

Q Okay. You got pregnant very early on in your marriage?

A Yes.

Q After that pregnancy was terminated you and Dennis had no further discussion of kids?

A I don't remember when the last time we discussed children was. I don't believe that we did, but I don't remember.

Q Please turn your deposition to page 98.

(COUNSEL CONFERRED BRIEFLY)

BY MR. MARKS:

Q Page 98, lines 2 through 3. I think the 2000 period, or after 2000, was there ever a discussion of having kids?

A After 2000, I said, no, there was not. And then I asked you the question, At that time? And you said yes, and I said, No, there was not.

Q Now, when you testified this morning that you -- from the beginning of your marriage you were balancing the checkbook, correct?

A I was balancing my checkbook.

Q So you were very --

A I don't remember if we had a joint checkbook, but I was balancing my checkbook.

Q Okay. But you were very detail oriented in your checkbook to make sure it balanced, correct?

A Correct.

Q But you don't recall ever balancing the joint checkbook?

A I don't recall if we had a joint checkbook, or for what period that may have been.

Q Okay. And you -- And you and Dennis always filed joint tax returns during the marriage, correct?

A Correct, yes.

Q And you reviewed them before you signed them?

A I didn't always sign them.

Q But if you signed them, did you review them?

A If I signed them I reviewed them.

Q Okay. And you were aware, prior to 2005, what Dennis was making, correct?

A I believe I was aware, yes.

Q Okay. Now, when you and Dennis decided to move to Las Vegas, you understood the house at Lake Las Vegas was worth $2.25 million, correct?

A Correct.

Q And you discussed finances with Dennis, meaning the affordability of that house prior to the move, correct?

A Yes.

Q You understood what the down payment was going to be? Now, I'm not asking you to recall it but, generally, you understood it?

A Yeah, I believe I understood.

Q You understood you were going to sell the Dakota De Casa house?

A Yes.

Q You understood you could afford the monthly payments, correct?

A Yes.

Q And you were physically intimate with Dennis, you believe, during the California period?

A Yes.

Q Correct?

A Yes.

Q You believe that intimate, physical relations stopped when you moved to Las Vegas at some point?

A At some point --

MR. SMITH: Objection, vague and ambiguous.

When you moved to Las Vegas, at some point?

MR. MARKS: 2005.

MR. SMITH: Do you mean after the move, or --

BY MR. MARKS:

Q After the move to Las Vegas?

A Not immediately after the move to Las Vegas.

Q Within a year after?

A Towards the end of 2004. We were not intimate after that later part of 2004, I believe.

Q And you moved to Las Vegas in the latter of '03?

A 2003, correct.

Q And in -- at the time you moved to Las Vegas, Dennis was at Gambro, correct?

A Yes, correct.

Q And he was not -- Kent Thiry had nothing to do with Gambro, correct?

A Kent had nothing to do -- I don't know what you meant by nothing to do.

Q This morning you mentioned Kent Thiry regarding Gambro. Kent Thiry is DaVita?

A Correct. But --

Q Not Gambro?

A That's correct.

Q So at the time of the Lake Las Vegas purchase, Kent Thiry had nothing to do with that?

A At the time of the Lake Las Vegas purchase, Dennis was looking at -- according to what he explained to me, he was looking at the fact that the -- his boss had said that DaVita was making a motion, or making a move to purchase Gambro. Again, when we moved, the day after we got there, he said that -- he said -- Dennis said that they had to leave, because
they were making the DaVita announcement at the Christmas party, so I assumed there was something with DaVita that was going on with Gambro at that time.

Q Who was -- who was Dennis's boss at Gambro?

A Oh, my God -- Larry Buckman.

Q Now, you agree that after 2005, when you stopped

having sexual relations, even though Dennis was coming home on the weekends, he was becoming distant, correct?

A Correct.

Q And there was a lack of intimacy, correct?

A There was a lack of physical intimacy.

Q And you brought up going to counseling, but Dennis said he didn't want to go?

A Correct, yes.

Q So, basically, Dennis would come from California on Friday evening, you would pick him up, go to Metro Pizza, and then go home to Lake Las Vegas?

A I'm sorry, what time frame?

Q After 2005, before 2010.

A No, that's not correct.

Q You wouldn't pick up at the airport on a Friday?

A He wouldn't come in just on a Friday. He would come in before Friday.

Q Wasn't your ritual, though, to pick him up and go to Metro Pizza?

A It depends on what day he would come in. We went to pizza on Friday evenings.

Q And isn't it true that over the weekend he would go to the gym by himself and you would go to the gym by yourself?

A Not all the time, but he took yoga classes, and he had no interest in yoga, so I would go to my yoga classes and he would go work out with running or whatever.

Q And you agree that even prior to July of 2010 there were periods that Dennis was only in town over a weekend, for 36 hours, correct?

A I don't recall the amount of time, but I remember the weekends had gotten short. The times that he was in were shorter, but they were usually on a weekend.

Q So you thought that it was more like 36 hours in the first part of 2010; is that correct?

A It was closer to -- the weekends were shorter, or the time periods were shorter at that time. It might have been a Friday night to, then, a Sunday, but I always remember that we watched certain shows together on Sunday evening, so he was usually home.

Q Okay. Let's go to 2010. You found out in July that Dennis filed for divorce, correct?

A That's correct.

Q I know it was six years ago, and I know you testified this morning about it, but you would admit it was a big shock, wasn't it?

A It was a big shock, yes.

Q And from the time you found out that Dennis had

filed for a divorce, he never moved back in to Lake Las Vegas, correct.

A That's correct.

Q And you received a letter saying there was a change in Judge from the court, correct?

A That was the letter I received on July 1st.

Q You were not suspicious of any divorce prior to that, correct?

A No, I was not.

Q Before July of 2010, you had never visited Dennis at wherever he was living in California, correct?

A He was lease -- DaVita was renting the apartment for him, and he didn't want me to come there because --

Q I'm just asking, did you ever go to California to see him?

A No, I did not.

Q Did you ever spend weekends in California with him prior to --

A He did not want to.

Q -- July of 2010?

A He did not want to.

Q But did you ever?

A I did not.

Q Did you ever say, oh, you're in LA, let's go to

Laguna Beach and have a weekend?

A I asked about coming to California. He did not want me to come to California and spend time with him.

Q So you never spent time in California after you moved to Lake Las Vegas?

A We went on -- We had a -- a company retreat that we went to California. I'm trying to remember, we may have gone for a weekend. I don't recall. I don't know that that was the only weekend, but not with any regularity.

Q You can recall the Balboa company retreat?

A Correct.

Q Other than that, you can't recall an isolated weekend, where you'd say, I'm off work on Wednesday, I'm flying in and we'll spend four days in laguna, LA, whatever?

A I did not, because he never did.

Q Okay. But you never did?

A No. Unh-unh.

Q And you -- so you spent no weekends in California, even in the summer?

A Correct.

Q You were out at Lake Las Vegas in the 110 -- whatever it is out there every summer, every weekend?

A At the pool.

Q And you never went to New York or took any trips?

A No.

Q You were just out at the pool when Dennis wasn't there totally by yourself?

A Correct.

Q With your cats?

A They weren't out at the pool, they were in the air conditioned home.

Q They were in the house, okay.

But you never -- you never were saying, I'm going to LA and surprise you, and we'll go to the beach, because don't you like the sun and like to tan?

A Yes, I do.

Q Okay, so you like the beach, right?

A I like to sit out in the sun. I like the water.

Q You never -- knowing how you like the sun and good weather, you never once just surprised him, we're going to the beach, we're staying in a nice hotel, or whatever, in LA?

A No. He was coming home on the weekends and we would do our thing, play golf, go to movies, sit in the sun.

Q And you admit the B of A joint statements were coming to the house for years, you're just saying you never opened them?

A That's correct.

Q And you understood you were on the joint account?

A The trust account, yes.
Q You understand that was a joint account?
A It was a joint trust account, yes.
Q You understand that was a joint account?
A It was a joint trust account, yes.
Q A living trust.
A I call it the trust account.
Q But it's a living trust?
A It's a revocable trust.
Q Right. Okay. And you were aware that you had the financial ability, for instance, to take vacations between 2005 and 2010, right?
A Yes.
Q You knew what Dennis was making because he generally had seen the tax returns, correct?
A Between 2005 and 2010, not that entire period, but --
Q But you knew you were --
A I did not --
Q -- comfortable?
A Correct.
Q Checks weren't bouncing, bills weren't going unpaid, correct?
A That's correct.

Q So if you wanted to take a vacation, you could have, correct?

A Yes, uh-huh.

Q There was times when Dennis got promotions during that period of time, correct?

A Correct.

Q In fact, he got a big promotion in 2009, correct?

A Correct.

Q You never said, oh, this is a great promotion, let's take a really nice vacation, correct?

A I -- I asked to celebrate. We went out for a dinner to celebrate, but he didn't want to go anywhere.

Q You never took a vacation?

A No, we did not. Never, or during that period of time?

Q During that period of time?

A We did not during that period.

Q And during that period of time, Dennis was doing international travel, wasn't he?

A Correct.

Q In fact, I think in the whole course of your marriage, I think you went on one international trip, and that was in the '90s.

A I went to Australia, yes.

Q So from 2000 to 2010, you never went on any international trips with Dennis?

A Correct.

Q You were aware that Dennis went on Medical Missions?

A I was aware of that. I -- I didn't know the frequency after we moved to California. I did not know, because he got involved with the board of that organization, so I didn't know the trips that he was making to actually participate or to go and meet with the emissaries or whatever, but --

Q But you knew that was a charity he was involved in?

A Yes, correct.

Q And you knew in the course of your marriage that he went on Medical Missions, correct?

A Early on, when we were in North Carolina, he did.

Q Did you ever go on any Medical Missions with him?

A I did not.

Q You were not active in any charities in Las Vegas, were you?

A Formal charities? I think -- Did you reference black tie dinners or something? No, I did not.

Q It wasn't like people in the healthcare field often are invited to the Heart Association black tie dinner; the

Cancer Association. You never went to those, either with or without Dennis, did you?

A We had invitations that came to the house for, like, the Saint Rose yearly party. Dennis didn't want to go to those.

Q So you never went to those --

A No, we didn't.

Q -- correct?

A No.

Q And you weren't active on your own. You worked three days a week. You weren't active in any charities on your own from 2004 to 2010, were you?

A That's correct.

Q So you did your three days a week working and, if Dennis didn't come home for the weekend, you were just on your own, doing your own activities for the other four days, correct?

A Yes, doing my own activities.

Q Those activities were swimming, sun bathing, the cats?

A Getting together with friends, going out, going to concerts, going to dinners, going to movies.

Q And you did that between 2005 and 2010, when Dennis wasn't around, and a 100 percent after Dennis wasn't around,

after July of 2010, correct?

A That's correct. I -- yes.

Q You totally were doing activities either on your own or with friends?

A Dennis -- Without Dennis. I was doing activities without Dennis after 2010.

Q Okay. But even when you and Dennis, before July of 2010, you and Dennis never attended any cultural activities at UNLV, correct?

A No, no activities at UNLV.

Q You never went to any sporting events, other than, what, one boxing?

A We went to boxing. Dennis was -- Dennis watched golf during that period of time, but he wasn't a basketball fan or football, so it never even came up.

Q You never went to any major golf tournaments, other than the Wendy's Three Put Challenge, out at Lake Las Vegas, correct?

A I didn't. I don't know what Dennis did.

Q But you never -- you and Dennis as a couple, you didn't go to the Master's or USO?

A No, correct.

Q You didn't even go to the International Golf Tournament they have in Las Vegas, right?

A He never asked, we never went.

Q In December, 2011, you drove to California to the Edinburgh house, correct?

A I drove to the Beverly Boulevard apartment first, and then we went over to the Edinburgh house.

Q Did you see Dennis's parents' name on the door?

A No, I don't recall. I don't believe I did. I don't recall if I did, but I don't believe I did.

Q And then you went to Edinburgh.

A Correct.

Q Okay. And this is part of your investigative effort to see if Dennis's parents were still living in California, correct?

A That's correct.

Q And -- Because Dennis had told you they left, but your friend had told you on Facebook, or something, they were still there?

A That's correct.

Q But you never could locate Dennis's parents on that investigative trip to California, correct?

A That's correct.

Q You went to Edinburgh and you saw cars in the driveway, correct?

A Correct.

Q And you were with your sister, Stephanie, correct?
A That's correct, yes.
Q You drove from Las Vegas to LA. You went to Beverly Boulevard, you didn't see anything. You then went to Edinburgh?
A Yes.
Q You saw cars in the driveway?
A Correct.
Q It looked like the house was occupied, correct?
A Can I give a little narrative, or --
Q No.
A Okay. I can't say the house looked occupied. Dennis told me the house was staged for the purpose of --
Q There were cars in the driveway?
A Yeah, and the cars in the driveway actually confirmed what Dennis had told me, that he moved his parents back. And I said, what happened to the car, where are you putting it?
He said I moved them over to the hou -- to the driveway at the vacant home, so they were parked in the driveway, and there they were.
Q You rang the doorbell?
A Correct.
Q And no one answered?

A My sister rang the doorbell, I did not. And no one answered.

Q So you were in the car?

A Yes, I was.

Q So you never even got out of your car?

A No.

Q So your sister, Stephanie, went from the car to the door, rang the doorbell and no one answered.

A And no one answered. The house was vacant and being staged for sale.

Q Well, you don't know if it was vacant. You didn't look through the windows. You never got out of the car, correct?

A There was no one there.

Q You never looked in --

A No one answered, I should say.

Q -- the windows. No one answered the door?

A Correct.

Q Did you call Dennis on his cell?

A No, I did not.

Q Did you drive to Dennis's office?

A No, I did not. It was Sunday.

Q Did you do anything to try to find out where Dennis was?

A No.

Q So this was a Sunday in 2011, in December of 2011, when Dennis obviously wasn't home with you, correct?

A I don't -- Was it a Sunday? I don't recall it being a Sunday -- December, rather. I thought it was earlier. I thought it was --

Q You never tracked Dennis down in LA?

A That day, no.

Q And after that, you never hired a private investigator, did you?

A We hired a private -- I believe we hired a private investigator for the service of some of the --

Q I'm not talking about that, I'm talking --

A Well, you asked a private investigator. No, I did not.

Q I'm talking about in that window, around that time?

A No.

Q And you never even bothered to call Dennis and say, hey, I'm in LA, lets get together?

A I was with my sister and a friend, I did not call Dennis.

Q Who was the friend?

A Norma Gilardo (ph)

Q And you're saying because you were with your sister

and a friend, you couldn't have seen Dennis in LA?

A I That wasn't the point of the trip, to go see Dennis in LA.

Q The point of the trip was to track down his parents?

A Was to see if I could confirm that they were living in LA, because he told me he moved them to Florida. He moved them back to Florida.

Q So it's fair to say you did nothing to investigate further after driving to Edinburgh?

A That's correct.

Q During that same time you still have various money being moved around from the joint account, correct?

A I don't know what you mean by I saw money?

Q You saw names, like, you saw -- Didn't you, by 2011 see Nada's (sic) name, Nadya's name?

A I believe I -- I believe I saw it on some earlier checks. I don't remember if I saw it on the more current checks.

Q Okay. And you didn't do anything in 2011 to investigate that, correct?

A I did not.

Q Now, didn't -- You knew that Dennis's income was public by 2011 because he's a Section 16 officer?

A I'll be honest, I didn't know the Section 16 thing until we were at a hearing, but I knew -- he told me his trading was public

Q And you, in fact, had Googled him, correct?

A I don't believe I Googled him early on. I Googled him, after, like, 2011 or 2012.

Q That's the time frame I'm after.

A I just -- Like I did with Nadya. I put his name in to see what showed up. I didn't go to specifically the SCC page, or --

Q By 2011 and '12, you Googled Dennis. You knew his position, you knew his position. You knew he was a COO of a publicly traded company on Google, correct?

A Correct. That's correct, yes.

Q And it also would tell you, generally, his compensation and stock options, correct?

MR. SMITH: Object, vague and ambiguous.

MR. MARKS: I'll rephrase it.

THE COURT: Sustained.

BY MR. MARKS:

Q From your Google search, you could tell Dennis's position in DaVita?

A I knew Dennis's position. I wasn't -- I didn't Google him to look for that.

Q But when you Googled him, you could tell the value of his compensation and stock?

A I didn't look at the value of his compensation and stock.

Q It was there on Google, wasn't it?

A I don't recall looking specifically at that, because that wasn't why I was putting Dennis's name in Google.

Q Dennis told you that his compensation was public record, didn't he?

A That's correct.

Q And didn't Dennis tell you, hey, Google me?

A He said, sure, why don't you just go ahead and Google me. It's right there. And I didn't specifically do it as you say, my investigation of him.

Q Okay. Isn't -- There's an email, which I can show you, where you say, Surprising what you find when you Google somebody?

A Yes.

Q Okay. So you actually did Google and find out about his compensation?

A I don't remember finding out his compensation. I think I might have seen an article that said, Dennis Kogod sells shares, and it had something about Kent Thiry, but I

don't remember seeing his compensation program.

Q Didn't you actually have a friend call you when Dennis sold shares and reference an article?

A I don't recall that specifically, but I remember in my deposition you brought that up, that Dennis had said someone had done that. I don't recall it.

Q So when did you find out about his shares?

A When he said something in an email about how he was sitting on 18 million shares and this is where -- but I didn't see where they were and I didn't see UBS accounts, so I just said I don't know what he's talking about.

Q So that was in 2010, correct?

A If it's in there, then it was 2010.

Q Okay. So after Dennis sent you that email, after the July 2010 period, he said, I'm sitting on $18 million worth of shares; do you recall that?

A Correct. If it's in the email.

Q And you're saying you didn't do anything to investigate whether there was $18 million or more money at that time, is that --

A My frame of mind --

Q -- correct?

A My frame of mind at that time was not about validating what my husband was making, it's about trying to

figure out how we were going to fix this marriage.

Q I'm not saying what your frame of mind was.

A So I did not Google him to see $18 million -- 18 million shares. I don't remember even seeing that.

Q Okay. So you got the email about it?

A Correct.

Q But you didn't take any other steps to verify whether that $18 million figure was correct; isn't that right?

A I don't believe that I did.

Q Do you remember -- do you have a friend, Desiree?

A Desiree, yes.

Q And didn't Desiree call you and say, your husband just cashed in stock options?

A I don't recall that. Like I said, I believe that Dennis brought that up, or you brought that out for Dennis in his deposition. I don't recall that.

Q Okay. I want to go through some assets. You agree that the Las Vegas home should be sold and the proceeds split, correct?

A Yes.

Q Okay. When are you moving out into your new home?

A After this is all -- We've had, you know, the trip to New York for depositions, we've had this --

Q I'm just asking you when. I don't want to be rude.
A I'm hoping after this is all --
Q I don't know when this is over, that's up to the Judge. I don't want to be rude, but could you use a date, a calendar date?
A I'm hoping --
THE COURT: I'm -- I'm trying this Friday.
THE WITNESS: I'm hoping by the end of March, before the end of March.
BY MR. MARKS:
Q Just saying when the Judge -- it's over -- may not be a clear bright line date, with all due respect.
A I'm hoping -- I'm hoping before the end of March.
MR. MARKS: Could we do the Ides of March, or --
THE WITNESS: Are you --
THE COURT: Sounds good.
MR. SMITH: He's making a joke to the Judge.
THE WITNESS: Okay.
BY MR. MARKS:
Q In all seriousness --
A Yes.
Q -- do you want for your side of the -- you understand that we're dividing the property according to your waste claim; you understand that, right?

A Yes.

Q And you understand what the property is, basically, you have an asset and balance sheet, and we have one?

A Yes. I understand that.

Q You've been very active in your case?

MR. SMITH: What does that mean?

BY MR. MARKS:

Q You've been active in knowing what your assets are?

A I've been reviewing the information that's been provided.

Q All right. Do you want, for your side of the equation, any of the California real estate?

A I'm -- I'm concerned about the California real estate.

Q But do you want to take it?

A I -- I don't know at this point, today, if I want to talk it. I don't believe that I do. I understand Dennis's concern about a home for his parents, that's never been an issue.

Q I'm just asking you a simple question. Do you want the California real estate or not, since today is --

A I want to make sure I get a fair appraisal on those real estates, and then --

Q Okay, but, if -- if you got it, you would get it at

a fair appraisal. If Dennis gets it, he would get it at a fair appraisal, because everyone believes the Judge is fair.

So, I'm asking you, do you agree that Dennis should take California property, or are you asking the Court to give it to you?

A I'm not asking the Court to give it to me.

Q Okay. And you're not asking the Court for the Ferrari, the Bentley, any of those cars that are in Dennis's possession, correct?

MR. SMITH: Two Bentley -- Two Bentleys.

A Two Bentleys.

Q You're not asking for any of those cars?

A I don't know, got my eye on that Bentley.

Q Are you asking for a Bentley?

A I don't know. I'd like to see what it looks like.

Q Okay. I think I'm entitled to an answer. Are you asking to take the cars, or are you asking to take cash or other assets in lieu of the cars?

A I'm not asking for the cars.

Q Okay. You have a Merrill Lynch money market account that's tied to the 6446 account, correct?

A Correct.

Q And you have a 401K through your employment?

A That's correct.

Q You've had access to Allen Skaruzo (ph), your accountant, correct, you knew who he was?

A Allen Scazzero?

Q Yes.

A Yes.

Q Back in North Carolina.

A That was back in North Carolina, correct.

Q You had access to him when you did tax returns together?

A Yes. Dennis handled the tax returns and I signed what he gave me, after reviewing it.

Q Okay. But I think through 2008 you actually kept a copy of the tax return in your own little file, correct?

A I believe that I did, yes.

Q And you never called any -- When things were going bad with Dennis, let's say, he wasn't returning home, et cetera, you never called any of the accountants to try to figure out what was going on financially, did you?

A No. No, I didn't. I asked Dennis.

Q In July of 2010, after July of 2010, you consulted legal counsel, correct?

A I have a friend who -- I had dinner with two friends that are both attorneys, and they are friends.

Q Did you consult an attorney who is admitted in

Nevada and Denver?

A Yes.

Q Okay.

A I had dinner with her.

Q Okay. And you discussed your situation, correct?

A Yes.

Q And additionally -- and that was after Dennis had filed for divorce, correct?

A That was after I got the letter.

Q Yes. And, in fact, between that time of consulting the attorney admitted in Nevada and Colorado, until you hired Denise Gentile, you had consulted or talked to nine other attorneys, some friends and some professionals, correct?

A I did not talk to any professionals. All of my friends, as I think it was stated before, because of the field I was in, a lot of my friends are attorneys. I think Dennis said I have connections in the legal field. These are friends and we talked, and I was distraught, and we talked about it, yes.

Q But they were attorneys?

A Correct.

Q And you finally hired Ms. Gentile sometime in 2013?

A Correct.

Q And she filed the complaint?

A Correct.

Q And then she -- and she was representing you, and then Dennis was handling it himself for almost a year while you -- that you tried to work things out, correct?

A I don't know how Dennis was handling it, because Dennis told me he had gotten the retainer back from Mr. Jimmerson, so he didn't have counsel, so I don't know if he was actually in touch with him during that time.

Q Okay. But there was a year period where not a lot happened in this case to move it forward; wouldn't --

A We were in --

Q -- you agree?

A We were in counseling.

Q In 2013 and 2014?

A We were still getting together in 2013 and trying to determine how we were going tr -- still try and fix it.

Q Okay fr -- Okay. In December of 2013 you filed for divorce.

A Yes.

Q Okay. What I'm saying is, the answer and counter claim, I think, were filed by Dennis in November of 2014. For that whole year, Dennis was talking to Denise Gentile, correct?

A No, he was not talking to Denise for a whole year.

Q Okay. But you didn't move the case forward during that year, correct?

A I believe she served him when he came to talk to her about, what can we do, can we split this somehow, make it amicable?

And she -- before she left the office, she said, wait a minute, I -- I have to serve you. You just need to -- and then she gave him an extension. He wanted an extension because then he wanted to go find attorneys. I believe there were emails she shared -- that she and I shared, that she and I were communicating on, about -- that he wanted to hire attorneys, and then he ultimately hired Jim Jimmerson again.

Q Okay. The point I'm making is, for almost a whole year there was almost activity in this case?

A I wouldn't say that there was no activity.

Q The activity was Dennis talking with Denise Gentile, correct?

A Dennis met with Denis, I think, once, and then they had a phone call, once or twice, at most. I was working with Denise about getting my her - my financial disclosure form. So I was working with Denise on things. I don't know what Dennis was doing.

Q Okay. But you never -- you basically never had a court appearance during that year, correct? You didn't go to

court until 2015, correct?

A That's correct.

Q Could you please turn to Bate stamp 12135, Exhibit 23.

THE COURT: What was the Bate stamp number?

MR. MARKS: 12135.

THE WITNESS: 12135?

MR. MARKS: Yes.

THE WITNESS: Yes.

MR. MARKS: Do you have that one?

THE WITNESS: Yes.

BY MR. MARKS:

Q That's dated June 27, 2011, so that's approximately a year after you were notified about the divorce, correct?

A Correct.

Q And in the first paragraph you say, the days have turned to weeks, the weeks have become a year, and we are farther from ever fixing this thing than we ever were, or from what I thought we were. Do you see that?

A Yes.

Q So after a year you're farther away from getting your marriage back together than you were the year before; isn't that right?

A That's how I felt, yes.

Q And Dennis was trying to give you the appearance that he was following through and you're saying he actually isn't. Do you see that?

A Yes. This email is in response to Dennis's email on the page behind it.

Q Okay. But everything in this email is true and correct, right?

A I haven't read the whole thing.

Q Okay. You believe Dennis was leading you on. He was giving you the appearance that he was following through, but his actions were that he was not following through with your marriage, trying to repair the marriage, correct?

A I -- I did not think he was leading me on then. I was trying to shake him up and say, Dennis, come on. What's going on? This is getting harder and it shouldn't be. What do we need to do here.

Q Okay. Let me read what you said, every opportunity, every option to fix this has been put in front of you. Yet, in your own way, you have tried to give the appearance that you're following through when you actually aren't. Isn't that your words?

A Yes, that's what I said.

Q Okay. And then later, in that paragraph you say, I believe you're making choices to do this, and it's not almost

pathetic, it's pathetic; isn't that what you said?

A Because on the page -- In his email he said, you know, that it's almost pathetic that a grown man can't make this decision. And I said, it's not almost pathetic, it is pathetic.

Q And then you say you can actually say you know the right thing to be doing --

A Yes.

Q -- that's his words, and that you know the consequences of your option and behavior, yet you continue to make different choices well.

A Yes.

Q So that's because he was saying one thing in these emails to you, but his behavior was totally different; isn't that right?

A In some of the emails, yes.

Q His behavior was not good. He was canceling appointments, he wasn't moving back to the house, he wasn't spending time with you, correct?

A That's correct.

Q Even though he was saying, oh, I love you, Gabby, I love you. It's all me, I'm all me, I'm sick. I want to be with you. He wasn't with you, correct?

A Yes.

Q And then later you say, It's still difficult for me to believe how you can function so well, traveling all around the globe, making big decisions, yet you can't pick up the phone and call your wife, or at least let her know where you are; isn't that right?

A That's what I said here.

Q Right. Because he's running around the globe --

A Because he's telling --

Q -- buying the family things, and doing all these million dollar deals --

A He's telling --

Q -- and he won't pick up the phone and talk to you?

A Because he's telling me that he has Asperger's and he can't do these things, and I'm saying I'm trying to understand why --

Q Isn't it true you didn't really -- you wanted to believe that he was fixing the marriage, but you really knew he's making these decisions and he won't talk to you or be with you? Really, in your heart, you didn't believe this?

A Had I knew that, I would have done something different than I did. I hung in there and it was very difficult to do, and I loved this man.

Q You hung in there, you hoped some things were going to be different?

A Yes.

Q But you're saying in your emails, Dennis, you are saying one thing, but you're doing something different. It's not realistic that this big CEO, who's making multi-million dollar decisions, can't even talk to his wife.

MR. SMITH: That is a compound, vague and ambiguous question.

THE COURT: Sustained.

THE WITNESS: And we went to --.

THE COURT: Hang on, there's no --

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

BY MR. MARKS:

Q You say here, I have to say again that I believe your behavior is purposeful and you're probably getting exactly the results you want.

So in your heart you knew, if this guy does not call me, he doesn't want to be with me, correct?

A He was getting me frustrated, and then we went to counseling sessions after this date. So then we would continue on in the counseling, after these periods, and that's why it was easy for me to think -- after that -- this is the Asperger's, this is what he's talking about, that he can't communicate with me. That he wants me to think that he's doing something, but he's struggling with being able to

do it.

Q Okay. But you say you hung in there and you believed him, but you say, but, now -- and this is June 27, 2011 -- I realize your refusal to help yourself and just keep living this way seems to be what you want. Do you see that?

A I'm sorry, where are you?

Q Last sentence. But now I realize your refusal to help yourself, and just keep living this way, seems to be what you want.

A The sentence before that says, I've hung in there because I love you, and now I'm seeing what you need to do, but you need to call me tonight, and the purpose of him calling me tonight was, let's talk about this, what are we doing?

Q Okay. But he didn't -- you, in the email, are correctly analyzing that he is not communicating with you, correct?

A I am saying he is not communicating with me.

Q And that he's making his own choices to live the way he's living, correct?

A Yes.

Q All right. If you go to bate stamp 12139, now this is June 21, 2011, so around the same time.

A A little before, yes.

Q Like one to six days before.

A Okay.

Q So the first paragraph, this is complaining, or stating that Dennis isn't giving you his (indiscernible), correct?

A Yes.

Q Second paragraph, again, complaining that he's leaving the country and is really vague about where he is going, correct?

A Yes.

Q He didn't give you the flight, the flight numbers and the hotels, et cetera?

A Yes.

Q And in -- in any -- if we could call any marriage normal, in any relationship, you would know where the person is going that you're living with, correct?

A At this point this was how he was dealing with what was going on with us.

Q And you didn't think that was correct, right, you're complaining about that?

A I'm complaining about it, but at this point this is how we were dealing with fix -- trying to fix it.

Q Okay. But you didn't think that was a normal relationship, that your husband flies around the world and

you don't know?

A My husband came home and told me he was gay. I didn't think that was necessarily a normal relationship, either.

Q And then you say, for whatever reason -- this is in paragraph three -- you don't seem to want to see me on weekends; do you see that?

A I'm sorry, where are you?

Q Paragraph three. For whatever reason, you don't seem to want to see me on weekends, you'd rather squeeze it into an occasional hour at some time and date, correct?

A Yes. Yes.

Q You say to Dennis, I love you, but your actions are unacceptable, correct?

A Correct.

Q I sound like a broken record, but your way isn't working, it never has. It's time to tell me your decision. I'm not going to waste any more time waiting for you to keep stalling. I'm not going to waste next week and I'm not going to waste another year, correct?

A That's what it says there.

Q And that's what you said to Dennis on June 21st, 2011, because you thought his behavior and conduct was totally unacceptable, right?

A I don't know what happened after the 21st. I don't know if he called me --

Q I'm not asking about that.

A You're asking me to draw -- I believe you're asking me to draw a conclusion for this that I said that and then it's it. But he more than likely called after that and we talked and we had more counseling appointments.

Q And then if you go to 12141.

A Yes.

Q That's where, essentially, you say, it's been two months with him seeing you, and you can count on one hand the times that you got to talk rather than texting.

A I'm looking for that section.

Q Isn't that true?

A I'm looking for that section. I'm sorry, where are you reading? Oh, okay, I see that last sentence, I'm sorry. That's correct.

Q It was two months --

A That's correct. I -- I --

Q After he was -- after July 1, and he said he's sorry this happened and he didn't mean it, whatever he told you.

Within that year period, he went two months without seeing you, correct? This is the June 14, 2011, email,

correct?

A That's what it says.

Q And you basically are saying he's texting rather than calling you?

A He's texting because of the Asperger's.

Q I don't see aspergers in this email.

A It was in our counseling. It was identified that it was easier for him to not communicate with me verbally, so --

Q And you were basically in the email of 1220 -- the email that I showed you before, 12139, you basically say, I'm not going to waste another week or another year, correct?

A I did. I did say that.

Q And that's what you said and, in your mind, you thought about getting divorced at that time, correct?

A I did not think about getting divorced at that time.

Q So you just thought -- You made a conscious decision in June of 2011 to hang on and hang on --

A Yes.

Q -- and you finally didn't file until June of 2013 --

A That's correct --

Q -- correct?

A And my decision --

Q And --

A I'm sorry.

Q I'm not asking about why your decision was.

A Okay. That's correct.

Q Okay. And you were aware forgetting the emotions, forgetting your marriage break up, just strictly from a financial point of view, you agree you're getting more money by getting divorced now, than if you got divorced five years ago, correct?

A If the divorce was final five years ago, versus today, yes.

Q Okay. And you're getting, what, $20 million more? Eighteen million more?

A I don't know what the number is, but --

Q Isn't that correct?

A That's the number I'm hearing.

Q Okay. So, although it's been painful and no one would want to go through what you went through, and no one's condoning what you went through, from a strictly financial point of view, you're ma -- you're doing a lot better financially, aren't you?

MR. SMITH: Better than what? The hypothetical that if he divorced --

MR. MARKS: Than it would have been five years ago.

BY MR. MARKS:

Q You're doing much better financially than you would have done if you got divorced five years ago?

A At the end of this divorce, there will be money that I have in my own name than it would have been five years ago.

Q So why can't you just answer yes or no?

A Because this was emotional. This was hanging in because we were trying to fix our broken marriage, so --

MR. MARKS: Your Honor, I move to strike.

BY MR. MARKS:

Q I'm just asking, financially, which is what the Court has to decide.

A And I answered you.

THE COURT: Hang on. And I'll give the same admonition that I gave the defendant, and its gone on for a bit, and both sides have a desire to explain things but, if it calls for a yes or no answer, you need to answer yes or no. So listen to the question and answer yes or no. Now, Mr. Marks hasn't necessarily specifically addressed that but, at this point, I think it's proper for me to interject.

BY MR. MARKS:

Q Do you have a hard time agreeing that you're ma --

that you're going to wind up with a lot of money in this case?

A No, I don't have a hard time agreeing.

Q And that Dennis is not contesting you're entitled to 50 percent, that the assets should be divided equally; you heard his statement?

A He asked for it to be divided equally, I believe.

Q Okay. And he realizes that, even in his mind, that he had no relationship with you. You never lived together from 2010 onward? That, in his mind, his net worth increased by $36 million, that he's willing to divide?

A Are you asking me --

MR. SMITH: Objection, it's argumentative.

THE WITNESS: -- what he b --

THE COURT: Overruled.

THE WITNESS: Are you asking what he believes? I'm Sorry.

BY MR. MARKS:

Q You heard Dennis's testimony yesterday, or Tuesday --

A Yes.

Q -- that his net worth increased from $4 million to $40 million, let's say, over the last five years; you heard that?

A I believe he said that.

Q okay. And your financial, marital balance sheet is using a $40 million, give or take figure, just like ours is, correct?

A Correct.

Q All right. So you agree, then, instead of your estate being approximately $4 million five years ago, your estate is now $40 million, correct?

A I believe that is correct.

Q Okay. And you heard Dennis's testimony that he wants to divide that $20 million apiece, give or take; did you hear that?

A I cou -- I believe he said -- yeah, 18 million, cash, or liquid and then -- yes.

Q You would have over 18 million in stocks, bonds, et cetera, plus your house at Southern Highlands, plus your other 1.2 or other assets -- but approximately 20 million in assets, you heard his testimony, correct?

A I believe I heard that, yes.

Q Okay. And you're asking this court, on top of the 20 million, that you're asking for 23 million?

A I'm asking for a share of what the forensic accountants have -- did -- and I don't -- honestly, I don't know what that number specifically is, if it's 3 million, or

-- but I'm asking for an equal division of whatever that marital waste was that was identified.

Q You heard your counsel in opening. You're asking for $23 million?

A Okay. Yes, I believe I --

Q Do you believe that's a fair result, that you get 23 million and Dennis gets 17, considering all the factors in this case, or that it should be 20/20?

A I believe that there was waste that I should be compensated for.

Q Okay. And you're also, on top of the 23 million, you're asking for alimony?

A Yes.

Q How much a month in alimony?

A I believe the number that I've discussed with my attorney was $100,000 a month.

Q So you're asking the Court to award you 100,000 a month in alimony?

A Yes.

Q And a 23 million in assets on a $40 million estate, that's what you're asking for?

A Yes.

Q And you're still angry at Dennis?

A No. No, I'm not --

Q Well, this was very emotional you were saying before, correct?

A This was very emotional, because I loved this man and went through all of those years with him and the counseling, and -- I don't -- yes.

Q And do you think because it's so emotional you should get alimony?

A I don't think the emotion has anything to do with it.

Q You don't fee -- you don't need alimony to meet your day-to-day living expenses, do you?

A I believe alimony isn't something that would be awarded for me for meeting, simply, my day-to-day living expenses.

Q Well, you agree that if you have 18 million in the the bank you're going to be able to get passive income, correct?

A I'm -- I'm a saver, and I agree with the argument that has been made about saving, and about what you should be able to save, what you should be able to have to depend on using. I believe -- I'm sorry.

Q Do you agree you're going to have passive income?

A Yes.

Q Do you know how much passive income you're going to

have?

A I have not done the -- any calculating on that, but I believe --

Q Have you looked at any of the tax returns showing what passive income you and Dennis have had over the last three years?

A I didn't look at them recently, but I'm aware that there's passive income.

Q And are you aware the passive income is in excess of half a million dollars a year?

A I believe I -- Yes.

Q Did you hear Dennis's testimony that, if you got $18 million out of the UBS account, as he's proposing you would be getting, you could have them managing and get a safe return of, say, 4 percent?

A I don't know that. I don't know what I'll do with the money.

Q I asked did you hear his testimony?

A I heard him say that, I'm sorry. Yes, I did hear him say that.

Q Okay. That you would get 4 percent return, which would be over $700,000?

A I heard him say that.

Q And have you talked to UBS about maintaining your

accounts and getting that return?

A No.

Q Now, when Dennis was in California and you didn't see him for probably five years, you knew that he was living somewhere. Regardless of what he told you, he had to live somewhere, correct?

MR. SMITH: It's facts not in evidence, Your Honor. There's no testimony that she didn't see him for five years.

MR. MARKS: All right. I'll rephrase it.

BY MR. MARKS:

Q There was a period, lets say from 2004 onward, you knew Dennis was working in California, correct?

A Yes, his offices were in California.

Q And from 2010 onward, wouldn't you agree that you virtually never saw him?

A I'm sorry, from --

Q From 2010. July 1 of 2010?

A Would I what?

Q Other than the counseling sessions, did you regularly see Dennis from 2010?

A Dennis came in for dinners. He tried to do it once a week, once every couple of weeks.

Q After July of 2010, after --

A Correct.

Q -- the divorce?

A Yes. July -- after I got the letter?

Q Yes.

A He came in for dinners. We went to -- there were times that he came in just strictly to go to have meals, to have dinners.

Q But you knew he was living primarily in California, correct?

A No I -- he told me he was in Colorado.

Q Okay. So you knew he was in Colorado for part of the time and you knew he was in California for part of the time. We're talking about the period from 2004 to, let's say, you filed for divorce in the end of 2012 -- 13; correct?

A I don't think I thought he was living in Colorado in 2004, but after 2008, 2009, the company was renting an apartment for him in Colorado, and he told me that was his residen -- that was his --

Q There was a period he was in California, there was a period he was in Colorado. There was another period he was back in California, correct?

A Yes, there was a period he was in California and a period in Colorado, yes.

Q And you knew he was spending money during those periods of time, correct?

A Yes.

Q Okay. And you knew he li -- he had to eat, correct?

A Yes.

Q And he bought clothes, correct?

A Yes.

Q He had cars, correct?

A I don't know what I th -- because he -- for a lot of those periods of time, he kept a car at Lake Las Vegas and didn't necessarily have a car. So he told me, he didn't have a car there in California or Colorado. I remember he moved an Audi to Colorado, is what he told me.

Q And you knew he was living and had living expenses during the times you were not with him, correct?

A Correct.

Q And, until this case, you never did anything to try to figure out what he was spending, correct?

A No, I did not.

Q And Dennis wasn't doing anything to control what you spent for your living expenses, correct?

A During what time frame? I just want you to -- I would like to ask you to be sp --

Q Well, clearly, from 2010 onward, correct?

A That's correct. Yes.

Q And he didn't have a lot of discussion about your living expenses from 2005 to 2010, correct?

A That's correct.

Q All right. Now, you Googled and found out about a video in September of 2014, that Dennis had kids, correct?

A Dennis said he was -- he was realizing the difficulties of -- I don't remember about the phrase today, but something about being a daddy to small children, and that was an annou -- that was something he was saying in a speech at a DaVita awards banquet.

Q Okay. And you found out about that in September of 2014?

A September 28 of 2014.

Q Oh, okay. Isn't it true that you Googled Dennis in May of 2011, and you found out about the California real estate holdings?

A I'm sorry, I don't know what California real es --

Q In May of 2011, you Googled Dennis and found out about the California real es -- Dennis's California real estate holdings.

A The holdings meaning?

Q That he owned California real estate.

A I don't recall when I found out about the Edinburgh home. And I don't remember that it was from a Google. I

think -- I think I may have seen a check that said -- I think -- I don't recall Googling -- I know I didn't Google the California holdings of Dennis Kogod. I don't remember when I specifically found out about Edinburgh.

MR. MARKS: Okay. Your Honor, can we take about a five minute break.

MR. SMITH: Thank you.

THE COURT: Let's take a ten -- or a afternoon ten minute recess.

(COURT RECESSED AT 15:33:41 AND RESUMED AT 15:57:55)

THE COURT: Okay. We are back on the record in the Coiffe-Kogod matter. We'll resume -- Did we have -- Were there questions about the exhibits numbers that we needed to go over?

THE CLERK: Well, just your list is, like, one off.

MS. YOUNG: Yeah, I noticed that, too. I think it starts -- Well, I didn't figure out when it starts.

THE CLERK: I don't know when it started.

THE COURT: Okay. The Plaintiff's exhibits? Are we good?

THE CLERK: Oh, that's fine. Yeah. Yeah.

THE COURT: Okay. All right. So we'll just -- we just need to make sure we -- whatever needs to be changed, we can address that.

I remind you you're still under oath.

Counsel, you may continue.

MR. MARKS: Thank you.

BY MR. MARKS:

Q Gabby, I talked to you earlier and showed you emails where you were very frustrated about Dennis not being with you and calling you; do you recall that --

A Yes.

Q -- before the break?

A Yes.

Q And I think you said -- your answer was, well, we were going to go to counseling; do you recall that answer?

A Yes.

Q Okay. And you went to a number of counseling sessions; correct?

A Correct.

Q Probably about 10?

A I -- I don't know the exact number, but we went to a number. We went to double sessions, so --

Q And do you know for what period you went?

A We started with one counselor and -- and did telephone --

Q Just the time frame.

A Oh, sorry. That would have been I think sometime

in either the end of August, beginning of September of 2010. And then we had a number of appointments scheduled, double appointments, into April of 2012.

Q Okay, and in April of '12, Dennis was either not showing, canceling, and that's when you said in an email, I think, I talked about this morning, you just canceled, because you're not showing.

A It was a March -- That was a March appointment.

Q Okay.

A Yes.

Q And Dennis was not showing and canceling, which led you to stop counseling in 2012?

A We had another appointment in April that was scheduled, a double appointment.

Q But by Spring of 2012 your counseling was over?

A After --

Q He wasn't showing.

A I can say that after that date, after that last April --

Q Yeah, that's what I'm saying.

A That's correct.

Q And that's of 2012?

A That's correct.

Q And you didn't file until, I think, December of

'13; correct?

A Correct.

Q All right. Let me show you in our book, Exhibit -- it's in Volume III. It's Exhibit three L, the bottom of the page. Do you need help in getting it?

A No, I have it.

MR. SMITH: Exhibit 3?

THE WITNESS: Thank you.

MR. MARKS: Three L, in Volume III --

THE WITNESS: Okay.

MR. MARKS: -- at the bottom of the page.

THE WITNESS: Okay.

BY MR. MARKS:

Q This is the email you sent Dennis December 8th of 2011, regarding a -- regarding a couple of entries on our joint account, do you see that?

A Yes.

Q So you and Dennis had gone through the joint account and you would ask questions on things you didn't recognize; correct?

A Correct.

Q Okay. And in that time period, this is prior to December 8th of 2011, you saw the Yafa -- Yafa Markus on -- entries; correct?

A I believe I did, yes.

Q And you saw about 12 checks to Nadya; correct?

A I don't remember -- I don't remember how many checks and during the period I saw them.

Q Okay. Do you recall whether it was, you saw, you think 10 checks to Nadya?

A You know -- I -- I saw checks to Nadya, but I -- I -- today, I don't specifically recall how many.

Q Okay. And you didn't -- you're telling us that you Googled Yafa, but you didn't Google or Facebook Nadya?

A Correct.

Q Okay. And you just didn't do that in 2010, 2011, 2012, 2013, til 2014 --

A Correct.

Q -- when you filed for divorce?

A I -- I --

Q Or right after you filed for divorce?

A I didn't Google Nadya until after February of 2015.

Q Okay.

A I didn't have her name associated with Dennis until then.

Q Okay. So even though you were seeing names of people you didn't recognize, and you were going through the

joint checkbook with Dennis --

A Yes.

Q -- and you saw a female named Nadya, you didn't take any steps to figure out who she was until 2015?

A I asked Den- -- every time I saw a name that I didn't recognize, I asked Dennis.

Q Other than asking Dennis --

A No.

Q -- did you take any affirmative steps to find out what was going on?

A No.

Q Okay. But you could tell from the checkbook Dennis was spending money, and you started getting concerned in 2013 about where the money was going, and that's what led you to file for divorce; correct?

A Which of -- I don't -- Could you clarify that? I don't know which of those things you're referring to -- I'm sorry?

Q Well, you -- starting when you went through the checkbook, you would see names you didn't know?

A Correct.

Q You didn't do any independent investigation of those names?

A That's correct, other than ask Dennis who they

were.

Q Independent investigation, and those names included Nadya?

A Nadine Kievsky, I believe was -- was the name on --

Q Okay, and there were other names you didn't recognize; correct?

A Correct.

Q Okay. And you saw, I think, checks dealing with Edinburgh, correct?

A Correct.

Q And you didn't know anything about Edinburgh?

A At that time, no.

Q Okay. And you didn't do any independent -- meaning not asking Dennis -- but independent investigation of anything until this case started?

MR. SMITH: Other than what she's already testified to?

MR. MARKS: Asking Dennis.

MR. SMITH: The objection is that --

THE COURT: So, is there an objection?

MR. SMITH: Yeah, it mischaracterizes the testimony. It -- she's already testified to the things that she's done.

THE COURT: Overruled.

BY MR. MARKS:

Q You didn't do any independent investigation of anything, other than asking Dennis?

A I -- When you say independent investigation, do you mean going to Google, going to -- is that what you mean?

Q Going to Google --

A Okay.

Q -- going to Facebook, going to California --

A Okay.

Q -- hiring a private eye, anything.

A I -- I did -- We talked about me going to California but, other than that, no.

MR. MARKS: Okay. I move to admit three Ls.

THE COURT: Any objection?

MR. SMITH: It's already part of another exhibit. We can handle it however the Court sees fit, but --

MR. MARKS: I'd like to get it in, because I'm not sure, exactly, there may be some overlap, it's only a one-page exhibit.

THE COURT: Is it an exhibit that has already been admitted?

MR. SMITH: Yes, it's part of an exhibit that has already admitted.

THE COURT: Okay. Well, I'll allow it to be

admitted. I'll just keep in my notes that it's part of another exhibit. So Exhibit triple L is admitted.

(DEFENDANT'S EXHIBIT LLL ADMITTED)

MR. MARKS: Okay, I have some other exhibits I want to admit.

Your Honor, I don't know, do you want us to spend the time identifying a lot of these? Or -- I don't think there is going to be an objection, and we can do it relatively quickly.

In the same book, three -- three B; it's in the same book.

THE CLERK: Is that B?

MR. MARKS: Three B, as in boy.

THE WITNESS: Yes.

MS. YOUNG: But it's -- it's marked C on the list -- three C on the list.

THE CLERK: Okay.

BY MR. MARKS:

Q Is that a check you wrote to Eugene, and you said house account?

A Correct.

Q On or about January 3rd, 2009?

A That check says May 6, 2012. I'm sorry 3 -- Oh, I'm sorry. Wait --

Q The first one is January 3rd, three B.
A Three B?
Q Three B.
A Oh, sorry. That's correct, 2009.
Q Okay, there's a series of checks you wrote to your brother; correct?
A Correct.
Q For the Brooklyn house account?
A That's correct.
MR. MARKS: I'd move the admission of three B.
MR. SMITH: No objection.
THE COURT: Exhibit three B is admitted.
(DEFENDANT'S EXHIBIT BBB ADMITTED)
BY MR. MARKS:
Q Three C is a $500 check to your brother?
A Correct.
Q You normally gave birthday gifts in cash -- in checks?
A When we give ch -- when we give birthday gifts, yes, we give checks.
MR. MARKS: I'd move the admission of three C.
THE COURT: Any objection?
MR. SMITH: No objection.
THE COURT: Exhibit three C is admitted.

(DEFENDANT'S EXHIBIT CCC ADMITTED)

BY MR. MARKS:

Q Three D is another ch -- series of checks to your brother?

A Correct.

Q And that says birthday on all of those?

A Yes, it says Happy Birthday, yes.

MR. MARKS: I'd move the admission of three D.

MR. SMITH: No objection.

THE COURT: Three D is admitted.

(DEFENDANT'S EXHIBIT DDD ADMITTED)

BY MR. MARKS:

Q Three E is a check to Cassandra, that's your sister?

A Correct.

Q And that was for her birthday?

A Correct.

MR. MARKS: I'd move the admission of three E.

MR. SMITH: No objection.

THE COURT: Exhibit three E is admitted.

(DEFENDANT'S EXHIBIT EEE ADMITTED)

MR. SMITH: Actually, three E is a series of checks, just for the record.

MR. MARKS: Correct.

THE COURT: Any objection?

MR. SMITH: No.

THE COURT: Exhibit three E is admitted.

BY MR. MARKS:

Q Three F is a series of checks --

A Yes.

Q -- to Stephanie, your sister?

A Yes.

MR. MARKS: I'd move the admission of three F.

THE COURT: Any objection?

MR. SMITH: No objection.

THE COURT: Exhibit three F is admitted.

(DEFENDANT'S EXHIBIT FFF ADMITTED)

BY MR. MARKS:

Q Three G, that's a reference to 128 North Edinburgh that you had seen; correct?

A I had seen this, yes.

Q And that's in the 6446 account, your joint account, correct?

MR. SMITH: Can we get some foundation as to time, Your Honor?

MR. MARKS: On 2/19/09 it was written.

BY MR. MARKS:

Q After you and Dennis started going through the

joint account, you saw a reference to this check at some point?

MR. SMITH: The question is ambiguous because -- as to when they went through the joint account. Is he saying that that was on 2/19/09?

MR. MARKS: No.

THE COURT: Could you lay foundation, Counsel.

MR. MARKS: Yeah.

BY MR. MARKS:

Q Is 6446 the joint account?

A Yes, it is.

Q Okay. And in going through the joint account records after July of 2010, did you come across a reference to 128 North Edinburgh?

A After July of 2010 I came across a reference, yes.

Q Okay. And that's what led you to drive in 2011 to 128 North Edinburgh?

A I drove to 128 North Edinburgh because Dennis told me the cars were parked in the driveway. It wasn't to see what I could see at North -- I was trying to verify that his parents' cars were in the driveway.

Q Okay. But you had -- you had learned about North Edinburgh from Dennis --

A As a vacant --

Q --and from the --

A Yes, as a vacant property.

Q And from the checks?

A Correct, yes.

MR. MARKS: I'd move the admission of three G.

THE COURT: Any objection?

MR. SMITH: No objection.

THE COURT: Exept -- exhibit three G is admitted.

(DEFENDANT'S EXHIBIT GGG ADMITTED)

BY MR. MARKS:

Q During the course of your marriage to Dennis, you would often have cash -- you had a certain amount of cash, either in your home or in your pocket; is that right?

A Yes.

Q And you would generally write checks to cash and cash them at the bank?

A For what period?

Q Well, I have checks from '09 through '13, but I thought you testified it would be your policy to carry cash.

A Yes.

MR. SMITH: Okay. Which question is it, I mean --

BY MR. MARKS:

Q Was it your policy to carry cash?

A Yes, I carry cash.

Q Okay, and if you go to Exhibit three H, there's a series of checks that you cashed for cash; do you see that?

A That's correct.

Q And there's some -- you would also do teller-assisted withdrawals?

A Correct.

Q At your bank, at Merrill Lynch, B of A?

A At Bank of America, yes.

MR. MARKS: Okay. I'd like to move the admission of three H.

THE COURT: Any objection?

MR. SMITH: No objection.

THE COURT: Exhibit three H is admitted.

(DEFENDANT'S EXHIBIT HHH ADMITTED)

BY MR. MARKS:

Q Okay. If you go to three K and you -- and start with the third page.

A Three K, 003?

Q Right, three K 003. Isn't this a stip and order that -- in which Dennis received certain -- he received the Wilshire condominium, and you received certain cash, which led to your purchase of the -- your home, your new home at --

A I ultimately used that cash for the home, yes.

Q Okay. And that was signed in August of 2015 by the

Judge. But you see my signature and Radford's signature?

A Yes.

MR. MARKS: I'd move the admission of three K.

THE COURT: Any objection?

MR. SMITH: No objection.

THE COURT: Exhibit three K is admitted.

(DEFENDANT'S EXHIBIT KKK ADMITTED)

BY MR. MARKS:

Q Three O.

A Yes.

Q This was a resume that you provided in the case?

A Yes.

MR. MARKS: I'd move the admission of three O.

MR. SMITH: No objection.

THE COURT: Exhibit three O is admitted.

(DEFENDANT'S EXHIBIT 000 ADMITTED)

BY MR. MARKS:

Q If you turn to three P.

A Yes.

Q These are answers to interrogatories that you provided in the case?

A Yes.

MR. MARKS: I'd move the admission of three P.

MR. SMITH: No objection.

THE COURT: Exhibit three P is admitted.

(DEFENDANT'S EXHIBIT PPP ADMITTED)

BY MR. MARKS:

Q Three Q is your response to the second set of interrogatories?

A Yes.

MR. MARKS: I'd move the admission of three Q.

THE WITNESS: Yes.

MR. SMITH: No objection.

THE WITNESS: Sorry.

THE COURT: Exhibit three Q is admitted.

(DEFENDANT'S EXHIBIT QQQ ADMITTED)

BY MR. MARKS:

Q Three R is the third set of interrogatories?

A Yes.

MR. MARKS: I'd move the admission of three --

THE COURT: Objection?

MR. SMITH: No objection.

MR. MARKS: -- three R.

THE COURT: Exhibit three R is admitted.

(DEFENDANT'S EXHIBIT RRR ADMITTED)

MR. MARKS: The Court's indulgence.

Your Honor, we had marked the emails, but since they are already in -- and we had also marked the tax

returns, I don't know if those should be joint exhibits or are you just going to say they're in from the Plaintiff, but we had marked all that.

MR. SMITH: I would -- just -- let me just make one note about the tax returns. What is missing is Mr. Marks had produced on February 15th certain signature pages --

MS. VARSHNEY: February 12th.

MR. SMITH: Oh, excuse me, February 12th, the last day of discovery, certain signature pages, and we'd like those signature pages to be part of the record as well for the tax returns.

THE COURT: Is that part of Plaintiff's exhibits?

MR. SMITH: It isn't.

MS. VARSHNEY: No.

MR. SMITH: But, Your Honor, again, we received these on the last day.

THE COURT: But it's -- so it's part of Defendant's exhibits?

MR. SMITH: Well, it would be -- Plaintiff's exhibits are the tax returns. Those exhibits -- I don't know if they are part of dec -- the just -- Defendant's exhibits, are they?

MR. MARKS: I don't know, I'll have to look them up.

THE COURT: Well, I --

MR. SMITH: They were produced in discovery.

THE COURT: Right. If you can -- I don't have a problem admitting it into the record but, for ca -- for my review, I guess what I'm looking at is, so that I'm not duplicating reading the same documents over.

MR. MARKS: Okay. I think, Your Honor, if I have other exhibits, I'll check, but I'll pass the witness right now.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. SMITH:

Q You were -- since we were talking about tax returns. You were asked about tax returns you signed. When was the last time you signed a tax return?

A I signed a tax return in 2014, but I hadn't been signing them for a number of years prior to that.

Q Do you recall when, prior to 2014, was the last time you signed one?

A I -- I believe I may have signed the last -- the last one when we were still hand-signing. I don't recall when the system converted to E-signature. I don't remember if I signed one early on.

(Whispered conversation)

MR. SMITH: Your Honor, I'm having marked the exhibits I just referenced in regard to the tax return signature pages, and if we could mark those as the next one.

(Counsel and Clerk confer)

BY MR. SMITH:

Q Okay. While we're doing that, Ms. Kogod -- Ms. Coiffe, Gabby.

A Yes.

Q When -- when you saw the checks made to Nadine Kievsky, did you ask Dennis about those checks?

A Yes, I did.

Q Do you recall what his answer was about those checks?

A He said that she was someone who was assisting in keeping up the house that was vacant on Edinburgh.

Q And did he explain to you what he had testified earlier, that the home was owned in part by the Russian Mafia?

A Yes, he did.

Q And did the name Nadine Kievsky fit into the scenario that he had provided to you?

A Yes, it did, sounded Russian.

Q All right. In regard to the -- these documents, I'm showing you what's been marked as -- first as Exhibit

119. Do you recognize that document?

A No.

Q On it, it appears it's -- I'm going to represent to you that it's a Form 8879, which is the E-filing signature page of a 2011 return filed on your behalf. And there's a signature that seems to read Gabriel Coiffe-Kogod, do you see that?

A I see it.

Q And it's dated 4/12/12.

A I see it.

Q Did you sign that document?

A No, I didn't.

MR. SMITH: All right. Move for the admission of 2011, Your Honor -- excuse me, Exhibit 119.

THE COURT: Exhibit 119. Any objection to the admission --

MR. MARKS: No.

THE COURT: -- of Exhibit 119?

BY MR. SMITH:

Q Do you have any idea who signed this document?

A I believe that looks like Dennis's handwriting.

Q And 120, do you recognize this document?

A No.

Q It purports to be the 8879 of your 2012 tax turn.

It shows a in -- income of over 21 million; do you see that?

A Yes.

Q And that number is consistent with the income that is contained on your 2012 tax return; correct?

A Yes.

Q There's a signature there under -- it says 9/25/13. Do you see that?

A Yes.

Q It appears to say Gabrielle Coiffe-Kogod, or some form of that. Is that your signature?

A No, it's not.

MR. SMITH: I'd move for the admission of Exhibit 120.

MR. MARKS: No objection.

THE COURT: Any objection?

MR. MARKS: No objection.

THE COURT: Exhibit 120 is admitted.

(PLAINTIFF'S EXHIBITS 119 AND 120 ADMITTED)

BY MR. SMITH:

Q Looking at Exhibit 20 -- 121, this purports to be a signature page from your 8879 2013 return. The income, I'll represent to you is consistent with your 2013 return. It again bears a signature that says -- what appears to say Gabrielle Coiffe-Kogod, but a handwritten date that appears

to be 9/20. It's very difficult to read. Is that your signature?

A No, it's not.

Q All right. For Exhibits 120 -- or excuse me 119, 120 and 121, did you see those tax returns at any time before they were filed?

A No, I did not.

Q Did you see those tax returns at any time prior to the commencement of this litigation?

A I did -- I did not. I re -- I specifically asked for certain --

MR. SMITH: Did I move for the admission of --

THE COURT: This is Exhibit --

MR. SMITH: Yes. I move for the admission of 121, Your Honor.

MR. MARKS: No objection.

THE COURT: Exhibit 121 is admitted.

(PLAINTIFF'S EXHIBIT 121 ADMITTED)

THE WITNESS: I don't believe I did.

BY MR. SMITH:

Q And your answer was you don't believe you did?

A I don't believe I did.

Q Okay, did you know between 2010 and 2013 what Dennis's income was?

A No, I did not.

Q In 2014 --

A Yes.

Q -- this is the -- also a signature page from the 8879 of your E-file signature authorization. This one bears a signature that's different from the others.

A Yes.

Q Is this your signature?

A That's my signature.

Q And you've signed this in or about October 12th of 2015?

A Yes, I did.

MR. SMITH: I'd move for the admission of 122, Your Honor.

MR. MARKS: No objection.

THE COURT: Exhibit 122 is admitted.

(PLAINTIFF'S EXHIBIT 122 ADMITTED)

BY MR. MARKS:

Q So why did you Google Dennis in 2011?

A I -- I don't recall today, sitting here, when I Googled him. I -- I remember just putting his name in, and the first -- the things that were coming up were DaVita, you know, business in other countries, and I remember just kind of scrolling through, just looking at what he's been doing. I

do -- I don't specifically recall the date right now.

Q Did you stay in this marriage afer 2010 because you thought were going to make money?

A No, I did not.

Q Why did you stay?

A I stayed in this marriage because I took vows. I took my vows seriously. I loved this person and he was my world. My -- my idea was that I was going to get married and get married for life, and that when things aren't as good as you'd like them to be, you work that out between yourselves, and that's what I stayed for.

Q When -- Well, then why did you file in 2013?

A I filed in 2013, it was after the discussions that we had where a banker -- we were trying to identify documents, and the property to put into the trust. And I learned at that time that Dennis had created a trust that was in the Kogod family name. I also had learned about the yacht that was in his father's name, and I became concerned that he was doing things with money, still, but those were getting -- those things, those assets that were being moved around were getting bigger than I was seeing checks.

They were suddenly properties, they were yachts. I had been seeing the cars early on when I saw check payments and I asked him about his -- he told me his son was driving

the Lexus, his mother drove the Mercedes, and I believed all of that up until that time.

Q The suggestion of the questions is that you simply chose to not believe them, or you were naive in not believing -- or excuse me, chose to not believe Dennis because of financial gain, or you were just naive in believing Dennis. Are either of those things true?

A I was not -- Would someone say I'm naive to not be seeing -- that wasn't my frame of reference. This was my husband. I wasn't investigating a bad nurse; I wasn't investigating somebody who was trying to pull something over on a hospital for money. It was my husband. I stayed because we were trying to fix the marriage.

Q You're Catholic?

A I'm Catholic.

Q The -- in his messages to you, that were shown to you by -- by Mr. Marks, Mr. Kogod constantly ins -- indicates that he wants to be alone; do you recall that?

A Yes.

Q Did that influence the way that you handled the situation at all, the fact that he was going to be alone?

A I was -- I was -- I was sad that he wanted to be alone, and I remember talking with my family about it. My frame of mind was, why -- why would you want to be alone at a

time like this. You're hurting, we're trying to fix something that we had for 19 years and now beyond, and I also was recognizing diagnoses that he told me about, the bipolar, the Asperger's, he said he was drinking, he was questioning his sexuality.

I gave him the respect of being alone, but I felt that this is painful for both of us. If there is any time for us to be trying to lean on each other and be together, then we need to do this, but I was still was trying to also recognize, I know you need to do this, but come on.

Q Just so the Court has a frame of reference --

A Yes, I'm sorry.

Q -- look at Exhibit 23, 12144.

A I'm sorry, 23? Okay.

Q In the bolded type that's in the middle of that page it says, I have to either commit to come home, take my place with you, or accept the fact that I'm going to be alone. Do you see that?

A Yes.

Q Then on the top of the page, same bolded. Come home to fix my wife, fix marriage or be alone?

A Yes.

Q And then it says on the second -- the next page, 2146, as much as I look for answers with Dr. Tucker and

Michelle, with you, or with all my alone time, I can't find them. Do you see that?

A Yes.

Q And he -- Finally, he indicates, I can't procrastinate any longer, it's finally time to make a grown-up decision. Either I agree I'm coming home or tell you I can't, and then we were going to decide that means and move forward with the divorce, or stay married and see if things change over time.

When you saw that sentence, was your idea that you were going to get a divorce?

A No.

Q At the end of this -- if you move to the next page, he indicates I -- at the top of the page, I love you, Gab, but I continue to retreat into my little world of just wanting to be alone.

A Yes, I see that.

Q And then he indicates that -- in the lower half of the page, if the answer is yes, I have to come home. We cannot do this from afar any longer, a few hours, or even days -- or even a day a week.

He says, if I can't call you and say I'm ready to come home, then we need to discuss whatever the next steps are; and at the risk of being redundant, I'm not going to go

into this with a decision that divorce is the only option.

What did you take -- What meaning did you take from that statement?

A Then we need to discuss this, and he's not going to go into it thinking, I've made up mind; this is what I'm doing, I'm going to get a divorce, but yet still go through the motions of what we were doing.

Q Did you think of divorce during this period of time when you read this?

A No.

Q And in the -- and in -- just a couple other things. He had indicated in the next page, I love you, Gab. I think about you every day. I'm so sorry for the hurt and pain and humiliation and anger I've caused you.

A Yes.

Q Do you see that?

A Yes.

Q When he made statements like that, and I think we've seen through this process he made them consistently, what did it -- what -- how did you feel about that?

A Those were the reassurances that he had a recognition of what this was doing to us, and it felt like, okay, he's getting it, but then it was still frustrating because he would then, you know, undo or -- or not follow

through with something that he said. But I was grasping for things like this.

Q What do you mean, you were grasping?

A Because I needed to have hope. I needed to feel that we're both in this. We took vows, this is something that you -- you go through the counseling, and he's showing me counseling, we're having conversations. There are gaps in emails that I see that there are some of those emails I've been shown, where I say, we haven't talked for a period of time.

But, once we had that email, if there's a gap, we were talking on the phone. We -- he was driving when the phone calls happened, because that was what we discussed in counseling, and that was, you have to let him make the steps, between the Asperger's and everything else, this is what you need to do. He needs to take it at his pace.

MR. SMITH: I'll pass the witness.

MR. MARKS: I have a couple of follow-ups.

THE COURT: Okay. Recross?

MR. MARKS: Thank you, Your Honor.

RECROSS EXAMINATION

BY MR. MARKS:

Q Staying on the same exhibit, 12144 to 12148, that's dated May 4th of 2011; correct? 12144.

A Correct.

Q So in May of 2011, that's less than a year after you found out about the divorce filing by Dennis; correct?

A That's correct.

Q And it's before I showed you those emails in June, when you were get- -- earlier today, when you were getting, obviously, frustrated?

A Yes.

Q So, in these four pages, Dennis is saying, essentially, either I have to come home or not; correct, that's one of the things he's saying. I either have to commit to come home, take my place, or accept the fact that I'm going to be alone. That's on 12144; do you see that?

A Yes, I do.

Q And he also mentions divorce, even though he says, I'm not going into this with a decision that divorce is the only option. The word divorce is (indiscernible), correct?

A Yes.

Q Okay. So we're in May of 2011. He never came home to live with you as husband and wife in 2011; correct?

A Correct, he did not come home.

Q He never came home in 2012; correct?

A Correct.

Q Counseling, by your own statement earlier today

ended in around April of 2012; correct?

A That's correct.

Q And after counseling ended, he still didn't come home; correct?

A That's correct.

Q And he didn't come home in all of 2013?

A That's correct.

Q And then you filed for divorce in 2013 and there was the whole negotiations, or whatever going on, through 2014; correct?

A Correct.

Q And then things started moving in court, I think in the end of 2014 and the beginning of 2015; isn't that correct?

A That's correct.

Q Okay. You did sign the 2014 tax return; correct?

A That's correct.

Q And in 2014 Dennis made some multiple millions of dollars, didn't he?

A Yes.

Q He made over $14 million; correct?

A Yes.

Q Okay. And you knew who Paul Bleeg was; correct?

A I saw in an email Dennis referenced Paul Bleeg or

Paul Bleeg, I'll get this to Paul Bleeg, he's the one that's been doing our taxes.

Q You didn't call Paul Bleeg for information regarding your taxes; correct?

A No; I didn't, no.

Q Prior to '11 or prior to the e-filing system, isn't it -- hadn't you generally signed and kept copies of the tax returns?

A I -- I remember hand-signing, like, with Allen Scazzero. I can't say the exact years that I was doing that, but --

Q But for years, right?

A Since we were married in 1990.

Q So, in '11 --

A Correct.

Q -- you would have given Dennis your W-2 information, correct --

A Yes.

Q -- because you had been working at the same job?

A Yes.

Q And you would have given him any interest in your accounts, when you get the little 1099s, in January from the prior year; correct?

A Yes. Yes.

Q So at some point, for '11, '12, '13, even if you didn't sign the return, you were giving him the information and you were comfortable that returns were being filed; correct?

A Yes. Yes.

Q All right. Other -- before this case, there was -- you didn't contact Paul Bleeg --

A No.

Q -- and request, where's -- what happened, where are my taxes, or what's going on; correct?

A Correct.

Q All right. Now, counsel said, I don't want to get into a huge religion or theological -- he said you're Catholic. You don't -- you -- in your marriage to Dennis, you didn't regularly practice Catholicism, go to church every week, or anything like that; correct?

A I didn't go to church, that's correct.

Q Okay. All right. You're not saying your religion prohibited you from getting a divorce, are you?

A No.

Q Okay.

A I'm not.

MR. MARKS: I'll pass the witness.

//

FURTHER REDIRECT EXAMINATION

BY MR. SMITH:

Q Did your religion affect your view of divorce?

MR. MARKS: Objection, relevance.

THE COURT: Overruled.

THE WITNESS: My religion did, because I think I have a very deep faith, and I think it drove my parents in their marriage, and I feel that I respected what my parents did in their marriage and how they kept it together, and so, yeah, I believe my faith affects my marriage.

BY MR. SMITH:

Q When did -- When did you learn of Paul Bleeg?

A I -- I can't remember if it was in 2012 or 2013, but it was an email that Dennis shared. I thought it was in the packet of things I had looked at where he wou -- either Dennis was asking me to send him the packet, or there were documents that we would get in the mail about tax in other states.

Q Okay, so --

A And I would -- I'm sorry.

Q Prior to Mr. Bleeg, you used someone else, you mentioned a name?

A Yes, Allen Scazzero.

Q Until what year did you use Scazzero?

A I -- I want to say May of -- I know that Dennis wanted to continue using him, because he knew the finances and had been following --

Q So what year?

A So I think it was 2000 -- it was either '09 or '10.

Q Okay. So the ones that you didn't see or sign, but were signed by you by someone --

A Correct.

Q -- were 2011, when Mr. Kogod made $15 million; 2012, when he made $21 million; and 2013, when he made 7 million; correct?

A Correct.

Q And the years that were -- the year of 2014 was actually signed while this litigation was pen -- was going on and I was your counsel; correct?

A Yes.

MR. SMITH: All right. Nothing further.

MR. MARKS: I had a question, Your Honor. A followup.

THE COURT: Okay.

FURTHER RECROSS EXAMINATION

BY MR. MARKS:

Q You're not saying you didn't file for divorce because of Catholicism, are you?

A N -- no. I did not file --

Q Okay.

A -- my religion did not have anything to do --

Q And you don't practice weekly, the rituals of Catholicism; correct?

A I don't go to church, that's correct.

MR. MARKS: All right. Nothing further.

THE COURT: All right, you may step down. Thank you.

THE WITNESS: Thank you.

MR. SMITH: Time, Your Honor?

THE COURT: You're just beyond 7 hours that you've used.

MR. MARKS: How about us?

THE COURT: You are -- four hours. Just over four hours.

MR. SMITH: We'd call Jenny Allen.

THE COURT: Okay. You may --

THE CLERK: You do --

THE COURT: Oh, sorry, go ahead.

THE CLERK: You do solemnly swear the testimony you're about to give in this action shall be the truth, the whole truth and nothing but the truth, so help you God?

MS. ALLEN: I do.

THE COURT: You may be seated.

Counsel, you may proceed.

JENNIFER ALLEN

called as a witness on behalf of the Plaintiff, and being first duly sworn, testified as follows:

BY MR. SMITH:

Q Please state your name.

A Jennifer Allen.

Q Ms. Allen, how are you employed?

A I work with Anthem Forensics.

Q And you were hired as -- Anthem Forensics was hired as expert in this case to perform a -- some forensic accounting; correct?

A That is correct.

Q If you'll turn to Exhibit 54 in Volume III.

A I don't -- I think I -- One, two -- oh wait -- four -- I don't.

Q Volume III.

A Believe I have that one too. What Exhibit was that?

Q Fifty-three. Excuse me, 54, I'm sorry.

A Yes.

Q Do you recognize this document?

A I do.

Q And you've had experience in forensic accounting?

A I do.

Q How long have you worked in that field?

A Approximately seven years.

Q And you've -- you are a licensed certified public accountant with the Nevada State Board Accountancy?

A I am.

Q And you have written certain articles associated with, Business Valuation of Forensic Accounting, as set forth in your CV?

A I believe it's Forensics Accounting, not Business Valuation; but, that's correct.

Q All right. And you were -- Well, actually, there was one on Business Valuation Parameter for Management Accountants, and then there's two on forensic accounting (indiscernible) but --

A Those were speaking engagements, but, yes.

Q Speaking engagements, all right. Oh, I see, thank you.

And you've also listed cases in which you've been named as an expert, Fernandez and Bastion?

A That is correct.

Q Fernandez was a valuation case?

A Yes.

Q Was Bastion a forensic case?

A Yes.

Q You've aided Joseph Leauanae, your -- who is also with you at Anthem Forensics?

A That is correct.

Q And you aided him in this case to prepare a report?

A (No audible response)

MR. SMITH: I would move for the admission of Ms. Allen as an expert in area of Forensic Accounting.

MR. MARKS: May I voir dire the witness?

THE COURT: Yes, you may.

VOIR DIRE EXAMINATION

BY MR. MARKS:

Q You've listed on your CV two cases Fernandez v. Fernandez; was that a deposition or court?

A That was trial testimony.

Q And that was on a business valuation?

A Yes.

Q And how long ago was that?

A I believe that was in September, 2014.

Q And Bastion, when was that?

A I want to say that was February or March, 2015.

Q And was that trial or a deposition?

A That was trial testimony.

Q And what court was it?
A It would have been in front of Judge Duckworth.
Q Okay. And it was in 2015?
A Yes.
Q Okay, and when did you become certified as a CPA?
A I became licensed in, I believe, May 2015.
Q So as I understand your CV, you've testified in court twice. Are you listing your deposition testimony at all?
A I have not been deposed.
Q Okay. So you've had two court -- you've had two court testimonies, one on forensic?
A That is correct.
Q Where you were accepted as an expert by Judge Duckworth?
A That is correct.
Q Okay, and how long have you been a CPA, I'm sorry?
A I was licensed in May, 2015.
Q And when was your court testimony?
A The Fernandez case, that was, I believe, September of 2014, and then Bastion was February or March of 2015.
Q So you testified in Bastion before you were licensed?
A I was testifying as a forensic accountant, not as a

certified public accountant.

MR. MARKS: Okay. Those are all the questions.

I don't have any objection to you accepting her as an expert.

THE COURT: Okay. All right. The Court recognizes the witness as an expert.

BY MR. SMITH:

Q So you and Mr. Leauanae took different roles in the preparation of your report, correct?

A That is correct.

Q Okay. I'm going to have you explain it, but first we're going to get the rule -- the reports in the record, okay?

A Okay.

Q Okay, let's look at 56. This was an initial report that appears to be prepared by Anthem Forensic by you and Mr. Leauanae at that time?

A That is correct.

MR. SMITH: I would move for the admission, Your Honor, of the report of November 17th, 2015, that is Exhibit 56.

THE COURT: Any objection to the admission of Exhibit 56?

MR. MARKS: Your Honor, I have -- I thought they

had replaced -- As I understood it, 57 replaced sep -- the report dated December 15th, after we argued this in front of the Discovery Commissioner, I thought Exhibit 57 replaced Exhibit 56?

MR. SMITH: And I know this Court has a habit of looking at Discovery Commissioner hearings. It was very clear that wasn't a complete replacement, it was certainly an update. We explained all that. There was no limitation in that regard placed on -- by the Discovery Commissioner. The December 15th report is going to come in as well, and I'm going to have Ms. Allen explain the differences.

THE COURT: Okay.

MR. MARKS: Your Honor, I think they have to lay a better foundation. We had an objection to certain parts of the report that we're not stipulating to come in, specifically, the unallocated, we don't think meets the standards in Nevada and we put that in our pretrial. I don't want to stipulate, I think they need to lay much more foundation for it.

THE COURT: Okay. If you'll lay more of a foundation, Counsel.

So the objection is sustained.

MR. SMITH: Okay, I'm going to move to the -- to 57.

THE COURT: Okay.

MR. SMITH: Well, you know, I'll start with 56, excuse me, Your Honor.

BY MR. SMITH:

Q All right. Let's look at 56. When were you hired, if you recall, by our firm in this matter?

A I believe we were initially retained in about January, 2015.

Q And what were the assignment that you were given?

A To perform forensic accounting services.

Q Do you recall the nature of the services that were discussed with you in re -- as part of your assignment?

A It was basically three components. One was analyzing the transaction activity within the accounts, during the period of marriage; and, two, ana -- identifying assets for the purpose of the marital balance sheet; and, three, to analyze the income received by Mr. Kogod.

Q Okay. The -- On the first notion -- Well, let me ask this. Does your report of November 17th include the analysis that you performed initially in regard to those three areas?

A It does.

Q Okay. What did you do -- Well, let's start with the last one. What did you do to analyze the income of Mr.

Kogod?

A It involved analyzing the SCC filings, I believe the proxy statements that are published, since it's a publicly traded company. Analyzing those to determine the different components of income, bonuses and various stock options.

Q And in regard to the second part of the analysis, the analyzing or creating a marital balance sheet, how did you go about that task?

A We started initially with the assets that were disclos- -- the assets and liabilities that were disclosed, I believe, on both parties financial disclosure forms. As the case progressed, through our tracing analyses, any -- including any assets and liabilities to that initial marital balance sheet that weren't previously disclosed.

Q And the first aspect, the forensic accounting portion of it, what were you assigned to do in that portion?

A We were asked to review the -- again, the account activity within the accounts that were produced, and try and determine different -- who benefitted from the dif -- various transactions within those accounts; and, specifically, the purpose at the Court's direction, analyzing activity that may have been for the benefit of Ms. Khapsalis and the children. And I believe, also, on a separate list, we were asked to

identify the payments that benefitted Mr. Kogod's family.

Q And how did you go about performing that service?

A It's a iterive (sic) process, you know. We start with the bank statements, credit card statements that are produced, there's various stages in the analysis where we're doing data entry, putting the information on those statements into our various templates, analyzing that information, requesting additional support for the information, requesting additional -- or missing bank statements and credit cards and, ultimately, coming up with questions that were a part of the interrogatories, part of the depositions that we attended, and analyzing who could have benefitted from those transactions.

Q In performing the forensic counts -- accounting analysis, how did you structure your report?

A If we refer to the report, I believe there it's broken out into various components. Starting with Exhibit 2 -- Now, are we referring to the November 17th report, still?

Q We are --

A Okay.

Q -- but I want you to just talk about generally how you went about that structure, so that we can then seek to have -- lay the foundation for the report, and address Mr.

Marks' concerns (indiscernible).

A Sure. One of the components that we've segregated out was transactions that we knew -- were able to identify directly benefitted Ms. Khapsalis and the children, through the deposition testimonies, through the transactions themselves, or pertaining to location, or pertaining to whose account the transactions occurred on. Given that Ms. Khapsalis only, I believe, received a credit card in -- sometime in 2011, we also knew that there was transactions that Dennis may have paid for that would have been for the benefit of Ms. Khapsalis and the children.

So we did an analysis of analyzing the account activity within Dennis's accounts to try and ascertain the amount of excess, over and above what he reports as his expenses, that may have been for the benefit of other individuals.

We also analyzed the expenses related to the yacht -- the two yachts.

We analyzed the transaction activities related to Ms. Steiner, and the transactions related to the family members.

Q Okay. I appreciate the speed in which you're proceeding, but I want to break that down, because one of the sections was referenced by Mr. Marks as objectionable.

A Okay.

Q So the first section, as I understand , are just things that you believe the evidence and records that you reviewed showed -- were specifically related to expenses for Ms. Khapsalis and the children, correct?

A That is correct.

Q All right. The second form of entries were, I think, associated with -- in going through the sections of your report. I think the next section addressed the Jennifer Steiner-related out flows?

A That is correct.

Q Okay. And those were related -- and those were determined in part from the records, but in part from statements and evidence provided by Mr. Kogod in his interrogatory responses, and the deposition of Ms. Steiner; correct?

A That's correct.

Q And then you also did a -- this was -- You did a yacht-related outflows that were related to the two yachts Mr. Kogod had purchased during the time of the marriage; correct?

A That is correct.

Q And those were based upon your analysis, again, of the records associated with the payments associated with the

yacht and then the attendance of depositions of those folks who actually rode in the yacht with Mr. Kogod, the parents, the brother, the brother's wife and the wife; correct?

A That is correct.

Q And then there was a category that you called Assessments of Potential Community Waste, Not Elsewhere Classified in This Report, and that is the -- I believe, the portion that is objected to by Mr. Marks. So I want you to walk me through somewhat carefully and slowly, exactly what you did and why you did that section in that manner.

A When we began the analysis, we were given the credit cards that -- and the bank statements and investment accounts that are produced. We start by analyzing the activity within the -- those accounts. As the engagement proceeded and we attended the deposition testimony, we became aware of who may have had access to different accounts and at what times, which allowed us to say, if accounts held in Gabby's name for her credit cards, we knew, based on the testimony, that it was only used by Gabrielle, and accounts held by Ms. Khapsalis were only used by Ms. Khapsalis.

But then there was accounts that Dennis used, and a joint account, the bank account 6446, that Dennis had access to, in which he made transactions, payments, that may or may not have just benefitted Mr. Kogod. So we analyzed those

accounts, to the extent that the activity within those accounts were not just for the benefit of Mr. Kogod, that they were for the benefit of others, potentially Ms. Khapsalis and the children.

Q How did you go about that? One way to go about that would be to look at every single entry and try to determine who benefitted from it; correct?

A That is one way to know.

Q Was that practical in this case?

A That is -- There was over 27,000 transactions in this limited time period, so that would not be practical.

Q Okay, what was the time frame that you were using for your analysis?

A We only received bank statements dating back to March, 2008, so our analysis is -- doesn't go back as far as we had requested information for.

Q In that analysis, how -- So since you didn't look at every single transaction to determine whether or not -- and follow through with that transaction to determine there was a receipt, correct, what did you do? How did you -- What did you come up with reasonably to give a forensic view to the Court, as to money that was spent by Mr. Kogod on himself, versus money that he had spent or gifted to others?

A An example of that would be if there was grocery

charges on Mr. Kogod's accounts, those grocery charges, as has been argued, that may have benefitted Mr. Kogod, or may have benefitted other individuals. We based what may have been related to Mr. Kogod, based on his FDF, I believe it was his May FDF, and also his deposition testimony. I believe it was the first deposition where he did state that he may have spent $250 a month on himself, may be reasonable for groceries.

So one adjustment we would do would look at the total amount that we've allocated as groceries paid by Mr. Kogod, and then make an adjustment based upon his testimony, that $250 was for the benefit of Mr. Kogod. The excess would then be on Exhibit 6.

Q The -- In November 17th, 2015, there were a couple of components missing to your report in the sense that there was ongoing discovery, do you recall that?

A Yes. At the time I issued the report, I believe Mr. Kogod's second deposition had been bumped to happen after the -- our deadline.

Q The deadline for the reports was November 17th, correct?

A I believe we got a one-week extension, but that was our deadline.

Q Yes, that's right. And then you -- there was also

an agreement that there would be a supplemental report, based upon the new information that was learned through discovery, particularly, Mr. Kogod's deposition?

A That was my understanding.

Q And -- but Mr. Kogod's second deposition -- Well, we'll stay with the November 17th report. So the November 17th report doesn't include the information gained at Mr. Kogod's second deposition; correct?

A And Ms. Steiner's deposition.

Q Right. And then there were also, I think, additional documents that were provided in the meantime?

A There has been documents produced all the way up until, I believe, February 12th.

MR. SMITH: Okay. And -- and -- all right, so based on that foundation, Your Honor, I would -- I would move for the admission of Exhibit 56.

MR. MARKS: Your Honor, I would like to voir dire on the Unallocated.

THE COURT: Okay. You may do so.

VOIR DIRE EXAMINATION

BY MR. MARKS:

Q As I understand the Unallocated --

(COUNSEL CONFERRED BRIEFLY)

MR. SMITH: This is on his time, right?

THE COURT: It is.

MR. SMITH: Okay. Thank you.

BY MR. MARKS:

Q You have $3.6 million in unallocated; correct?

A In the December report, yes.

Q And that's the one we're looking at, Exhibit --

A I'm currently on Exhibit 56, which is the November report, but --

MR. SMITH: The report that I sought to admit initially was number -- was the 56, and that's what we're discussing now.

BY MR. MARKS:

Q You haven't replaced 57 with 56?

A In relation to Exhibit 6?

Q Yeah.

A The December report would be the updated exhibit.

Q Excuse me?

A The December report would be the updated Exhibit 6. Not -- the entire December report doesn't entirely replace the November report.

MR. MARKS: Okay. I don't want to waste my time, then, because my understanding, Your Honor, is the December report is the one I deposed Joe on; that's the one I understood replaced the November report.

MR. SMITH: Again, I --

MR. MARKS: I don't think unallocated -- unallocated -- let me just ask a couple of voir dire, and then you will rule.

BY MR. MARKS:

Q In the Unallocated, you took Dennis's financial disclosure form that he filed, when?

A I believe at the time we issued the report, the most recent FDF we had was in May, and I believe there was discussion in the first deposition about him updating his FDF, but that was not updated until sometime in February.

Q Okay. So you used a May, 2015?

A That was the most recent one we had at the time.

Q Okay. And you -- And you understood the financial disclosure form was a snapshot speaking as of a certain date, correct?

A That was my understanding.

Q Okay. And you used the financial disclosure form and extrapolated as if those were reasonable expenditures over the period that you were analyzing, which was eight years, from 2008 to the present; correct?

A In addition to Mr. Kogod's deposition testimony.

Q Okay, but I'm talking about the way you use the FDF.

A For some of the adjustments on Exhibit 6.

Q Okay. You use the FDF extrapolating over an eight-year period, not just as a snapshot; correct?

A For some of the adjustments.

Q For some of the adjustments on Exhibit 6 that were illegible. You have a category, Illegible; is that correct?

A I believe we have a category, Uncategorized.

Q Do you have a category where you didn't get the checks, there were some checks from '08 that you couldn't get from the bank; correct?

A And based upon Mr. Kogod's deposition testimony that he didn't recall what those checks were for.

Q You put them under Unallocated?

A Under a note three, based upon our report.

Q But you put them on Unallocated?

A Given that we needed additional information to make an assessment.

Q Isn't that correct?

A Uh-huh.

Q Okay. As part of the entries on Exhibit 6, which is the unallocated, are places where you need more information that you didn't have; correct?

A That we did not receive from Dennis through his deposition, or through his expert.

Q But you still put them in a category of Unallocated Potential Community Waste; correct?

A That is correct.

Q Then there's also checks you just couldn't get because the bank didn't keep them or Dennis didn't have them, and you put those on; correct?

A Those are included on Exhibit 6.

Q Okay. And you also put car expenses beyond what Dennis put on his financial disclosure form, you extrapolated over an eight-year period for car expenses, correct?

A I don't believe that's how the car expenses is allocated.

Q You put shopping. All the shopping that you couldn't allocate, you put as unallocated, correct, that was on Dennis's credit card.

A With an adjustment. Not all of the shopping, but specific shopping that -- with an adjustment based upon his testimony as -- in the deposition.

Q Or his FDF?

A Yeah.

Q You worked very closely with the Plaintiff in looking at receipts?

A In looking at receipts, no, I did not.

Q In looking at what, various charges?

A When I met with Gabrielle, it was to mitigate the -- the transactions that we were including in our analysis, so trying to gain an understanding of what transactions were for her, what transactions were for the marital residence, and trying to eliminate those from our analysis, so that we weren't asking questions about those and including those in our analysis.

Q Okay. On Exhibit 6 you have an adjustment of $273,000 for Auto-Related GMAC --

MR. SMITH: Judge, I'm trying to understand how this is anything but cross examination. This is not a Daubert examinazation (sic) -- examina --

MR. MARKS: Because if --

MR. SMITH: Or, excuse me, Flynn examination. It's -- it's not for the --

THE COURT: State the evidence of your objection.

MR. SMITH: The objection is that this is not a proper voir dire of an expert's admission of testimony.

MR. MARKS: The methodology --

THE COURT: It's the admission of the report.

The objection is overruled.

I do need to wrap up today, though, so I don't know how much longer you have, Mr. Marks?

MR. MARKS: I'll just wrap up today and pick it up.

The problem that I have is, if you read the Rodriguez case, the Fiesta Palms, the expert has -- you're the gatekeeper. The expert has to testify to a degree of certainty. It just can't be, we don't have the information, so we're putting it up -- on -- as Community Waste. We don't know this, so we're putting it as Community Waste. There has to be a sufficient certain nexus, the methodology of multiplying an FDF by eight years.

Nobody that fills out an FDF today thinks it's relevant from 8 years ago, multiplying and dividing it. That is just so specious, that you can't take that as a legitimate expert report for the unallocated portion.

MR. SMITH: Well, Your Honor, all of the issues that Mr. Marks has raised, are addressed in the report. In other words, any conclusion he's come to about what he thinks is specious, is addressed by the report itself. So this isn't anything but his attempt to cross examine the witness and -- and to try to undermine the report before you hear from the witness.

This is not proper voir dire of the admissibility of the report.

MR. MARKS: It is for this reason, Your Honor -- they put --

MS. SMITH: The forens -- may I finish?

Forensic accounting is a -- an art that's (sic) identifies mass data and picks out criteria of that data for the purpose of analysis and presentation to the Court. That's what was done here.

This data was filtered through the notion that we can't look at every transaction and follow a rate, but we can look at what Dennis has identified himself as his spending over the course of this period of time, and segregate those things that were beyond his own allocation of spending --

MR. MARKS: Your Honor --

MR. SMITH: And that's what's being done.

MR. MARKS: This is the --

MR. SMITH: That, as a forensic analysis, is the -- the function of the accountants to go through and present that testimony.

THE COURT: Okay. I'm --

MR. MARKS: I haven't finished the voir dire.

THE COURT: I'm -- listen, I'm done. I'll allow you to continue tomorrow, I'm not -- I'm not cutting it off, so we'll pick up, but we're done for today.

THE COURT: Is it possible to start at 8:30 tomorrow?

MR. SMITH: Sure.

MR. MARKS: Sure.

THE COURT: Is that okay?

MR. MARKS: Yeah.

THE COURT: So we'll resume at 8:30. Again, you can leave whatever you need to here, we'll lock it up and we'll -- we'll see you tomorrow morning at 8:30.

(PROCEEDINGS CONCLUDED AT 16:57:51 p.m.)

* * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the digital proceedings in the above-entitled case to the best of my ability.

Adrian Medrano

Adrian N. Medrano

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IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD, Case No. 71147

Appellant,

vs.

GABRIELLE CIOFFI-KOGOD,

Respondent.
_____/

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX
Volume 7

Docket 71147 Document 2017-11537

DOCUMENT	VOLUME	PAGE NO.
Acceptance of Service filed on April 24, 2014	1	14
Acceptance of Service Filed on November 6, 2015	2	394
Amended Notice of Cross-Appeal filed on September 23, 2016	46	9032-9148
Answer to Complaint for Divorce and Counterclaim filed on November 24, 2014	1	19-24
Case Appeal Statement filed on August 23, 2016	44	8590-8593
Case Appeal Statement, filed on December 13, 2016	47	9287-9290
Case Cross-Appeal Statement filed on September 21, 2016	46	9028-9031
Case Cross-Appeal Statement, filed on December 23, 2016	47	9298-9301
Certificate of Service filed on March 2, 2015	1	66
Certificate of Service filed on June 2, 2015	1	85-86
Certificate of Service filed on January 25, 2016	4	712
Certificate of Service filed on June 21, 2016	42	8082
Certificate of Service filed on September 14, 2016	45	8704-8802
Certification of Copy of Exhibits Presented at the 2/23/16-2/26/16 Non-Jury Trial, dated December 8, 2016	10	1876-1894
Certification of Copy Clerks List	41	7980-7983
Complaint for Divorce filed on December 13, 2013	1	1-6
Defendant's Closing Brief filed on August 1, 2016	43	8415-8473
Defendant, Dennis Kogod's, Reply to Plaintiff's, Gabrielle Cioffi-Kogod's, Opposition to Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the deposition of Jennifer Crute Steiner and Opposition to Plaintiff's Countermotion for Attorney Fees and Costs filed on June 25, 2015	1	151-178
Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	1	87-110
Defendant's Exhibits Vol. I:	33	6161-7979

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit D- Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	33	6162-6209
Defendant's Exhibit F- Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	33	6210-6215
Defendant's Exhibit S- Bank of America Joint Checking Account Ending 6446 Statement From December 1, 2015 to December 31, 2015	33	6216-6223
Defendant's Exhibit T- Bank of America Checking Account ending in 0129 Statement from December 1, 2015 to December 31, 2015	33	6224-6229
Defendant's Exhibit U- Wells Fargo Complete Advantage Checking Account Ending 5397 Statement from January 9, 2016 to February 5, 2016	33	6230-6239
Defendant's Exhibit V- Wells Fargo PMA Account ending 8870 Statement from January 9, 2016 to February 5, 2016	33	6240-6242
Defendant's Exhibit W- UBS Trust – Fee Base ending 743 Statement From January 2016	33	6243-6252
Defendant's Exhibit X- UBS Checking ending 745 Statement for January 2016	33	6253-6264
Defendant's Exhibit Y- UBS Trust – PWS/GAM ending 134 Statement for January 2016	33	6265-6282
Defendant's Exhibit Z- UBS Stock Option ending 999 Statement for January 2016	33	6283-6290
Defendant's Exhibit AA- Merrill Lynch Ending 588 Statement from December 01, 2015 to December 31, 2015	33	6291-6360
Defendant's Exhibit BB- UBS Trust – Fee Base ending 43 Statement for January 2016	34	6361-6368
Defendant's Exhibit CC- Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	34	6369-6372
Defendant's Exhibit DD- Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	34	6373-6375
Defendant's Exhibit EE- Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015	34	6376-6378
Defendant's Exhibit LL- UBS Premier Variable Credit Line ending 027 Statement for January 2016	34	6379-6384

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit MM- American Express Centurion Account ending 3005	34	6385-6396
Defendant's Exhibit NN- American Express Platinum Account ending 2003 Statement from January 18, 2016 to February 6, 2016	34	6397-6401
Defendant's Exhibit OO- American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	34	6402-6406
Defendant's Exhibit PP- Master Card Account ending 1588 Statement From January 07, 2016 to February 06, 2016	34	6407-6412
Defendant's Exhibit QQ- Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	34	6413-6419
Defendant's Exhibit RR- Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	34	6420-6423
Defendant's Exhibit SS- Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	34	6424-6427
Defendant's Exhibit TT- Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	34	6428
Defendant's Exhibit UU- Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	34	6429-6431
Defendant's Exhibit VV- Nordstorm Account ending 992 Statement from November 13, 2015 to December 13, 2015	34	6432-6436
Defendant's Exhibit WW- TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016	34	6437-6439
Defendant's Exhibit XX- Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, Filed February 25, 2015	34	6440-6456
Defendant's Exhibit AAA- Email from Eugene to Dennis Dated: February 12, 2012	34	6457-6459
Defendant's Exhibit BBB- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: House	34	6460-6464
Defendant's Exhibit CCC- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: Misc.	34	6465-6467
Defendant's Exhibit DDD- Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	34	6468-6470
Defendant's Exhibit EEE- Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	34	6471-6473

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit FFF- Various Checks from Gabrielle to Stephanie Cioff Re: Stephanie's Birthday	34	6474-6476
Defendant's Exhibit GGG- Check from Dennis to Escrow of the West Re: 128 N. Edinburch	34	6477
Defendant's Exhibit HHH- Various Checks from Gabrielle to Cash	34	6478-6496
Defendant's Exhibit III- Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	34	6497-6507
Defendant's Exhibit KKK- Notice of Entry of Stipulation and Order Filed on August 12, 2015	34	6508-6513
Defendant's Exhibit LLL- Email from Dennis to Gabrielle Dated: December 8, 2011	34	6514-6515
Defendant's Exhibit NNN- Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	34	6516-656
Defendant's Exhibit OOO- Gabrielle Kogod's Resume	34	6561-6564
Defendant's Exhibit PPP- Plaintiff's Response to Defendant's First Set of Interrogatories Dated May 18, 2015	35	6565-6589
Defendant's Exhibit QQQ- Plaintiff's Response to Defendant's Second Set of Interrogatories Served on October 20, 2015	35	6590-6597
Defendant's Exhibit RRR- Plaintiff's Response to Defendant's Third Set of Interrogatories Served on October 29, 2015	35	6598-6603
Defendant's Exhibit SSS- Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	35	6604-6683
Defendant's Exhibit TTT- New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	35	6684-6706
Defendant's Exhibit UUU- Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	36	6707-6906
Defendant's Exhibit UUU- Continued Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	37	6907-7034
Defendant's Exhibit VVV- Davita Power Point Regarding 2015 Long Term Incentive Program	37	7035-7041

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit XXX- Davita Cash Performance Award Agreement, Exhibit B	37	7042-7048
Defendant's Exhibit YYY- Email from Radiology Partners regarding 2014 Tax Compliance	37	7049-7059
Defendant's Exhibit ZZZ- Radiology Partners Member Equity Statement Dated: July 31, 2015	37	7060
Defendant's Exhibit AAAA- Radiology Partners Practice Update, Dated July 31, 2015	37	7061-7067
Defendant's Exhibit FFFF- Kogod Equity Analysis of Dennis' outstanding Long-term incentives (Equity Bases and Cash-Based) and Explanation	37	7068-7070
Defendant's Exhibit GGGG- Thomasina Distribution Agreement	37	7071-7126
Defendant's Exhibit HHHH- Pray for Ukraine Agreement Dated: October 16, 2014	37	7127-7132
Defendant's Exhibit IIII- UBS Resource Management account Ending 899 Statement for February 2016	37	7133-7134
Defendant's Exhibit JJJJ- 2015 W-2 issued to Dennis L. Kogod	37	7135-7137
Defendant's Exhibit KKKK- Principle Life Insurance Company Statement for February 18 2016	37	7138-7139
Defendant's Exhibit LLLL- Email from Denise to Dennis Kogod	38	7140
Defendant's Exhibit MMMM- Filing with US Security and Exchange Commission	38	7141-7142
Defendants Exhibit NNNN- Email 2/23/16 Re: Award of 76,766 Shares And Sale of $33,290 Shares for Tax Purposes	38	7143-7144
Defendant's Exhibit OOOO- Assets & Debt Chart	38	7145-7148
Defendant's Exhibit PPPP- Martial Balance Sheet	38	7149-7151
Defendant's Exhibit QQQQ- Costs & Fees Through 1/31/16	38	7152-7174
Defendant's Exhibit RRRR- Jimmerson Fees	38	7175-7340
Defendant's Exhibit SSSS- Depo of Eugene Cioffi February 05, 2016	39	7341-7450
Defendant's Exhibit TTTT- Depo of Stephanie Cioffi February 05, 2016	39	7451-7467
Defendant's Exhibit UUUU- 9716 Oak Pass Appraisal	42	8042-8061

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit VVVV- Jennifer Bosco Resume	42	8062
Defendant's Exhibit WWWW- Hollywood Hills Escrow	42	8063
Defendant's Exhibit XXXX- February 2016 UBS account summary statement	39	7468-7474
Defendant's Exhibit YYYY- February 2016 UBS account statement for Accounts ending 743	39	7475-7484
Defendant's Exhibit ZZZZ- February 2016 UBS account statement for Accounts ending 134	39	7485-7500
Defendant's Exhibit 5A- February 2016 UBS account summary statement	39	7501-7508
Defendant's Exhibit 5B- February 2016 UBS account statement for accounts Ending 745	39	7509-7522
Defendant's Exhibit 5C- February 2016 UBS account statement for accounts Ending 899	39	7523-7532
Defendant's Exhibit 5D- February 2016 UBS account statement for accounts Ending 746	39	7533-7540
Defendant's Exhibit 5E- February 2016 UBS account statement for accounts Ending 027	39	7541-7546
Defendant's Exhibit 5F- February 2016 UBS account statement for accounts Ending 575	39	7547-7552
Defendant's Exhibit 5G- UBS Account Summary for account ending 17, Showing no value As of February 26, 2016	39	7553
Defendant's Exhibit 5H- February 2016 UBS account statement for accounts ending 75	39	7554-7559
Defendant's Exhibit 5I- May 2016 UBS account statement for accounts ending 76	39	7560-7567
Defendant's Exhibit 5J- May 2016 UBS account statement for accounts ending 43	39	7568-7577
Defendant's Exhibit 5K- May 2016 UBS account statement for accounts ending 45	39	7578-7587
Defendant's Exhibit 5L- May 2016 UBS account statement for accounts ending 34	40	7588-7603
Defendant's Exhibit 5M- Wells Fargo PMA Package account ending 5397 Statement from February 1, 2016 through February 29, 2016	40	7604-7613

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit 5N- Wells Fargo Checking account ending 8870 Statements from February 6, 2016 through March 7, 2016	40	7614-7616
Defendant's Exhibit 5O- Wells Fargo Visa account ending 1032 statements From January 16, 2016 through February 12, 2016	40	7617-7620
Defendant's Exhibit 5P- Wells Fargo Visa account ending 1032 statements From February 13, 2016 through March 15, 2016	40	7621-7625
Defendant's Exhibit 5Q- American Express Platinum account ending 9008 Statements from January 16, 2016 through February 23, 2016	40	7626-7636
Defendant's Exhibit 5R- American Express Platinum account ending 9008 Statements from February 24, 2016 through March 25, 2016	40	7637-7645
Defendant's Exhibit 5S- American Express Centurion account ending 3005 Statements from January 16, 2016 through February 14, 2016	40	7646-7659
Defendant's Exhibit 5T- American Express Centurion account ending 3005 Statements from February 15, 2016 through March 16, 2016	40	7660-7668
Defendant's Exhibit 5U- American Express Optima account ending 2003 Statements from January 19, 2016 through February 16, 2016	40	7669-7680
Defendant's Exhibit 5V- American Express Optima account ending 2003 Statements from February 17, 2016 through March 18, 2016	40	7681-7685
Defendant's Exhibit 5W- Master Card Black Card account ending 1588 Statements from February of 2016	40	7686-7691
Defendant's Exhibits 5X- Principle Life Insurance Company Statement of Coverage as of February 26, 2016	40	7692-7693
Defendant's Exhibits 5Y- Voja DaVita Retirement Savings Plan statement From 01/01/16 through 03/31/16	40	7694-7696
Defendant's Exhibits 5Z- DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016	40	7697-7699
Defendant's Exhibit 6A- Cigna Health Savings Plan account balance of April 24, 2016	40	7700-7703
Defendant's Exhibit 6B- DaVita Stock Award Grant Statement, exercisable as of 06/01/16	40	7704-7705
Defendant's Exhibit 6C- Documents regarding sale of Ferrari	40	7706-7707

DOCUMENT	VOLUME	PAGE NO.
Detailed Financial Disclosure Form filed on February 25, 2015	1	28-44
Detailed Financial Disclosure Form filed on February 27, 2015	1	45-65
Detailed Financial Disclosure Form filed on May 29, 2015	1	67-84
Detailed Financial Disclosure Form filed on February 16, 2016	4	721-738
Detailed Financial Disclosure Form filed on February 19, 2016	4	819-835
Discovery Commissioner's Report and Recommendations filed on January 11, 2016	2	421-424
Discovery Commissioner's Report and Recommendations filed on January 22, 2016	4	707-711
Discovery Commissioner's Supplemental Report and Recommendations filed on February 22, 2016	4	843-846
Errata to Pre-Trial Memorandum filed on February 22, 2016	4	841-842
Errata to Notice of Filing Cost Bond for Appeal filed on August 30, 2016	44	8603-8606
Ex-Parte Motion to Enlarge Time for Service of Summons and Complaint filed on April 4, 2014	1	7-11
Ex-Parte Order to Enlarge Time for Service of Summons and Complaint filed on April 10, 2014	1	12-13
Ex Parte Request for Leave of Court to File Supplemental Pleading (With Notice) Filed September 21, 2016	45	8914-8944
Joint Preliminary Injunction filed on May 15, 2014	1	15-16
Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015	2	207-274
Motion to Compel Discovery and for Attorney's Fees and Costs filed on December 23, 2015	2	407-420
Motion in Limine to Exclude Updated Real Estate Appraisals and Newly Disclosed Rental Values Submitted by Plaintiff filed on February 19, 2016	4	836-840
Motion in Limine to Exclude Defendant's Witness Disclosed After Deadline to Disclose witnesses and Request for Attorney's Fees and Sanctions filed on February 22, 2016	4	847-858

DOCUMENT	VOLUME	PAGE NO.
Motion to Stay Enforcement of Decree of Divorce and for Other Related Relief filed on August 24, 2016	44	8594-8600
Motion for Attorney's Fees and Costs filed on September 13, 2016	44	8607-8703
Notice of Appeal filed on August 23, 2016	44	8588-8589
Notice of Appeal, filed on December 13, 2016	47	9280-9286
Notice of Cross-Appeal filed on September 21, 2016	45	8823-8940
Notice of Cross-Appeal, filed on December 23, 2016	47	9291-9297
Notice of Entry of Order filed on August 12, 2015	1	205-206
Notice of Entry filed on November 30, 2015	2	395-399
Notice of Entry of Order filed on December 3, 2015	2	400-404
Notice of Entry of Order filed on May 6, 2016	42	8064-8065
Notice of Entry of Order filed on May 11, 2016	42	8068-8069
Notice of Entry of Order filed on June 29, 2016	42	8086-8089
Notice of Entry of Findings of Facts, Conclusions of Law and Decree of Divorce filed on August 22, 2016	44	8474-8587
Notice of Entry of Order filed on October 24, 2016	47	9272-9275
Notice of Entry of Order from October 18, 2016 Hearing filed on December 5, 2016	47	9276-9279
Notice of Filing Cost Bond for Appeal filed on August 29, 2016	44	8601-8602
Objections to Plaintiff's proposed deposition Testimony and Submission of Additional Deposition Testimony filed on March 25, 2016	40	7721-7739
Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015	2	287-335
Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner, and Countermotion for Attorney's Fees and Costs filed on June 23, 2015	1	111-150

DOCUMENT	VOLUME	PAGE NO.
Opposition to Motion to Compel Discovery and for Attorney's Fees and Costs and Countermotion for Protective Order filed on January 11, 2016	3	425-579
Opposition to Plaintiff's Motion for an Order to Show Cause why Defendant Should not be Held in Contempt of Court for His Multiple Violations of the Joint Preliminary Injunction, for an Order Limiting Access and Payments from Community Accounts, and for Sanctions, Attorney's Fees and Costs; and Countermotion for Attorney's Fees and Costs filed on February 8, 2016	4	713-720
Opposition to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's fees and Costs; and Countermotion for Sanctions, Attorney's Fees and Costs filed on July 8, 2016	42	8090-8153
Opposition to Motion for Attorney's Fees and Costs filed on October 13, 2016	46	9167-9174
Order to Show Cause filed on February 24, 2016	4	859-860
Order filed on May 6, 2016	42	8066-8067
Order from April 6, 2016 Hearing filed on May 11, 2016	42	8070-8071
Order filed on June 28, 2016	42	8083-8085
Order From October 18, 2016 Hearing, filed on December 5, 2016	47	9278-9279
Plaintiff's Closing Brief filed on August 1, 2016	43	8242-8414
Plaintiff's Ex Parte Motion with Notice for Extension of Time to File Motion for Attorney's Fees and Costs filed on September 15, 2016	45	8803-8822
Plaintiff's Motion for the Issuance of an Order to Show Cause why Defendant Should not be Held in Contempt for his Multiple Violations of the Joint Preliminary Injunction; Plaintiff's Motion for an Order Limiting the Access and Payments from Community Accounts filed on January 19, 2016	4	647-706
Plaintiff's Pre Trial Memorandum filed on February 19, 2016	4	780-818
Plaintiff's Exhibit 1- Financial Disclosure Form Filed on February 16, 2016	10	1896-1912
Plaintiff's Exhibit 2- Financial Disclosure Form Filed on February 16, 2016	10	1913-1930
Plaintiff's Exhibit 3- Detailed Financial Disclosure Form Filed on May 29, 2015	10	1931-1951

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 4- Detailed Financial Disclosure Form Filed on February 27, 2015	10	1952-1972
Plaintiff's Exhibit 5- 2014 Individual Income Tax Return	10	1973-1980
Plaintiff's Exhibit 6- 2013 Individual Income Tax Return	11	1981-2241
Plaintiff Exhibit 7- 2012 Individual Income Tax Returns	12	2242-2378
Plaintiff's Exhibit 8- 2011 Individual Income Tax Returns	13	2379-2427
Plaintiff's Exhibit 9- 2010 Individual Income Tax Returns	13	2428-2456
Plaintiff's Exhibit 10- 2009 Individual Income Tax Returns	13	2457-2489
Plaintiff's Exhibit 11- 2008 Individual Income Tax Returns	13	2490-2515
Plaintiff's Exhibit 12- 2007 Individual Income Tax Returns	13	2516-2542
Plaintiff's Exhibit 13- 2006 Individual Income Tax Returns	13	2543-2572
Plaintiff's Exhibit 14- 2005 Individual Income Tax Returns	13	2573-2595
Plaintiff's Exhibit 15- 2004 Individual Income Tax Returns	13	2596-2612
Plaintiff's Exhibit 16- 2003 Individual Income Tax Returns	13	2613-2627
Plaintiff's Exhibit 18- Text messages between the parties	14	2629-2772
Plaintiff's Exhibit 19- Emails between the parties	14	2773-2813
Plaintiff's Exhibit 20- Text messages between the parties	15	2814-2921
Plaintiff's Exhibit 21- Text messages between the parties	15	2922-2925
Plaintiff's Exhibit 22- Emails between the parties	15	2926-2962
Plaintiff's Exhibit 23- Emails between the parties	15	2963-3040
Plaintiff's Exhibit 24- Text messages between the parties	15	3041-3048
Plaintiff's Exhibit 25- Text messages between the parties	15	3049-3061
Plaintiff's Exhibit 26- Proposed Community Property Distribution Worksheet	15	3062-3063
Plaintiff's Exhibit 54- Jenny Allen's Curriculum Vitae and List of Cases	16	3064-3066
Plaintiff's Exhibit 55- Index of documents in Support of Spreadsheets in Anthem Forensic's Reports	16	3067-3121

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 56 Anthem Forensics' Expert Witness Report	16	3122-3232
Plaintiff's Exhibit 57- Anthem Forensics' Supplemental Expert Witness Report	17	3233-3368
Plaintiff's Exhibit 58- Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report	17	3369-3402
Plaintiff's Exhibit 59- Email from Joe Leauanae to Daniel Marks, Esq.	17	3403-3404
Plaintiff's Exhibit 60- Auto Related Exhibits listed on Exhibit 6	17	3405-3409
Plaintiff's Exhibit 61- Transactions that comprise the "adjusted" column on Exhibit 6	18	3410-3549
Plaintiff's Exhibit 62- Withdrawals and checks written to cash - Gabrielle Kogod	18	3550
Plaintiff's Exhibit 63- Anthem Forenscics' Response to Rebuttal Report	18	3551-3578
Plaintiff's Exhibit 65- Anthem Forensics' Supporting Documentation for Facts set fourth in The February 5, 2016 Report	19	3579-3640
Plaintiff's Exhibit 69- Joint Preliminary Injunction Order	19	3641-3642
Plaintiff's Exhibit 71- Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California	19	3643
Plaintiff's Exhibit 72- Spreadsheet showing expenses for Khapsalis and children From May 2014	19	3644-3674
Plaintiff's Exhibit 73- Spreadsheet showing updated Outflows greater than $10,000 Since Anthem's December 15, 2015 Report based on updated statements provided by Dennis	19	3675
Plaintiff's Exhibit 74- Spreadsheet showing Outflows more than $10,000 Since May, 2014	19	3676
Plaintiff's Exhibit 75- Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	19	3677-3678
Plaintiff's Exhibit 76- Spreadsheet showing payments to Jennifer Steiner since September, 2014	19	3679-3682
Plaintiff's Exhibit 77- Email from Bob Gehlen dated November 25, 2015	19	3683-3685
Plaintiff's Exhibit 78- Email from Dennis to Robert Gehlen dated December 8, 2015	19	3686-3690

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 79- Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis Not adding Gabrielle to the UBS Account dated December 2, 2015	19	3691-3696
Plaintiff's Exhibit 80- Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	19	3697-3720
Plaintiff's Exhibit 87- Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents From DaVita dated October 1, 2015	19	3721-3725
Plaintiff's Exhibit 88- Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock Options dated June 12, 2015	19	3726
Plaintiff's Exhibit 89- Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options Dated August 14, 2015	19	3727-3729
Plaintiff's Exhibit 90- Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing Dennis' position dated September 2, 2015	19	3730-3731
Plaintiff's Exhibit 91- 2008 Annual Proxy Statement	19	3732-3807
Plaintiff's Exhibit 92- 2009 Annual Proxy Statement	20	3808-3873
Plaintiff's Exhibit 93- 2010 Annual Proxy Statement	20	3874-3959
Plaintiff's Exhibit 94- 2011 Annual Proxy Statement	21	3960-4081
Plaintiff's Exhibit 95- 2012 Annual Proxy Statement	21	4082-4202
Plaintiff's Exhibit 96- 2013 Annual Proxy Statement	22	4203-4298
Plaintiff's Exhibit 97- 2014 Annual Proxy Statement	22	4299-4432
Plaintiff's Exhibit 98- 2015 Annual Proxy Statement	23	4433-4526
Plaintiff's Exhibit 100- Radford J. Smith, Chartered's Billing Statements	23	4527-4560
Plaintiff's Exhibit 101- Marc Herman's Billing Statements	23	4561
Plaintiff's Exhibit 102- Anthem Forensic's Billing Statements	23	4562-4627
Plaintiff's Exhibit 103- Clark Barthol's Billing Statements	23	4628
Plaintiff's Exhibit 107- Nadya Khapsalis' Facebook printout	24	4629-4691
Plaintiff's Exhibit 111- Plaintiff's Third Set of Interrogatories to Defendant	24	4692-4709

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 113- Plaintiff's Fourth Set of Interrogatories to Defendant	24	4710-4717
Plaintiff's Exhibit 116- Plaintiff's Sixth Set of Interrogatories to Defendant	24	4718-4761
Plaintiff's Exhibit 118- Summary of emails prepared by Plaintiff	24	4762-4765
Plaintiff's Exhibit 119- 2011 Tax Return	24	4766-4767
Plaintiff's Exhibit 120- 2012 Tax Return	24	4768-4772
Plaintiff's Exhibit 121- 2013 Tax Return	24	4773-4780
Plaintiff's Exhibit 122- 2014 Tax Return	24	4781-4784
Plaintiff's Exhibit 123- Kogod equity analysis	24	4785
Plaintiff's Exhibit 124- Dist. Comm prop as of February 2016	24	4786-4788
Plaintiff's Exhibit 125- 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	25	4789-5065
Plaintiff's Exhibit 125- Continued 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	26	5066-5170
Plaintiff's Exhibit 126- 9/15/15 Deposition of Patricia Murphy	27	5171-5305
Plaintiff's Exhibit 127- 9/26/15 Deposition of Mitchell Kogod	28	5306-5498
Plaintiff's Exhibit 128- 9/25/15 Deposition of Marsha Kogod	29	5499-5592
Plaintiff's Exhibit 129- 9/25/15 Deposition of Sheldon Kogod	29	5593-5745
Plaintiff's Exhibit 130- 9/26/15 Deposition of Dana Kogod	30	5746-5832
Plaintiff's Exhibit 131- 12/10/15 Deposition of Jennifer Crute Steiner	31	5833-6019
Plaintiff's Exhibit 132- Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016	32	6020-6023
Plaintiff's Exhibit 132-2- Marc Herman's Curriculum Vitae	41	7984
Plaintiff's Exhibit 132-5- Gabrielle's expert, Mr. Marc Herman's updated Appraisal dated January 30, 2016	41	7985-8021
Plaintiff's Exhibit 132-6- Dennis' expert, Ms. Jennifer L. Bosco's appraisal Dated March 7, 2016	41	8022-8041
Plaintiff's Exhibit 133- Gabrielle's Banana Republic Luxe X4713 Dated March 4, 2016	32	6024-6026

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 134- Gabrielle's Discover Card X5161 dated February 11, 2016	32	6027-6029
Plaintiff's Exhibit 135- Gabrielle's Discover Card X5161 dated March 11, 2016	32	6030-6033
Plaintiff's Exhibit 136- Gabrielle's Kohl's Card X2557 Dated January 7, 2016	32	6034-6036
Plaintiff's Exhibit 137- Gabrielle's Kohl Statement X2557 dated February 5, 2016	32	6037-6039
Plaintiff's Exhibit 138- Gabrielle's American Express Statement X9677 dated February 12, 2016	32	6040-6042
Plaintiff's Exhibit 139- Gabrielle's Nordstrom X992 dated February 11, 2016	32	6043-6048
Plaintiff's Exhibit 140- Gabrielle's Nordstrom X992 dated March 13, 2016	32	6049-6052
Plaintiff's Exhibit 141- Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016	32	6053-6058
Plaintiff's Exhibit 142- Bank of America Merrill Lynch X6446 Statement Dated February 29, 2016	32	6059-6066
Plaintiff's Exhibit 143- Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)	32	6067-6124
Plaintiff's Exhibit 144- Gabrielle's UBS account FN-20329 GM Dated March, 2016	32	6125-6132
Plaintiff's Exhibit 145- Gabrielle's UBS account FN 13134 GM Dated March, 2016	32	6133-6146
Plaintiff's Exhibit 146- Gabrielle's UBS account FN 12743 GM Dated March, 2016	32	6147-6160
Plaintiff's Motion to Compel Discovery, For Sanctions, and Attorney's Fees and Costs filed on June 21, 2016	42	8072-8081
Plaintiff's Opposition to Defendant's Motion to Stay Enforcement Of Decree of Divorce and for Other Related Relief and Countermotion for Attorney's Fees filed on October 12, 2016	46	9149-9166
Reply to Counterclaim for Divorce filed on December 5, 2014	1	25-27

////

DOCUMENT	VOLUME	PAGE NO.
Reply in Support of Motion for an Order to Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs; and Opposition to Countermotion for sanctions and Attorney's Fees filed on October 12, 2015	2	336-345
Reply in Support of Defendant's Motion to Compel Discovery and for Attorney's Fees and Costs, and Opposition to Plaintiff's Countermotion for Protective Order filed on January 13, 2016	3	583-586
Reply to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's Fees and Costs and Opposition to Countermotion for Sanctions, Attorney's Fees and Costs filed on July 13, 2016	42	8154-8192
Reply in Support of Motion to Stay Enforcement of Decree of Divorce and For Other Related Relief; and Opposition to Countermotion for Attorney's fees filed on October 14, 2016	46	9175-9180
Reply to Opposition to Motion for Attorney's Fees and Costs filed on October 17, 2016	46	9181-9186
Stipulation and Order filed on August 10, 2015	1	201-204
Stipulation and Order filed on December 15, 2015	2	405-406
Summons filed on May 15, 2014	1	17-18
Supplemental Billing Statements of Attorney's Fees and Costs filed on March 11, 2016	40	7708-7720
Supplement to Plaintiff's Motion for Attorney's Fees and Costs filed on September 21, 2016	46	8945-9027
Transcript Re: All Pending Motions (Hearing on June 26, 2015) filed on July 9, 2015	1	179-200
Transcript Re: Motion to Stay (Hearing on Wednesday September 21, 2016) filed on December 29, 2016	2	275-286
Transcript Re: All Pending Motions (Hearing on Wednesday October 14, 2015) filed on December 29, 2016	2	346-393
Transcript Re: All Pending Motions (Hearing on Friday January 15, 2016) filed on December 29, 2016	3	587-646
Transcript Re: All Pending Motions (Hearing on Wednesday, February 17, 2016) filed on December 29, 2016	4	739-779
Transcript Re: Non-Jury Trial (Tuesday, February 23, 2016) filed on April 28, 2016	5	861-1037

DOCUMENT	VOLUME	PAGE NO.
Transcript Re: Non-Jury Trial (Wednesday, February 24, 2016) filed on April 28, 2016	6	1038-1222
Transcript Re: Non-Jury Trial Vol. I (Thursday, February 25, 2016) filed on April 28, 2016	7	1223-1399
Transcript Re: Non-Jury Trial Vol. II (Thursday, February 25, 2016) filed on April 28, 2016	8	1400-1592
Transcript Re: Non-Jury Trial Vol. I (Friday, February 26, 2016) filed on April 28, 2016	9	1593-1766
Transcript Re: Non-Jury Trial Vol. II (Friday, February 26, 2016) filed on April 28, 2016	10	1767- 1875
Transcript Re: Status Check (Hearing on Wednesday April 6, 2016) Filed on April 28, 2016	40	7740-7808
Transcript Re: Hearing (Hearing on Wednesday May 4, 2016) Filed on December 29, 2016	41	7809-7979
Transcript Re: All Pending Motions (Hearing on Wednesday July 13, 2016) Filed on December 29, 2016	42	8193-8241
Transcript Re: All Pending Motions (Hearing on Tuesday October 18, 2016) filed on December 29, 2016	47	9187-9271

TRANS

ORIGINAL

FILED
APR 28 2016
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE CIOFFI-KOGOD, Plaintiff, vs. DENNIS L. KOGOD, Defendant.	CASE NO. D-13-489442-D DEPT. Q **(SEALED)**

BEFORE THE HONORABLE BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON JURY TRIAL - VOL. I

THURSDAY, FEBRUARY 25, 2016

APPEARANCES:

The Plaintiff:	GABRIELLE ROSE CIOFFI-KOGOD
For the Plaintiff:	RADFORD SMITH, ESQ. GARIMA VARSHNEY, ESQ. 2470 St. Rose Parkway, Suite 206 Henderson, Nevada 89074 (702) 990-6448
The Defendant:	DENNIS L. KOGOD
For the Defendant:	DANIEL MARKS, ESQ. NICOLE YOUNG, ESQ. 610 South Ninth Street Las Vegas, Nevada 89101 (702) 386-6812

INDEX OF WITNESSES

	DIRECT	CROSS	REDIRECT	RECROSS
THURSDAY, FEBRUARY 25, 2016				
PLAINTIFF'S WITNESSES:				
Dennis L. Kogod	6/34	38	72	--
Gabrielle Cioffe-Kogod	79/157/182	214	329/345	340/346
Jennifer Allen	348	--	--	--

INDEX OF EXHIBITS

		ADMITTED
PLAINTIFF'S EXHIBITS:		
1	Plaintiff's Financial Disclosure Form	196
21	Texts and emails	149
22	Texts and emails	149
24	Texts and emails	149
25	Texts and emails	149
77	Exhibit Regarding Adding Gabrielle to the UBS Accounts	197
78	Exhibit Regarding Gabrielle Being Added to the Accounts	200
88	Letter Between Mr. Jimmerson to Mr. Smith	204
89	Letter from Mr. Smith to Mr. Marks	205
90	Letter from Mr. Marks to Mr. Smith	206
100	Invoice of Attorneys fees, expert witness fees, costs	207
101	Appraisals for Property in California	207
102	Expenses from Anthem Forensics and California Attorney's Fees	208
103	Appraisal On Yacht	209
107	Google Search Results for Nadine Kapsalis	195
118	Text Messages categorized	220
119	Form 8879 2011 Tax Return	332
120	Form 8879 2012 Tax Return	332

INDEX OF EXHIBITS (CONT.)

	ADMITTED
PLAINTIFF'S EXHIBITS:	
121 Form 8879 2013 Tax Return	333
122 Form 8879 2014 Tax Return	334
DEFENDANT'S EXHIBITS:	
XX Financial Disclosure Form	253
BBB Series of Checks for Brooklyn Household Account	320
CCC Check to Gabrielle's Brother	321
DDD Check to Gabrielle's Brother	321
EEE Checks to Gabrielle's Sister	321
FFF Checks to Gabrielle's Sister	322
GGG Checks Re: Edinburgh Property	324
HHH Checks for Cash	325
KKK Stipulation and Order	326
OOO Gabrielle's Resume	326
PPP Answers to Interrogatories	327
QQQ Second Set of Answers to Interrogatories	327
RRR Third Set of Interrogatories	327

LAS VEGAS, NEVADA THURSDAY, FEBRUARY 25, 2016

PROCEEDINGS

(THE PROCEEDINGS BEGAN AT 09:05:19)

THE COURT: We are on the record in the Cioffi-Kogod matter, Case D13-489442-D. Please confirm your appearances.

MR. SMITH: Radford Smith, 2791, for Ms. Cioffi-Kogod, is to my right, Your Honor. Also present at bar is Garima Varshney.

MR. VARSHNEY: Garima Varshney, Your Honor. Bar number 11878.

THE COURT: Good morning.

MR. MARKS: Your Honor, Daniel Marks and Nicole Young, for the defendant, and Mr. Kogod is present to my far left, next to my partner Nicole Young (indiscernible).

MS. NICOLE: My bar number is 12659.

THE COURT: Good morning. All right, we'll continue with our evidentiary proceedings.

You had Mr. Kogod on the stand. Do you want to -- and you were in the middle of your cross examination, I believe?

MR. MARKS: Yes.

THE COURT: Okay. Please raise your right hand to be sworn.

THE CLERK: You do solemnly swear the testimony that you're about to give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. KOGOD: I do.

THE COURT: You may be seated.

Counsel, you may proceed.

MR. MARKS: Thank you, Your Honor.

DENNIS L. KOGOD

called as a witness on behalf of the Defendant, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MARKS:

Q Mr. Kogod, if you go to Volume IV of the Plaintiff's exhibits, specifically Exhibit 80, do you recall being asked some questions about the Jennifer Steiner (ph) procedural issues yesterday by opposing Counsel?

A I do.

Q Okay. And if you go --

MR. MARKS: I believe this exhibit is in evidence, Your Honor.

THE COURT: Exhibit 80?

MR. MARKS: Yeah.

THE COURT: Has 80 been --

MR. MARKS: Yeah, I think it's been admitted.

MR. MARKS: If you would turn to page 4 of that exhibit.

THE COURT: It has been admitted.

What page?

MR. MARKS: Page 4 of the exhibit.

BY MR. MARKS:

Q The first paragraph on page 4 specifically read in context lines 3 and 4. Can you read that to yourself, Mr. Kogod?

A I've read it.

Q Okay. And in that, were you offering to pay approximately $20,000, as one-half of the money you had spent on Jennifer?

A I was.

Q And were you hoping that would alleviate the need for depositions and procedural subpoenas, et cetera, regarding Ms. Steiner?

A Yes. And putting both she and I at risk, yes.

Q Okay, and did the Plaintiff agree to that amount?

A No.

Q Okay. And you heard Mr. Smith's opening statement, I think, on Tuesday?

A I did.

Q And did he make some comments regarding the amount

that was spent on Jennifer that they found, versus the amount that you thought it was to begin with?

A Yes. He believed that their amount was actually less than we -- we had suggested.

Q So they were actually conceding that you spent less than we had actually -- you had actually, through Mr. Jimmerson, suggested; is that right?

A Correct.

Q Okay. Now, moving along, if you stay -- We talked yesterday a little about your future at DaVida. If you stay at DaVida, how will your earnings in the future relate to your present earnings?

A They will be significantly less, beginning with my base salary, which will eventually go down to $700,000, to reflect international responsibilities only. I will be --

MR. SMITH: Objection, foundation, Your Honor.

THE COURT: Sustained.

BY MR. MARKS:

Q Okay. Can you give the Court the foundation of why you know your salary is going to be less?

A Yes, I have an email from Ken Theory (ph), our CEO, that set out the compensation structure --

MR. SMITH: Objection, Your Honor, that email is nowhere in this record, and it won't be in this record.

MR. MARKS: Well, he's --

MR. SMITH: It has never been identified as an exhibit. It's hearsay.

THE COURT: Well, okay. I need the evidentiary objection.

MR. MARKS: Okay, but let me --

MR. SMITH: The other objection is, it's not identified as an exhibit under 16.2, and so it would be -- and it's best evidence, and it's the hearsay that's contained in the document.

MR. MARKS: Your Honor, he's allowed to testify based on all the factors that would go into his compensation.

THE COURT: Okay. Well, but it's -- in terms of relating a specific statement outside of court, it would be hearsay, so I sustain on hearsay.

BY MR. MARKS:

Q So don't relate a specific statement. Have you been advised your salary is going to be lowered?

A I have.

MR. SMITH: Objection, hearsay.

THE COURT: Sustained.

BY MR. MARKS:

Q Do you know whether your salary is going to be lowered in the future?

MR. SMITH: It's just a fancy way to say the same question, because he --

MR. MARKS: No, because how do you ever find out your salary, Your Honor? You're allowed to take in all the factors that make it up to state what your salary is.

MR. SMITH: First of all, let me -- this is a publicly traded company. The criteria for his compensation is set forth in a 10-K every year. It's very clearly stated, it must be by law. So Mr. Kogod's opinion of what he's going to be making only would be based upon his own conjecture about how the committee, who he's not on, would -- would not --

THE COURT: The objection is sustained.

MR. MARKS: It's not his opinion, okay.

BY MR. MARKS:

Q Is there going to be a change in your salary?

A Yes.

Q When will that change take place?

A Sometime in 2016.

Q Will it become public record?

A Yes.

Q And will it be in the SCC documents?

A Yes.

Q Okay, and what will your new salary be?

A $700,000.

MR. SMITH: Objection, foundation.

THE COURT: Sustained.

BY MR. MARKS:

Q How do you know what your new salary is going to be?

A I've been told by my CEO.

Q Now, moving along, yesterday you were asked a lot of questions about the series of emails and texts, and whether you think -- whether you were intentionally trying to mislead Gabby into staying married to you; do you remember that testimony?

A I do.

Q Okay. Were you intentionally trying to mislead her?

A No, I was not.

Q Okay. In reading those emails, do you think a reasonable person reading them five year- -- or six years later could conclude that you were trying to mislead her?

A I think a reasonable person reading those selective emails would conclude that I was trying to deceive her, mislead her, yes.

Q Okay. Now, did you read her emails?

A I did.

Q And did you reach any conclusions regarding her emails back to you as to whether you really believed you were staying married to her?

A She repeatedly referred to not believing anything I said, not trusting me and sitting back just watching all this unfold, so my belief was she did not believe my words.

Q Okay. Now, in July of 2010, did you learn later that Gabby had consulted legal counsel?

A I learned through this process over the last X months that she had sought the advice of a counsel.

Q Right after July of 2010, after the filing?

A Correct.

Q And did she also -- did you learn through this process she had sought -- she had seen some nine attorneys before she hired Ms. Gentile in 2013?

A I learned of that -- learned of that during her deposition.

Q In 2010, after the filing and the series of emails, did Gabby make any efforts to understand your life?

A No.

Q Did she ever come to California after July of 2010?

A She showed up at the Emberg House (ph) sometime in late 2011, and supposedly knocked on the door, and turned around and left.

Q Did she ever call you at that point?

A No. She didn't call me on her way over; she didn't call me when she was there; ask where I was; was I in Los

Angeles, and during the whole period from 2004 up til present date, it was the only time she ever drove the three-and-a-half hours to Los Angeles.

Q During the period after July of 2010 when you were in these counseling sessions, during that period, did Gabby ever come to LA to try to spend the weekend with you, or see you or anything of that nature?

A No, there were no attempts made at all.

Q Did she ever suggest vacations?

A No.

Q Did she do anything besides just this series of emails to move the relationship forward in the sense of staying married?

A No.

Q Did she ever surprise you for your birthday?

A No.

Q Did she bring you gifts for your birthday?

A No.

Q Did she ever surprise you for Valentine's Day?

A No.

Q Did you ever do anything New Year's Eve?

A No.

Q Did you ever spend Christmas?

A The last time we spent Christmas was 2008.

Q So in spite of all the emails back and forth, and in spite of whether you led her on or didn't lead her on, if you had gotten divorced in July of 2010, financially, would that have helped you or helped her?

A It would have helped me in 2010. We would be sitting here talking about an estate valued at approximately $4 million.

Q So assuming you did lead her on, assuming you stayed married for whatever reason because you didn't want to confront her, has that helped you in any way?

A It has helped Gabrielle. The estate has gone from $4 million to $40 million during this period, the period afterwards. So instead of a $2 million settlement, we're looking at roughly $20 million.

Q Okay, I want to show you some specific emails that she sent, that she sent back and forth.

MR. MARKS: 12180 -- Do we have it in our book?

MS. YOUNG: I think it's Exhibit 23.

MR. MARKS: Okay. We go to Exhibit 23. Do you have that?

THE WITNESS: I'm sorry, what do you want me to go to again?

MR. MARKS: Bates stamp 12180.

MS. YOUNG: Exhibit --

THE WITNESS: Twenty three?

MR. MARKS: It's in Exhibit 23.

MR. VARSHNEY: What volume is it in?

MR. SMITH: It's in Volume II, and I have that.

THE WITNESS: Can you repeat the page number, please?

MR. MARKS: 12180.

MR. SMITH: It's in Volume II, and I have that.

MS. VARSHNEY: (Indiscernible)

MR. SMITH: Yes, Exhibit 23 (indiscernible)

MR. MARKS: Your Honor, we had marked all the same emails and I have different numbering; but, based on your comments, I guess we're going to use the Plaintiff's --

THE COURT: Use that --

MR. MARKS: -- numbering, but it may take me time to find it.

THE COURT: That's fine.

MR. MARKS: Because I had it renumbered in our book.

THE COURT: Okay.

THE WITNESS: Okay, 12180?

MR. MARKS: Yeah.

THE WITNESS: Okay.

MR. MARKS: And this is from Gabby to you dated March 7, 2011; do you see that?

THE WITNESS: Yes.

BY MR. MARKS:

Q And may -- can you read that to yourself, read the first paragraph?

The second paragraph?

A Okay.

Q Okay, does that sound like she thinks your relationship is getting better?

A No.

Q Does that sound like you have any semblance of a marital relationship?

A None at all.

Q Let's go to page 12187, I think it's still in the same exhibit.

And this is dated December 11th --

A Yes, I see it.

Q -- 2010.

THE COURT: I'm sorry, what was the number, Counsel?

MR. MARKS: 12187.

THE COURT: Thank you.

BY MR. MARKS:

Q The bottom of the page regarding -- read that to yourself.

A At the bottom of the first page, or --

Q The bottom of the first page, 12187.

A I've read it.

Q Okay. So what was the nature of your communication with Gabby in December of 2010?

A I'm sorry, the nature of --

Q Yeah, I mean, was it pers- -- were you seeing her frequently, phones, texts, what -- based on this email?

A No, we were seeing each other very infrequently.

Q When she says, live means on the phone, but now you wouldn't even do that. A week is almost over and you wouldn't answer your phone.

What was the frequency of your even phone communication with Gabby?

A The phone communication was virtually non-existent.

Q So when Counsel was saying you called her every day, were you calling her every day in this period, from July 2010 onward?

A No.

Q In fact, this is implying you didn't talk to her for a week; is that right?

A Correct, yes.

Q So in December 2010, did you feel that you had any semblance of a marriage at that point?

A No. I stopped thinking we had any semblance of the

marriage a long time ago.

Q And if you look at 21 -- 12188, which is the next page, it goes from the first page about -- It's just so hard to believe after knowing each other for more than 20 years, you can't bring yourself to bear the sound of my voice, that's what she was telling you?

MR. SMITH: I'm sorry, what number, Counsel?

MR. MARKS: 12188.

THE WITNESS: That's correct.

BY MR. MARKS:

Q And she's talking about, what if there was an emergency, I guess she wouldn't know where you were, or couldn't get a hold of you?

A Correct.

Q Do you see that?

A I do.

Q And then the next paragraph is talking about two weeks for the holidays. This is December 11th of 2010. So would you think she's talking about the Christmas holiday?

A I do.

Q And what is she saying?

A She said that, number one, she's not even sure why I'm asking what she's doing for the holidays, that it doesn't matter to me. She is suggesting we have to talk in person,

face-to-face, before I go, and I think --

Q Doesn't she say, I don't imagine you have any thought in your mind of talking with me during that period, so why are you even asking?

A Yes.

Q So she's basically saying, I'm going away for Christmas, why are you even asking to talk to me, you don't really want to talk to me?

A Correct.

Q And, in fact, you didn't want to talk to her, correct?

A Correct.

Q And if you go to the bottom of that, the middle of the page, the bottom of that email, does that suggest that your only communication with her was through text and email?

A Yes.

Q Does that sound like you had any sort of semblance of a marriage at that point?

A No.

Q The next one I want to go to is 12198.

A Okay,

Q 12198, that's dated November 24th, 2010; do you see that?

A Yes.

Q And if you look in that email, there's a reference to No. 8 about your father's heart attack.

A Yes.

Q Can you explain -- Can you put in context what you were telling her on November 24, 2010, about your father's heart attack?

A That my father had had a heart attack. It's continued into 9, that I happened to be in town and I actually drove him -- got the call from my mother's and drove him to Cedars at 1 o'clock in the morning.

Q How far -- How far before that, before November 24th of 2010, did your father have a heart attack?

A I don't see the date, and I don't remember the date of my father's heart attack, but I was reporting on an event that had clearly happened well before.

Q Okay. You say in 9, he actually had a mild one here and was in town a year ago when this happened, and you drove him to Cedars at 1 a.m.; do you see that?

A Yeah. I missed the reference to a year ago, so that answers your question.

Q All right, so are you reporting to your wife --

THE WITNESS: Excuse me.

THE COURT: Bless you.

Q -- in November of 2010 that your father had had a

heart attack a year before and she didn't know about it?

A Correct.

Q And is that what actually happened?

A Yes.

Q So you had -- your relationship with Gabby was such that you never even told her in '09, 0-'10 that your father had had a heart attack?

A Yes, and specifically given her thoughts on my parents, I thought she would think it was insignificant or unimportant anyway.

Q Okay, but does -- is that a comment -- is that a comment on the state of your marital relationship, that you didn't even tell her about your dad's heart attack?

A Correct.

Q Okay, the next one I want to show you is 12201. That's November 24th, 2010. If you go down -- Do you see November 24th, 2010, if you go -- one, two, three, the fourth paragraph, this is you to her; do you see that?

A I do.

Q And do you see a reference in quotes?

A Yes.

Q Could you read that to the Court.

A How long can you live two lives; do you want to live two lives; why are you doing this? End of quote.

Q And this is you to her, you're saying, yourself, How can you live two lives, is that right?

A Correct.

Q And the two lives were basically LA and Vegas, correct?

A Correct.

Q And did she have any response to the two lives?

A Not that I'm aware of. I think she referenced two lives in other emails, but you'd have to show me.

Q Okay, if you go to 12174.

A Okay.

MR. MARKS: I think I need a -- Hold on.

BY MR MARKS:

Q If you look at 12174, at the top -- at the top, Dennis, are you really out of control with how you're handling us. Regardless of work, it's hard to imagine you can be such a high-powered decision maker and deal with the inner-personal issues you've described. Keep doing what you're doing or you continue to set up to fail.

Do you see that?

A I do.

Q Setting me up to get so disgusted I walk away from it.

A Correct.

Q Do you see that?

A I do.

Q Okay. Does that sound like you were having any sort of a semblance of a marital relationship?

A No, it doesn't.

Q Okay, go to 12201.

A Okay.

Q If you go to -- something else. Let's go to 12526, which is in Exhibit 19.

Counsel asked you yesterday about --

A Can you -- I'm sorry, can you repeat the page number, please?

Q 12526, and it's October of -- strike that. It's April of 2012.

Counsel asked you yesterday, Plaintiff's Counsel, about, did counseling stretch in later after '11 into '12. Do you recall that --

A I did.

Q -- those questions?

A Yes.

Q And there's an email from Gabby to you regarding counseling and counseling/counseling; do you see that?

A Yes, I do.

Q And what's the nature of that email?

A Once again I was making a decision not to attend counseling, so she wanted me to call the counselor and cancel.

Q She says, I assume you've chosen not to attend?

A Yes.

Q Could we go to 12146, Exhibit 23.

A Okay.

Q This is, I believe, May 4th. If you go to 12144, it's dated May 4th, 2011; do you see that?

A So, what page number again, please?

Q 12144.

A Okay.

Q This is May of 2011.

A Yes.

Q And you say -- in the middle of the page you reference making a decision of either coming home or getting a divorce?

A I do.

Q Do you see where you say, I'm not ready to ask for a divorce, but I'm not sure where you would be if I said I can't come home?

A I do.

Q And what was the intent of that?

A At the end of the day, just stating I wasn't coming home.

Q Did you ever come home after that?

A I stepped foot in the house one time, in June or July of 2010, and never again after that.

Q Was that email part of your hope that she would file for the divorce, then?

A Yes.

Q Okay. Now I want to switch to another topic. You're aware there is an alimony claim in this case?

A I am.

Q Okay, had you had communications with -- In 2013 -- In 2014, after the Plaintiff filed her complaint, were you representing yourself for a period of time?

A I was. We were -- We had agreed to try to see one counselor and see if she could negotiate a settlement, and that was Denise Gentile (ph).

Q Okay. And were you doing -- And were you talking to Denise or texting Denise --

A I met with --

Q -- at that time?

A I met with her live at least once in her office, maybe twice, but certainly once live, and then we had several email communications.

Q And did you have a communication with Denise regarding whether the Plaintiff was contending she wanted

alimony at that time?

A I did. She sent me a form.

MR. SMITH: Objection, hearsay.

MR. MARKS: I have the email, Your Honor. It's an admission -- just like they tried to use what Mr. Jimmerson said, It's an admission by a party opponent. Ms. Gentile was representing the Plaintiff.

MR. SMITH: I'm sorry, I don't -- I don't -- maybe you can show me where it is in the exhibit book.

MR. MARKS: It's not in the exhibit book, but it relates to something you raised yesterday.

MR. SMITH: Huh?

MR. MARKS: That you found an email from --

MR. SMITH: Then we'll have to have Judge Gentile testify. I mean, I really --

MR. MARKS: Do you really want Judge Gentile to testify?

MR. SMITH: Well, if you're going to start raising issues --

I'm not even sure they are relevant, Your Honor. So I'd object as to relevance, but in regard to the statements, they are clearly extrajudicial statements made outside of court for the proof of the matter asserted in them; they're hearsay.

MR. MARKS: It's an admission by an opponent; it's a statement by her Counsel.

MR. SMITH: The --

MR. MARKS: It's an exception to the hearsay rule, obviously.

MR. SMITH: The Counsel is not named as a witness in this case, and if we're going to start putting words in the mouth of Judge Gentile, I would ask that she be asked to --

MR. MARKS: Well, let this be admitted, and if he wants to call Judge Gentile to rebut it, that's fine.

MR. SMITH: No. This is an email that is --

MR. MARKS: It's not binding on you anyway. This is just a piece of the puzzle that she's not seeking alimony.

THE COURT: No, understood, but --

MR. SMITH: If that's the case then all of the communication between Ms. Gentile and Mr. Kogod, and Counsel, between Counsel, in relation to all of the things that were not being done by Mr. Kogod, should be entered.

I just don't -- First of all, I don't think it's relevant. I think how this case proceeded, is how this case proceeded.

THE COURT: Well --

MR. MARKS: It's an issue on the alimony claim.

THE COURT: Well, as to object -- as to relevance,

it's overruled. The concern is, as a hearsay statement --

MR. MARKS: Counsel -- A statement made by your attorney would be --

THE COURT: Well, and that becomes the issue is, if she effectively is the mouthpiece of --

MR. MARKS: She was representing the Plaintiff.

THE COURT: Correct.

MR. MARKS: She filed the complaint.

THE COURT: The objection is overruled.

MR. SMITH: Objection, these are settlement discussions.

MR. MARKS: It's not settlement discussions.

MR. SMITH: It is settlement discussions. They're -- They're about whether or not -- what was in the complaint and what were the position of the parties in the complaint. They are settlement discussions.

MR. MARKS: Your Honor, if she told Ms. Gentile we are not seeking alimony based on the money, that's at least relevant for you to consider.

MR. SMITH: May I voir dire the witness as to whether or not these were settlement discussions, Your Honor?

MR. MARKS: Can I at least get the foundation and then he can do it?

THE COURT: Well, lay the foundation, but --

MR. MARKS: He can lay the foundation for the --

THE COURT: Well, lay the foundation, but if we are getting into settlement discussions, then I'm not going to entertain, but go ahead and lay the foundation.

MR. MARKS: Do you want a copy or do you want to wait?

THE COURT: No, I'm not going to look at it until --

So this is exhibit?

THE CLERK: This will be LLLL.

BY MR. MARKS:

Q Can you identify the email -- Is this an email from Ms. Gentile to you?

A It was an email from Denise Gentile responding to an email in the same day, from me.

Q Okay, and you received the complaint?

A I did.

Q And it was prepared by Ms. Gentile?

A It was.

Q And did you have a question about what was in the complaint?

A I did.

Q And in the complaint, there was a claim for alimony?

MR. SMITH: Objection, Your Honor. If he's going to start talking about the document --

MR. MARKS: I'm laying foundation.

MR. SMITH: -- he will have to have it admitted.

MR. MARKS: The complaint is admitted, I'm asking --

THE COURT: The objection is overruled.

BY MR. MARKS:

Q Were you asking about why there was a reference to alimony in the complaint?

A I was.

Q Okay. And did she respond to you?

A Approximately seven minutes after I wrote the email, she responded.

Q Okay. And at this point were you just questioning the nature of the complaint, and this is her response?

A Yes, it is.

MR. MARKS: Okay. I'd move the admission of L -- four Ls.

MR. SMITH: We object, it's hearsay. It was never a document that was produced during the time of discovery, nor was it identified as an exhibit in this case. Under 16.2 it should not be admitted.

And, also, if I could voir dire the witness about the -- if the Court is going to admit it above that objection, then I would ask to voir dire the witness about the nature of the communications with Ms. Gentile at or about that time, and

their intent.

MR. MARKS: It's on the email. He questioned the complaint.

THE COURT: Well, the objection as to hearsay is overruled as an admission of a party opponent. I'll allow the voir dire of the witness as it relates to the issue of settlement discussions.

MR. SMITH: And on 16.2, Your Honor, the fact that this was never produced, identified as an exhibit at any time during the proceedings?

THE COURT: Well, in terms of a production, this is something that came from the Plaintiff to the defendant, so I don't -- I overrule that objection, as well.

MR. SMITH: Okay. So, if I understand the objection, then, or the overruling, that means any document that we received, or have been exchanged through the parties and the counsel, would be subject to admission, even though they were not identified as an exhibit in this case?

THE COURT: Any communication -- any correspondence from Mr. Marks or Mr. Jimmerson, or someone representing, he would not have a basis to object. If you wanted to seek to introduce a communication that could otherwise be admitted, I am not precluding.

MR. SMITH: Even if it had not been identified at

the time of the --

THE COURT: Correct, correct.

VOIR DIRE EXAMINATION

BY MR. SMITH:

Q Mr. Kogod, your intent in speaking to Ms. Gentile and representing yourself was to try to resolve the case; correct?

MR. MARKS: Objection. There's no foundation for what was going on at that -- in that -- at that day, in that email.

THE COURT: Overruled. Overruled.

THE WITNESS: Can you repeat the question, please.

BY MR. SMITH:

Q Your intent of communicating with Ms. Gentile about the complaint and subsequent communications all were in the rel- -- in the goal of settling the case with Ms. Gentile; correct?

A She was acting on both of our behalf, yes.

Q And, in fact, you understood, at that point, that she was working with you to try to resolve the case for both you and Gabrielle; correct?

A She had been hired by Gabrielle to try to negotiate a settlement between us.

Q Okay, and you had actually, subsequent to that,

provided her your outline that you referenced earlier in your testimony on direct examination surrounding the nature of the assets and liabilities, and your proposed plan of settlement; correct?

A Yes, I prop- -- I submitted an outline.

Q And this communication was part of that process; correct?

A This communication was as a result of me looking through the complaint that was served to me.

Q But it was part of the process that you just described?

MR. MARKS: Objection, asked and answered.

THE COURT: Overruled.

THE WITNESS: Yes.

MR. SMITH: I would moved for a --

MR. MARKS: Your Honor, I would like to try to rehabilitate.

MR. SMITH: I would object to the admission of this document as part of the settlement negotiation of the parties.

THE COURT: That is sustained subject to --

MR. MARKS: Okay.

THE COURT: -- Mr. Mark's efforts to rehabilitate that. So I'm not admitting it at this time, but you may question the witness in that regard.

DIRECT EXAMINATION CONTINUED

BY MR. MARKS:

Q Was Ms. Gentile, did she sign the complaint on behalf of the Plaintiff?

A She did.

Q Did she sign any pleading on your behalf?

A No.

Q So she was representing the Plaintiff, correct?

A Yes.

MR. SMITH: Objection, asked and answered.

THE COURT: Overruled.

MR. MARKS: He had indicated his understanding.

THE COURT: Overruled.

BY MR. MARKS:

Q Was Mr. Jimmerson representing you at the time that this was going on?

A Mr. Jimmerson was still on retainer, but was not involved in these conversations at all.

Q On the bottom of the email on 4/24, you had just gotten the complaint, correct?

A Correct.

Q And you had read the complaint, correct?

A Correct.

Q You asked to clarify alimony?

A Correct.

Q Was that in nature of a settlement discussion, or just a question you were concerned or confused about?

A The latter.

Q Okay, and then a response came?

A Correct.

Q Was that a settlement discussion, or just a question you had regarding the physical nature of the complaint and what it said?

A The physical nature on the complaint.

Q And she responded, based on your question?

A She did.

MR. MARKS: Okay.

Your Honor, I think it's not settlement. This is early on when the complaint was filed, he had a question; this is the answer, it should come in, and you can give it the weight -- You can obviously give it the weight, because alimony -- the laws -- you know the law regarding whether alimony has to be pled and the factors, and this is just one piece of the puzzle.

THE COURT: I construe it as settlement discussions, and the objection is sustained.

MR. MARKS: Okay.

BY MR. MARKS:

Q All right. Let's move on to the next thing. Do you believe Gabby needs alimony?

A I do not.

Q Okay, and what do you base the fact that she doesn't need alimony?

A Number one, she has a house that's fully paid for; number two, she will have between $17 and $18 million of disposable liquid assets that in any conventional investment house, managed by professionals, that she should earn somewhere between $500 and $800,000 after tax dollars, per year, without ever touching her principal.

So, when I think about her financial disclosure, which has her between and $15 and $20,000 a month, plus her salary, she's spending about $180 to $240,000 a year, based on her own admission. She has a salary of somewhere around $50 to $60,000 a year, and she would be generating approximately $700,000 a year, after tax dollars, and she can hire any -- any professional investment counselor, including UVS to manage that, so at that the end of the day, the thought that her house is paid for; she doesn't have to work; and she will ultimately end up, my belief, in a very short period of time, earn more money that I will, given the employment situation and given that I'm taking the assets that she likely wouldn't want, the non-cash producing assets; so, just the whole idea

is just preposterous to me.

Q From 2008, onward, Gabby was spending money out of the, what, the 6446 account?

A I think she was spending money from that account and her own personal checking account, which I didn't have any access to.

Q Okay, and did -- and do you -- can you estimate how much money she spent over the eight-year period?

A I think if you take an average of $15,000 and just say the $20,000 is most recent, if you took -- it's $180,000 a year times eight, it's roughly $1.4 million over that eight-year period.

Q And was that for whatever she wanted it to be for?

A Whatever she wanted it to be for.

Q And was she giving you gifts or spending money on you during that period?

A No.

Q And were you using -- like Las Vegas during that period?

A No -- I take that back, '08, '09, yes, I was there for 36 to 48 hours on the weekend.

Q After July of 2010?

A Up til July of 2010, yes.

Q After that you didn't have any use of it?

A None whatsoever.

Q So everything she spent was for her own use?

A Yes. For her and her pets, yes.

Q And did you continue to deposit your paycheck in the 6446 account?

A I continue, through today, to do that.

MR. MARKS: Okay.

Your Honor, I have questions on my case in chief, but based on the cross from the Plaintiff's case in chief, I'd pass the witness.

THE COURT: Okay.

Any redirect?

MR. SMITH: Yes.

CROSS EXAMINATION

BY MR. SMITH:

Q Mr. Kogod, you've been -- you don't know what the settlement would have been if you were divorced -- if you would have commenced the divorce in 2010; correct?

A All I know is, according to Nevada law, assuming it's 50/50, and the size of my estate at that point, I think it would have been a $4 million settlement discussion.

Q And that assumes that your divorce would have ended in 2010; correct?

A Correct.

Q And it includes that the Court would not have paid any consideration to the $8 million -- $18 million in stock options that you identified in an email to Gabrielle and sent October of 2010 that's part of this record?

A Yeah, I don't know how the Court would have viewed options, so I don't know.

Q And, in fact, by 2015, in March, you would have had -- or, excuse me, by 2011, by March, you would have had a separate tranche of stock options; correct, that led to you receiving $21 million that year; correct?

A You'd have to show me the stock filings.

Q Well I'm -- The stock is distributed to you at a particular time at your bonus every year; correct?

A The stock is generally issued in March, April, when the bonus decisions are made.

Q Right. So, if the divorce went past March of 2011, you would have gotten another tranche that caused your income in 2000 -- excuse me, 2011 to be $15 million; correct?

A That's an assumption; but, correct.

Q Right, but you're assuming that it would be $4 million because the divorce, I assume, in your notion, would have been done in about four weeks?

A No, I don't think so. The complaint was filed in March of 2010, so I never said, once, four weeks.

Q Well, in March, 2010 was when you got your first tranche of stock options, it was $18 million. You had indicated to her that amount in November of 2011?

A I think I was reporting on the -- you have to show me the stock portfolio of exactly when options were issued to me.

Q All right. And this sort of gets to the heart of the question about -- Well, assets are tangible and intangible; you agree, Mr. Kogad?

A Please clarify.

Q Well, stock is an intangible asset then; you agree?

A Yes.

Q Stock is just the ownership of a right that hopefully grants you the ability to make money; right?

A I would amend that to say stock options, not stock; but, okay.

Q Well, but even stock itself, equities. When I buy an equity, I'm hoping that that equity either produces a dividend or a yield --

MR. MARKS: Your Honor, it's beyond the scope of my examination.

MR. SMITH: No, it's not.

MR. MARKS: Yes --

THE COURT: Overruled, overruled.

BY MR. SMITH:

Q That it -- you ultimately get a return on that investment, correct?

A I look at it differently.

Q Really? You don't invest money in stock or equities to get a return on the investment?

A I do, but I think your characterization of an option versus a stock, I just disagree with how you're categorizing the two.

Q Okay, look, an equity is an intangible right. It's an ownership interest in a company, correct?

A If you own the shares outright, an option -- you don't own anything until options vest.

Q I don't know where you're getting this option. I'm asking about a specific equity. I'm talking -- there are tangible and intangible assets. We're talking about equities now.

A Okay.

Q If I buy an equity, it's the -- I invest in a asset that is going to yield money in the future, at least I hope so, correct?

A That's reasonable.

Q All right. You have an asset that Gabrielle doesn't have, don't you?

A Which asset is that?

Q That's the asset to her in $10, $21, $15, $14 million per year?

A I had that opportunity.

Q Okay. So you're saying that, even though you earned that amount, those amounts in the last five years, you're not going to earn it in the future?

A Yes.

Q Okay. Show me on the -- You talked yesterday about Gabrielle not maximizing her income; do you recall that testimony?

A I do.

Q And do you recall that she could have gone to law school?

A Correct.

Q In fact, the discussion of her law school happened in 2009, 2010; correct?

A I don't recall the date.

Q So right now she'd have a sterling career of about three years, if she went through law school for the three years following that, right?

A I don't know.

MR. MARKS: Objection, Your Honor, to the word sterling. I don't know, maybe she would have a great career.

I -- It calls for speculation.

THE COURT: Restate the question, Counsel.

BY MR. SMITH:

Q Let's assume she has the best career she could have at three years as a lawyer, okay? Let's assume that that's true, based upon your testimony, and that's her best option for making money. That's how she could have maximized her income.

Can you show me, on that chart, from 2003, forward, of your income, what you would expect she would be making at this point, which amount?

MR. MARKS: Your Honor, it calls for speculation --

A I have no idea --

MR. MARKS: -- that he knows what she would make as a lawyer.

A -- what the compensation structure is for lawyers in America.

THE COURT: Sustained.

BY MR. SMITH:

Q One of the --

MR. MARKS: Calls for speculation.

Q One of the assertions that you were making --

MR. MARKS: Can he stop talking when I object and you rule?

MR. SMITH: He sustained it.

THE COURT: I ruled. I sustained. I sustained and he's moving on to the next question.

MR. MARKS: Okay, but he kept talking.

MR. SMITH: Judge, I only have a limited amount of time. I've spent a lot of time dealing with objections that have been sustained, but in any event --

BY MR. SMITH:

Q The -- Here -- What other -- Let me ask you this question. One of the things that you stated as to how she should maximize her income was by going to law school, right?

A One of the ways, sure.

Q Okay. What did you expect her to make? Here we are sitting after three years, after she would have graduated.

A I have no idea what the competent structure of compensation --

Q Then how could you testify that that was a way to maximize her income?

A I certainly think graduating from law school and with all of her connections would earn a lot more than working three days a week at Dignity Health.

Q Okay. But never anything close -- You would agree with me, you've dealt with lawyers before, you know how much they make, don't you?

A I know exactly how much corporate lawyers make, too, and they make certainly high, high, money on -- look in our proxy and see what our lawyers make.

Q Okay. So you would expect in her third year she would be making -- what was the minimum you made during that period of time? Let's see, wages -- $793,804, the amount you made in 2006. You would expect after three years as a corporate attorney that's what her earnings would be?

A All I know is what we hire corporate attorneys at. I don't know, outside of DaVida what lawyers make.

Q But it's pretty reasonable -- Well, all right.

So, in terms of maximizing her job in the medical field, I think that you were suggesting that she could earn more. Maybe she could work five days a week. Would she make anything close to any of those figures?

A Once again, it depends on the company, it depends on whether she was granted options, profitsharing, bonus potential, commission. I -- I don't have an answer for that.

Q Do you think she would be making the $10-to-$15 or $21 million a year? Do you think that's what her career asset is worth?

A Probably not as high, but certainly more than what she's doing today --

Q But the --

A -- so somewhere in between.

Q Your ability to make money, Mr. Kogod, is not limited to DaVida. If you went out and marketed yourself, and you could market yourself and make money at other corporations; correct?

A I disagree, strongly.

Q Okay. So you don't think you could get another job, but --

MR. MARKS: Objection, is that a comment or a question?

MR. SMITH: I was in the middle of --

THE COURT: Sustained.

MR. SMITH: All right.

BY MR. SMITH:

Q But, Mr. Kogod, the reason that you have the ability to make the kind of money you've made, is because you invested in your career. That's what caused you to have that ability to make the money; correct?

A As she did, correct.

Q Right. Just like you invested in a stock, right?

A Just as she had the same career opportunities, a diverse portfolio, yes.

Q But as we sit here today, you're career -- well, strike that.

You indicated there's a difference in terms of the -- what you're promoting in this case is that you received the exact same amount of assets, regardless of the amount of money you spent on Nadya, right?

A I'm sorry, can you repeat the question again?

Q What you're promoting in this case -- what you're asking the Judge to do is to cut up the assets equally, in terms of values, regardless of the fact that you spent money on Nadya, correct?

A I think in Mr. Marks' opening --

Q I'm asking a yes or no question. If --

A Repeat the question, please.

Q You're asking in this case that the Court divide up the money equally, regardless of the amount of money you spent on Nadya?

A Yes.

Q So if you have equal amounts of money, you can choose to either have that money in the form of liquid assets or in the form of houses, right; that's your choice?

A I think that's a mutual choice.

Q It's your choice to keep Nadya in the mansion, correct?

A To keep my children with a roof over their head in a good school district, yes.

Q Okay, great. But it's six -- you're parking approximately, according to your own estimates, about $6 million in assets, in a house, so that your kids can live in a good school district, right?

A For the time being, yes.

Q Okay, so that money -- that house, though, could be liquidated, it could sell, just like you bought the house and there would be some amount of money that you would receive and, based on the estimates you have it at somewhere around $6 million, right?

A I think $6 million, minus commission and capital gains on the, I think, house itself, yes.

Q Well, you understand one of the positions that Ms. Kogod is taking in this case is, if you want to sell that house, she'll take half of the sale proceeds, right? So that's your choice to keep all of those obligations --

MR. MARKS: Your Honor, we are not dealing with settlement discussions in cross examination.

MR. SMITH: He's talking about -- The --

MR. MARKS: That's just improper. His question is improper, what are her positions; what are his positions. That's not proper cross to help you make a decision.

THE COURT: To the extent it's settlement discussions, it would be the same as I ruled previously. I

don't know if you're talking --

MR. SMITH: It's in the pretrial memorandum, it's not a settlement discussion. It's a position we've taken in the memorandums.

MR. MARKS: It's argumentative. What is the question that's --

THE COURT: The objection is overruled, then.

THE WITNESS: Repeat the question, please.

BY MR. SMITH:

Q In this case, you're making a choice even to incur those fees that you just referenced, because Ms. Kogod is taking the position in her pretrial memorandum that she would be willing to sell the house and divide the proceeds?

A Yeah, right now I prefer to keep the house, yes.

Q Okay, I understand. But that's the point, is that you're saying that there will be a difference in the investment income because you've chosen to keep your assets in the form of physical assets; correct?

A Correct.

Q All right. And -- But, ultimately, what you're saying is that you two would be placed in an equal position at the end of your divorce because you have equal amounts of assets; correct?

A I think I'd look -- No, I don't agree with that. I

think -- I'm not going to kick my parents out of their house. My brother's been talking about leaving since he got to California, so my obligations to my family and having disposable liquid assets are not nearly as great as Gabrielle's.

Q And the question I asked you was, assets. You will have an equal amount of assets at the end of this divorce, according to the plan that you've presented for the Court, correct?

A Dollar value equal, yes.

Q Okay, and so neither of you will have need at that point. Even with the money that you are going to continue to invest in the real estate for your parents and your -- Nadya --

MR. MARKS: Your Honor, that's a comment. Is that a question?

MR. SMITH: I haven't finished.

THE COURT: He hasn't finished.

MR. MARKS: Okay, it was a comment.

BY MR. SMITH:

Q Even with the money that you were going to continue to invest in real estate, the returns on your investment portion is still going to be greater than you need; correct?

A For both of us. We will have more money than we

will ever spend.

Q Please answer my question, Mr. Kogod. Isn't the money that you have to invest going to be greater than any amount you need?

A It's hard to tell what my needs will be over the next 25 years.

Q How about next year?

A Sure.

Q It's going to be greater than your need; correct?

A As it will with hers, too, yes.

Q Okay. Right. Thank you.

And, over and above that, you're going to get your salary; correct?

A I think that's questionable for how long.

Q Okay. But you're going to get a salary and you're going to have the opportunity under the plan that you are currently involved in, in DaVida, to have stock options and other benefits; correct?

A I believe going forward, I will have the opportunity to have the base salary very limited to no stock options, and we've gone to four year L-tips, as opposed to stock options. So that implies that I would be physically able over the next four years, and a bonus opportunity, which the year before was $200,000 and, in 2015, it was zero.

Q Your 2015 bonus is determined by a margin by a committee, correct?

A Yes.

Q Okay, and that committee meets in March of this year, correct, for your 2015 bonus?

A Yes.

Q So the bonus, if any that you would receive, would be retroactive to the work that you performed in 2015, correct?

A Yes.

Q And that committee has not met, they haven't made any decisions yet, correct?

A Correct, but --

Q Okay, thank you. In regard to your L-tips -- thank you for correcting me -- Your L-tips are a form of bonus that you now receive as part of your compensation in DaVida, correct?

A Correct.

Q All right. You had indicated that you were not giving Ms. Kogod any bad assets in this case. What are the bad assets in your case, your portfolio?

A There is no up side on Winner on Fire, Pray for Your Cream. The cars will depreciate, continue to depreciate at a faster rate. There's the movie, Pray for Thomasina or --

Thomasina is very much a 50/50. So I think the -- I think the upside on my brother's condo and then my parents' condo, versus what I paid in the market, the movies and the cars, there's more downside risk than there is an upside.

Q Any other thing that you would identify as a bad asset that you are taking?

A You'd have to show me the sheet. I'm doing this from memory.

Q Okay. Based on your memory you don't have any -- you have a pretty good idea what you own though, right?

A I do. I do.

Q In terms of the $3.6 million that she received, it made it sound as if somehow that was some sort of gift to her, when the way you described it, it was actually an exchange for money you had already spent, correct?

A Correct.

Q And, in fact, you spent that money -- You were present at the time Mr. Jimmerson had expressed to this Court that you were looking at a condo and that you may buy it; do you recall his statement to the Court in that regard?

A I thought his testimony was that I purchased a condo for myself.

MR. SMITH: Okay, well, he didn't indicate that.

I would just ask the Court to take judicial notice

of the record of this case. Mr. Jimmerson definitely represented that he had not purchased it yet.

BY MR. SMITH:

Q It was only after we found the documents associated with the sale that we knew, isn't that correct, Mr. Kogod, that's why we asked for the stipulation?

A That's not my recollection, but we can look at the minutes.

Q The -- Let's look at a couple of emails, but we're going to do this relatively quick -- Oh, the MBA, it's clear that you didn't get your job because of your education, correct, you got it because of your experience; right?

A Correct.

Q The -- Did you -- You're trying to make it sound as if your strategy of causing Gabrielle to give up on your marriage was working. Did you think it was working?

A I'm not sure how you arrived at that conclusion, so please elaborate.

Q Well, do you have a -- did you have a strategy -- and, correct me if I'm wrong, but I thought you testified yesterday to the effect that you had the strategy of leading her on and going through counseling with her in an effort to get her to cause -- to be file -- for her to file for the divorce?

A I'm certain I didn't use the word strategy to lead her on. I think what I said is, it was my hope that through counseling and friends and other external sources, that they would help Gabrielle understand and come to the conclusion on her own that this was irreconcilable.

Q Isn't it true that the frustration she expressed was because you continually indicated to her, one thing, but did another; correct? Is that a fair statement?

A I'm sure that was part of her frustration.

Q Okay, and that's the frustration she talked about when she said that you weren't going -- you weren't being around is, after July of 2010, you would tell her that you wanted to be with her, and then you wouldn't come?

A And that goes to my claim that she was happy to go along for the ride, that --

MR. SMITH: Okay.

Can I possibly get a yes or no answer, Your Honor.

THE WITNESS: Repeat the question, please.

THE COURT: I need to instruct the witness again. You need to listen to the question and answer yes or no, and refrain from the explanation.

THE WITNESS: Okay.

BY MR. SMITH:

Q In regard to the frustration that she expressed in

regard to not seeing you, that was not seeing you from July of 2010, until the time she expressed that frustration in November or December of 2010, correct?

A You're asking me to comment on what she was thinking.

Q You commented on what she wrote this morning and now you have the inability to comment on that -- what she wrote this --

A The question is you asked me doesn't require -- doesn't generate a yes or no. You're asking me to comment on her level of frustration and what time period.

Q Let me ask the question this way. The time you stopped seeing her, you were still going to the home up until July of 2010, and then you showed up on July 11th of 2010, and told her that, I think in your words, that you were sexually confused; do you recall that?

A I don't recall what date. I recall showing up one time after the complaint, but I don't remember, or the specific conversation, but I remember showing up.

Q That was the time that you referenced that you went in the home and you had a 30-minute conversation with her, correct?

A Correct.

Q Okay, and then it was after that time that you

stopped coming, after you informed her that you had this problem?

A Correct.

Q And, in fact, the only reason you didn't call her on the phone wasn't because Gabby wasn't willing to talk to you, but was because you said you had Asperger's and it was difficult for you to communicate?

MR. MARKS: Your Honor, it's been asked and answered, yes.

THE COURT: Overruled.

THE WITNESS: Can you repeat the question, please.

BY MR. SMITH:

Q You made this issue this morning in response to questions by Mr. Marks that it was evidence of a terrible marriage that you didn't talk on the phone, or no marriage, but in fact you're the one who manipulated that. You said that you had Asperger's, and therefore it was difficult for you to talk on the phone.

A I said that. I don't think that was the only reason we weren't talking on the phone.

Q Well, that's the reason you gave her. Let's look at your emails.

A Which one would you like me to turn to?

Q Yeah, let's look at that. 20 -- It's in Exhibit 23,

12184 and 185.

A Okay. Would you like me to read these?

Q Yeah, you have before, but we'll -- go ahead.

MR. MARKS: 12183?

MR. SMITH: 12184, 12185, 12186, 12187.

THE WITNESS: Would you like me to read all of those?

BY MR. SMITH:

Q Yeah, if you'd like. But I'd just note that you read them yesterday, and you commented this morning that the whole notion about the phone was the email from Gabrielle that begins on 12187.

In fact, since these go order in the other way, we'll start at 12188 and we'll go backwards because that's how the dates go.

A Okay, which one do you want me to start with?

Q Let's start at 12188. It's very short, one paragraph.

MR. MARKS: Are you in the middle of the page?

MR. SMITH: The middle of the page.

THE WITNESS: Okay, I've read that one. Do you want me to keep reading back?

BY MR. SMITH:

Q You're right, It shouldn't be that hard and it

shouldn't be this hard for you to answer your phone as I'm trying to call now.

So you were trying to call; right?

A I think -- I think it implies she was trying to call me.

Q Oh, she was trying to call you, right, but you didn't answer your phone in that time, right?

A According to this email.

Q Yeah, and so she became frustrated and wrote the email that you had referenced this morning; do you see that?

A The one on 12/11?

Q 12/11 -- It starts -- Her email starts at 12187 in regard to her frustration over the fact that you are not answering your phone.

A Okay.

Q And then you say in response on 12187, that My Apberger's (sic) is out of control right now. I'm not letting your calls go into voice mail, my opinings are off, every phone is off; do you see that?

A I'm looking for that.

Q That's 12187. Do you see, My Apberger's (sic) is out of control right now?

A Yep.

MR. MARKS: So there's two emails. You're referring

him to the top email?

MR. SMITH: Yep, that's the one he wrote.

THE WITNESS: Yep, I see it.

BY MR. SMITH:

Q And you say, Every phone is off, and you're trying to justify why you didn't answer your phone, right?

A Correct.

Q So you're leading her to believe that it's not the matter of fact that you didn't have a marriage together; but, in fact, you're Asperger's was so damaging that you just couldn't talk to her, right?

A I don't think it was that extreme, but I did reference that, yes.

Q Oh, but then it did seem that extreme. Let's look at 12184.

A Okay.

Q In the middle of the page where it was bolded. We are seeing the major symptom of Asperger's, an inability to share anything personal. Do you see that?

A I do.

Q You were trying to let her believe that somehow it wasn't that you didn't want to talk to her; but, geez, you were just the victim of this condition, right?

A It was a condition, yes.

Q Yeah, well, but that was what you were trying to tell her by saying, gee, my Asperger's is out of control right now?

A In this email, that's what I was telling her.

Q Okay, and then you even explain it in the next phone -- the next page. Let's look -- the next page is 112185. You state, and it's bolded again for you, I try to pick up the phone, but I just can't -- or I can't hit send. Do you see that?

A I do.

Q In other words, that's an explanation for her that it's just not her, Gab, it's me, right?

A I don't know specifically what that one sentence is referring to, whether it was Asperger's or I just didn't want to talk to her.

Q And you stated later, I want to stop breaking promises that will -- I will call and say the following to you: I love you. I want to put all of this behind. I will work very hard in marriage counseling to make that happen. Until then, I can't do any better.

Does that sound to you like someone who is giving up and doesn't want to be together with his wife?

A I think the words -- that's a reasonable conclusion. At the end of the day, my actions did not support any of that

at all.

Q All right. Here's a part that's kind of a mystery, Mr. Kogod. You indicated that your goal here was to get her to file for divorce, right? Your ultimate goal was to get her to realize that she should file for divorce?

A My ultimate goal was to get her to understand that our marriage was broken and, yes, to file for divorce.

Q Well, wasn't that the very thing you feared? You're saying, in fact, today -- yesterday, that the reason why you kept her from filing for divorce is you thought she was so angry she would go to DaVida with the knowledge about Ms. Khapsalis, right?

A Yes, but it was my belief that she if she took --

Q The answer is yes to that question?

A No.

Q Okay, now it's no. So tell me what -- So, did you intend to cause her to go to -- to assuage her and cause her to go to counseling by giving her false statements in order to prevent her from filing for divorce and going to DaVida?

A I was concerned about her going to DaVida.

Q Is the answer yes or no?

A I can't answer yes or no. You've got part of it in there true, and part of it not, so there is no yes or no.

Q Okay. Did you -- I think we've established this,

but you mislead her in order to assuage her, correct?

MR. MARKS: Your Honor, it's been asked and answered yesterday when --

MR. SMITH: But he's not answering the question, Your Honor.

MR. MARKS: We went through it for two hours yesterday, the exact same thing.

THE COURT: Listen, yeah, I mean, I'll allow it, but you're using your time. I've --

MR. SMITH: Judge, if -- Here's the thing that would help me, Your Honor. One of the things that you can do in this case to move it along is to say, Judge -- is to say, Mr. Smith, I've heard this issue and I'm satisfied I have enough information.

THE COURT: And I am satisfied.

MR. SMITH: Great.

THE COURT: I don't need anything further on this.

MR. SMITH: Great. All right.

MR. MARKS: Thank you.

BY MR SMITH:

Q But in regard to the concern you had about Gabby going to DaVida, do you share that concern about your breakup with Ms. Kipsalis?

MR. MARKS: Relevance, Your Honor.

MR. SMITH: Well, it's this whole notion that he doesn't --

THE COURT: Overruled. It gets somewhat to the same point.

MR. MARKS: But, is it relevant to your decision making in this case?

MR. SMITH: It is relevant, and I will get there, Your Honor.

MR. MARKS: All right. If you think it's relevant, you're the Judge, but --

THE COURT: I'm overruling but, again, I feel that we're spending time needlessly in areas that --

MR. SMITH: Okay. This is a couple questions, Your Honor.

THE COURT: Okay.

BY MR. SMITH:

Q How are you -- Are you concerned about Ms. Kipsalis going to the Court and revealing that these children are not your grandchildren but, in fact, your children -- I mean, excuse me, not to the Court --

MR. MARKS: Objection, relevance.

Q -- to DaVida and telling the DaVida people that these children are not your grandchildren but, instead, your children?

MR. MARKS: Relevance.

THE COURT: Overruled.

THE WITNESS: Today I am not; earlier in the relationship, of course, I was.

BY MR. SMITH:

Q Okay. What have you done to assuage her from doing that?

MR. MARKS: Relevance.

THE COURT: Overruled.

THE WITNESS: I don't know how to answer that question. We were in a healthy relationship until a year ago.

BY MR. SMITH:

Q Yeah, but what have you done now that assured to Miss -- with Miss Kipsalis that assures you that she's not going to go to DaVida and advise them that these children are actually your children?

A I just stated at this point I don't care if she does.

Q Because now DaVida knows about that fact?

A No.

MR. MARKS: Objection, relevance.

THE WITNESS: No.

MR. SMITH: Well, why is --

MR. MARKS: Hearsay, what DaVida knows -

THE COURT: Sustained.

MR. MARKS: -- who at DaVida.

THE COURT: Sustained.

BY MR. SMITH:

Q Have you advised anyone at DaVida that these children are not your grandchildren?

MR. MARKS: Relevance.

THE COURT: Overruled.

THE WITNESS: No.

BY MR. SMITH:

Q Have you paid Ms. Khapsalis -- Ms. Khapsalis has filed -- has filed some sort of -- or threatened to file some sort of action for palimony?

A She's talked about it.

Q And you're currently paying her child support?

A I'm continuing her living expenses.

Q And paying all of those, correct?

A Correct.

Q You allow her to have a credit card; correct?

A Correct.

Q And the use of the home, and the Bentley; correct?

MR. MARKS: Your Honor, beyond the scope of --

THE WITNESS: Correct.

MR. MARKS: -- way beyond the scope of anything I

asked.

THE COURT: Sustained.

BY MR. SMITH:

Q The -- You had indicated that part of the problem that you believed was in the marriage was the fact that Gabrielle didn't get along with your parents; correct?

A It was one of the factors, yes.

Q Okay, your parents actually stayed at your home up until 2008, correct?

A No.

Q Isn't it true that -- that the time that you indicated that your parents did not or would not stay in the home was when they came in 2008, and stayed at the Riviera in a timeshare that they received as a result of gambling?

A No.

Q So you're saying that they would -- they were -- that Denise -- or Ms. Kogod did not allow them to stay in the home before that time?

A I would say Gabrielle made it so uncomfortable for them that they literally left two days into a five day trip, going all the way back to North Carolina. And when we were living in Coto De Caza, I had to put them in a hotel in 2001, 2002.

Q Okay, and so in 2008, did your parents come to Las

Vegas?

A I believe they did.

Q Okay, and your parents met your children during that visit to Las Vegas, correct?

MR. MARKS: Your Honor, relevance, beyond the scope of my cross.

MR. SMITH: No, no, you talked about --

MR. MARKS: Beyond the scope. I never mentioned anything regarding that topic.

MR. SMITH: No, you mentioned about the parents and the problems with the parents.

MR. MARKS: But not about his kids; not about Nadya.

MR. SMITH: We're getting to the issue of whether --

MR. MARKS: I mentioned one thing about a heart attack, to say that he -- they had such a bad relationship he never told her that his parents had a heart attack. That has nothing to do with meeting kids, Nadya, way beyond the scope.

THE COURT: the objection's overruled.

BY MR. SMITH:

Q The problems of the parents really began after you introduced them to your children in 2008, correct?

A Absolutely untrue.

Q The nine attorneys that you referenced that Gabby talked about in her deposition, she didn't consult with those

attorneys; correct?

A I'm just responding to, she said she talked to nine attorneys about this.

Okay, but most of those attorneys were friends of hers, correct?

Q But they were attorneys, yes.

A Okay. She didn't come to LA because you didn't tell her you were in LA; correct? You told her you were in -- after 2010, because you told her you were in Denver?

A She never came to Denver, either.

Q Okay. Did she ever ask to come to Denver?

A When she found out one night that I had been hospitalized for a kidney stone --

Q Is the answer yes or no, did she ever ask to come to Denver --

A Yes, one time.

Q And you told her no, right?

A At that time, yes.

MR. SMITH: Pass the witness, Your Honor.

THE COURT: Any recross?

MR. MARKS: No recross.

THE COURT: All right, you may step down.

THE WITNESS: Thank you.

THE COURT: Your next witness?

MR. SMITH: Can I ask what time we have now? What are the time shares for each party?

THE COURT: Paintiff has used just over four-and-a-half hours, and the defendant has used just over an hour and 40 minutes.

MR. MARKS: Your Honor, can we take a --

THE COURT: No, actually, two -- just over two hours.

MR. MARKS: Can we take a five-minute break before he calls his next witness?

THE COURT: That's fine. We'll go ahead and take a five --

MR. MARKS: So I've used two hours?

THE COURT: -- short five minute break. What's that?

MR. MARKS: I've used two hours?

THE COURT: Just over two hours, yeah.

MR. MARKS: Okay.

(COURT RECESSED AT 10:08:06 AND RESUMED AT 10:16:57)

THE COURT: We are back on the record in the Cioffi-Kogod matter.

Your next witness, Counsel?

MR. SMITH: One last thing for Mr. Kogod, Your Honor, I'd like to publish his deposition. I don't know if I

need to put him back on the stand to do that. It can be used for any purpose. It was clearly taken, he was there, it's two days.

MR. MARKS: But, Your Honor, you can't -- when you say you can use it for any purpose, that means it's permissible to use at any purpose, but it doesn't mean it's published and you can read the whole thing if he doesn't use it. Again, I think he's supposed to read it into open court. You can't just hand it to the judge and say, here, that's evidence.

MR. SMITH: I disagree. I can read from that de- -- it's usable for any purpose.

MR. MARKS: But you have to use it. It just doesn't mean you open the seal, hand it to you, and then you do what you want with it. That's an impermissible use under Rule 32.

MR. SMITH: Well, I -- you're going to have to show me Rule 32 where it says that's an impermissible use. The language of Rule 32 says that it can be used for any purpose. So I can read it from -- in my opening statement, I can read from it in my closing, I can read from it to other witnesses, I can read to it -- from it to Mr. -- Ms. -- Mr. Kogod, to Ms. Cioffe-Kogod, I can do anything --

THE COURT: I'm not inclined to publish it at this point. I certainly can revisit that later in the proceedings,

perhaps at the close to determine exactly what the purpose is. Understand --

MR. SMITH: I have one more question, then, for Mr. Kogod, one question if you would permit.

THE COURT: Okay.

If you will go ahead and re-take the stand. I'd remind you that you are still under oath.

THE WITNESS: Yes, sir.

REDIRECT EXAMINATION

BY MR. SMITH:

Q You had your deposition taken in this case, Mr. Kogod?

A Yes.

Q You understood that when -- your deposition was taken for two different days; correct?

A Correct.

Thank you, sir.

Q And you understood that you were answering those questions under oath?

A I did.

Q And I advised you that if you changed your testimony at the time of trial I could comment on that?

A Yes.

MR. SMITH: Court's indulgence. Okay.

BY MR. SMITH:

Q Isn't it true, Mr. Kogod, that up until 2013m you said and did things in relation to Gabrielle that were designed to cause her to believe that there was a chance at reconciliation?

MR. MARKS: Asked and answered yesterday and today.

THE COURT: Sustained.

BY MR. SMITH:

Q In your testimony yesterday, you answered that question, yes, that you did things that were designed to lead her that there was a chance at recollection.

MR. MARKS: Your Honor, asked and answered and beyond the scope of the cross, and asked and answered both yesterday and today. It's the same exact thing he asked him yesterday.

THE COURT: Well, sustained as to asked and answered. He did respond yes to that testimony.

MR. MARKS: Okay.

MR. SMITH: If you'll -- I'd like to publish Mr. Kogod's deposition, including Volumes 1 and 2.

MR. MARKS: It's not proper to publish it in that context. There's no inconsistency.

MR. SMITH: I'm going to use it to show that there's an inconsistency in his statement in the deposition.

THE COURT: But you can do that without publishing it at this point in time.

MR. SMITH: Why can't I publish it?

THE COURT: Well, here's the -- here's where I'm at in terms of publishing. Because I'm going to be reading deposition transcripts to begin with.

MR. SMITH: Yes.

THE COURT: My intent is not to read -- And any live witnesses, I'm not going to be reading their deposition transcript, unless you show me the specific provisions that call into question, perhaps that testimony in terms of attacking the credibility.

MR. SMITH: I understand; but, Judge, I can use that deposition transcript for any purpose. I can cite it in my closing argument. I don't have to present it at the time -- The depositions of the parties, as I understand it, are different than deposition transcripts of witnesses who are not present.

THE COURT: Well, and that's understood; but, again, I'm not inclined to publish it at this point in the proceedings.

MR. SMITH: Well, how do I --

THE COURT: I certainly will entertain that, but --

MR. SMITH: How do I show it to him, if it's not

published and part of this record, I just don't understand how I do that.

THE COURT: Well, but he can -- You can still show him the deposition transcript without publishing it. I'm not aware of any requirement that it be published before he can actually view the transcript.

MR. SMITH: That's the only -- My understanding, Your Honor, is that the publication of the transcript is the only way it's contained in the record of the Court. Are you saying that I don't have to publish a deposition in order to use it in the context of the hearing?

THE COURT: Not in this context at this time, no.

MR. SMITH: Okay, then I will just use it --

THE CLERK: Can I get the deposition transcript?

MR. SMITH: Should I unseal the transcript, or --

THE COURT: I don't think it needs to be unsealed. If you have a copy -- if you're attempting to impeach the witness, based on something that he testified at his deposition, I see no -- I don't have a problem with a copy of the transcript being used.

If there's a challenge that ultimately is levied by the defendant as to his deposition testimony then, you're correct, that takes it to a different level, where we would need to unseal the original at that point in time. But I

don't know that we're going to get to that point.

MR. SMITH: Okay. Your Honor, again, it was my understanding that, in order to utilize a deposition in the record, I'd have to publish it into the record, and you're indicating not, so we'll use a copy.

THE COURT: Yeah, I'm indicating, for my purposes, I don't need it to be published.

BY MR. SMITH:

Q When I asked you that question in your deposition you actually said no; do you recall that?

A I don't.

Q I'm going to show you a certified copy of --

MR. SMITH: May I approach, Your Honor?

THE COURT: Yes, you may.

BY MR. SMITH:

Q -- a certified copy of your deposition transcript. I'm going to have you --

MR. MARKS: There were two volumes, can you tell me which volume?

MR. SMITH: Volume 1.

MR. MARKS: And what page, Counsel?

MR. SMITH: I'm getting there. Page 84. At -- I'm sorry, it's page 88.

BY MR. SMITH:

Q I asked you the question, then tell me if I'm reading this correction -- correctly.

So isn't it true that up until 2013 you said and did things in relation to Gabrielle that were designed to cause her to believe that there was a chance of reconciliation, and your answer is no.

A I see that.

Q Also, you had a very specific recollection of what you felt in your relationship with Gabrielle in or about 2002 forward, correct?

A You'd have to show me, please.

Q No, I'm asking you to -- in your testimony, this -- you're saying that your relationship ended in about 2002?

A 2003.

MR. MARKS: Your Honor, it's kind of compound comments. I don't know if he can ask a question that is clear.

THE COURT: The objection is overruled.

THE WITNESS: 2003.

MR. SMITH: Okay. In 2000 -- Okay, all right -- That's all I have, Your Honor.

THE COURT: Any recross?

MR. MARKS: No recross.

THE COURT: All right. You may step down.

MR. MARKS: Your Honor, just a point of clarification, you can use a deposition for any purpose but you can't, in closing, just read the deposition and if it's -- It has to be evidence. When we get to closing, it has to be evidence. If in opening you want to say, this is what the evidence --

THE COURT: Well, again, I've stated where I'm at in that regard --

MR. MARKS: Okay. All right. Thank you.

THE COURT: -- for purposes of the record.

Your next witness.

MR. SMITH: Gabrielle Kogod -- or Coiffi-Kogod.

THE COURT: Please remain standing and raise your right hand to be sworn.

THE CLERK: You do solemnly swear that the testimony you are about to give in this action shall be the truth, the whole truth and nothing but the truth, so help you God?

MS. CIOFFE-KOGOD: I do.

THE COURT: You may be seated.

Counsel, you may proceed.

GABRIEL CIOFFI-KOGOD

called as a witness on her own behalf as Plaintiff, and being first duly sworn, testified as follows:

//

DIRECT EXAMINATION

BY MR. SMITH:

Q Please state your name.

A My name is Gabrielle Cioffe-Kogod.

Q And Ms. Cioffe-Kogod, where do you reside?

A I reside currently at 28 Vera Miramonte, in Henderson, Nevada 89011.

Q How long have you resided at that residence?

A Since December of 2000 -- December of 2003.

Q And is it -- in that period of time you've made Nevada your permanent home of residence?

A Yes.

Q Is it your intent in the future to make Nevada your permanent home of residence?

A Yes.

Q And were you a -- physically present in the State of Nevada at least six weeks prior to the time of the filing of your complaint for divorce?

A Yes, I was.

Q You have indicated that Dennis -- the defendant, Dennis Kogod, is your husband?

A Yes.

Q And is it true that your likes, natures, tastes and dislikes, have become so widely divergent and separate that

you can no longer live as man and wife?

A Yes.

Q Is it your desire to retain your name in this action, or would you like to be referred to as something else?

A I'd like to go back to Cioffe.

Q Okay. The -- You have set forth, as part of this action, a statement of your assets and liabilities?

A Yes.

Q And you've addressed in your pretrial memorandum the difference between the request for assets and liabilities that is contained in the proposed community property distribution of the defendant, Dennis Kogod; correct?

A Yes.

Q And you're asking the Court in this matter to make an equitable division of the community assets; correct?

A Yes.

Q And as part of that equitable division, you're asking that there be an unequal division of property; correct?

A Yes.

Q What is that based upon?

A That's based upon this -- the extended period of time that I believed we had a marriage that was in trouble, but we were trying to fix it, and was unaware that there were assets from our community that were being spent without my

authorization, without my knowledge, elsewhere.

Q When was the first time you became aware, as Mr. Kogod testified, of his relationship with Nadya Kioski Khapsalis Kogod (ph), or whatever name she's using presently?

A We had come to our first case hearing here on February 3rd of 2015, and we were finishing through the business of the hearing and just before we finished, I remember Dennis's attorney, Mr. Jimmerson, stood up as though it was an after-note, there's one more thing we have to talk about, and I had no knowledge of anything like that up until that time. I didn't know her name; I didn't know anything about who this person was, but then Dennis submitted his financial disclosure after that hearing, and that's when I was able to see the name of who this person was that -- I can't remember, he's referred to her as his fiancé, partner, I don't remember what it was at that point, but there was a name.

Q We're going to go back a little bit --

A Yes.

Q -- and then we're going to come back to that point in time, okay.

A Okay.

Q The first thing I want you to talk about is how you met Dennis Kogod.

A Okay. I was a sales rep that was working for a medical products company in the New York City area. I covered New York, New Jersey, the Burrows, and I had gotten to a point in my company that I was doing very well. And someone who was in our company left and went to work for Pilling, and I then got a phone call and I couldn't remember if it was from the HR company at Pilling, or a head hunter, although I wasn't looking to switch jobs, but that they wanted to interview me for a position as a sales rep in the New York City area.

Q And you grew up there, right?

A I did. I grew up in Brooklyn, yes.

Q And you were living in Manhattan at the time?

A Correct.

Q Brothers and sisters?

A Yes. I have -- I'm the youngest of four. I have two older sisters and an older brother.

Q When you met Dennis, were your parents alive?

A Yes, they were.

Q Where were you educated?

A I went to a private, all girl -- Well, I went to a Catholic grammar school and then to the affiliated high school, which was an all-girl private school in Brooklyn, and then I went to the State University of New York at Binghampton, for their four-year nursing program. And then

after completing that, I started working in Manhattan, and I went to school in the evenings to obtain my master's degree in public health.

Q And how old were you when you met Dennis?

A I was -- I think I was, like, 32, 33. It --

Q Okay, had you been married prior to that time?

A No, I had not.

Q And you have no children?

A No.

Q No, you do not?

A No, I do not

Q Okay.

A Sorry.

Q The -- Dennis describes that you started a romantic relationship and then began a marriage and you made the decision -- or a romantic relationship, and then you made the decision to move to Florida; is that correct?

A Correct.

Q What would cause you to make that decision? It sounded like you had a good job?

A I had a good job, but, at that point, Dennis's career was developing in the executive area of health care, and as a sales rep, that was just secondary income. I always wanted to work, I always wanted to do something related to

nursing, but I knew that, in that position, I wouldn't, you know, be establishing the kind of career path that Dennis would. So when we talked about it, the idea was, Gabby -- what Dennis said to me was, I think you should quit your job, I think you should move to Florida, and then, you know, you'll find something there, you're a nurse. And so that's when I did.

Q All right, and where did you move into in Florida, was it the apartment that Mitchell -- that --

A Correct.

Q -- Dennis described?

A Yes.

Q Describe the apartment, big, fancy, what was it?

A It had -- I think it was three bedrooms, there was a guest bedroom that the children -- that Dennis's children from a prior marriage would come and stay in when they came to visit. I believe Mitchell had a room and we had a room. There was a kitchen and a dining area/living area.

Q Okay. You -- When did you move out of that apartment?

A We moved when Dennis had his first promotion, and that took us to a -- an executive apartment in Horsham, Pennsylvania.

Q Was there any discussion about you remaining and

advancing your career in Florida?

A No.

Q No. What was the discussion -- the position --

A The discussion was, this was a big promotion. Gab, you'll find something else. I think there's a thinking that when you're a nurse, you're always going to find something else.

Q Okay. Were you happy during that time with Dennis?

A Yes.

Q What was it that attracted you to Dennis? What was your relationship based upon?

A We had very, very similar interests. There was a physical attraction. When Dennis would come to New York, even when I was a sales rep and we had that reporting relationship, if he had to come to New York City on business, we went to the movies; we went to the theater; we enjoyed eating out. He loved certain restaurants in Manhattan that we would go to. I think he also loved the idea that we lived -- I lived right in the City and tried to spend a lot of time there.

Q And how long did you date before you got married?

A I know that when I met Dennis, Dennis said, I want you to quit your job and marry me, and I said, whoa, we need to take some time and so --

Q How long after --

A I'm sorry.

Q How long after that you met him did he say that?

A He -- The day he -- Okay, I was hired, he picked me up at the airport to start my orientation. He dropped my suitcase at the hotel, we went to a restaurant, and at the restaurant he said that.

Q But you didn't marry right away, right?

A No.

Q How long did you date?

A I want to say that it was on -- We -- That was, I think, April of 1990, and we married in July of 1991.

Q Okay. So there was almost -- a little bit over a year?

A Yes.

Q All right. But you lived together during that period of time, at least for a portion of it?

A Correct.

Q How long? Figure nine months at the longest?

A Yeah, I moved -- I moved out of my Manhattan apartment, but we kept it because it was staff housing, and it was very reasonable. We thought we'd keep coming back and forth, so --

Q It was almost $325 a month?

A Yes, utilities included.

Q All right. All right, so you moved to Horsham, Pennsylvania?

A Correct.

Q What do you do while you're there?

A When we moved there, I -- the first thing I did was to seek employment, and so there was a hospital there that was affiliated with the College of Osteopathic Medicine, and I had thought it would be fun and interesting to do nursing recruitment, so I applied for a job there, and they hired me into that position.

Q What did you do with your money, then, when you earned it, did you put it in a bank account?

A Yeah, I saved it.

Q Did you have a joint account at that time?

A You know, I don't recall if we had a joint account at that time.

Q How did you manage your bills?

A I usually was the one that was paying the household utilities, and when the checks come in, I would sit and reconcile them with the checkbook, and --

Q Okay, did that continue throughout your marriage?

A Yes; it did.

Q Who did most of the cleaning at the house?

MR. MARKS: Objection, relevance, Your Honor.

THE COURT: Overruled.

THE WITNESS: I did what I would consider the housewife or the caretaker issues, and that included cleaning and --

BY MR. SMITH:

Q I'm going to sort of short circuit this by saying, I want you to answer these questions not only for your home in Pennsylvania, but in North Carolina, California and Nevada, okay?

A Okay.

MR. SMITH: Thank you.

BY MR. SMITH:

Q Who was primarily responsible of you and Dennis for maintaining the bills of the home in all of those areas?

A I think that I paid -- and I think we had discussions about that, you know, Gab, keep working and use your money that you're earning as spending money, and then you can take care of, like, the bills that are coming in, utilities, your car and those kinds of payments, and then Dennis would handle, like, the mortgage payments and -- I think the mortgage and -- I'm trying to remember if he paid the car insurance at that time out of whatever account he had.

Q Okay, who did the cleaning? How did you share those responsibilities?

A I did the cleaning. From time-to-time we would have a housekeeper come one day a week, say, every couple of weeks. I have really traditional values about, you know, working, but yet also being a homemaker.

Q You didn't grow up rich, did you?

A No, I did not.

Q What did your father do?

A My dad was an electrical engineer.

Q Middle class neighborhood?

A Yes.

Q Catholic schools?

A Yes.

Q All right. You -- In terms of the clothes, washing the clothes, who did that?

A I did that, but there were times when Dennis would do -- would help out with laundry; but, primarily me.

Q And what about cooking?

A Me.

Q Did -- Dennis said he barbecues every once in a while?

A I think he did.

Q Okay, but primarily the cooking was you?

A It is.

Q Did you eat out much?

A We ate out sometimes on the weekends. We might order in if we were, you know -- I remember like certain areas like in Pennsylvania -- I'm sorry, did we eat -- Yeah.

Q What I'm trying to find out was it the rule, or was it occasional? In other words, did you eat out more than you ate in, or did you eat in more than you ate out?

A During the entire time, it probably changed.

Q Okay.

A Probably I did more of the cooking earlier on and then as things progressed and Dennis was traveling more, then I would have to say that, you know, we probably ate out more. Especially when I'm home alone, I don't generally cook for myself.

Q Let's go by period. The period of time we've established through Dennis's testimony you went to Pennsylvania. So I don't want to spend a lot of time on that. His statement as to what you purchased in terms of the home was accurate, correct? He said that you had purchased a townhome?

A Yes.

Q And then when you went to Raleigh, North Carolina, you changed homes at that time; correct?

A Correct.

Q What did you do when you moved to Raleigh, were you

forced to change your career?

A Yes. And that was -- I can't remember. I think I had started up lining a position at Kaiser Permanente before we got there. Now Kaiser Permanente in North Carolina is not hospitals, as it is in California, so there were medical offices. So I got a job -- I kind of reverted back, because I couldn't get anything in, then, recruitment, which was my next path. I reverted back to doing nursing administration. I had done some of that in Pennsylvania, and then I used that --

Q So the move to Raleigh was actually a step back in your career?

MR. MARKS: Objection, leading.

THE WITNESS: It was either a step backward or --

THE COURT: Hang on.

THE WITNESS: Oh, I'm sorry.

THE COURT: The objection is sustained.

BY MR. SMITH:

Q Was the move to Raleigh a step back or a step forward in your career?

A It was either lateral or a step back.

Q The next job that you had after you left Kaiser Permanente, what was that?

A Kaiser Permanente shut down its operations in North Carolina, and so there was an opportunity to work for the

North Carolina Board of Nursing. I did that as an investigator.

Q What did you do for the North Carolina Board of Nursing?

A I was an investigator.

Q Okay. Tell me about that, because the notion of investigations suggests that you were like a -- Well, what did you do as an investigator?

A There were three of us that covered the State and we had a supervisor who Dennis had referenced in his testimony, Donna. Donna would get the complaints from people about nurses that had potentially violated the Nursing Practice Act, which are the rules that govern our practice as nurses, and she would distribute them to the three investigators.

So, in addition to pulling the evidence together based on medical record review, we would then call the nurse in, if it met a certain level of possible violation, and speak with them and say, this is what we have. You have an option, if it's egregious enough to hand me your license today, or you're entitled to an administrative hearing.

Q Did you actually investigate other medical records or the medical records that were provided to you in that context?

A It was the medical records that were provided.

Q Okay. Well, the whole investigation notion was -- we're going to step back now to the modern times --

A Okay.

Q -- and you had indicated that you had learned in 2015 of Miss Khapsalis's name through the financial disclosure form that was filed by Dennis in this case, correct?

A Correct.

Q Did you have to use those skills of investigation at that time in order to determine who Miss Khapsalis was, or what her relationship was to Mr. Kogod?

A Skills?

Q No, I think -- Well, let me -- let me just ask the question plainly. What did you have to do to find out about Ms. Khapsalis and her relationship to Mr. Kogod? What did you do?

A I opened Google, I put her name in and then pages showed up of U-Tube videos, websites, Facebook entries, book publishing, photographs, it came right up.

Q And did any of those involve Mr. Kogod?

A Yes.

Q Tell me about that.

A I first saw on her Facebook page a photograph of her, Dennis and two little girls, which I assumed were the twins that Mr. Jimmerson had talked about in Court, and then

there were people weighing in and saying, what a beautiful family.

I saw her website, which had photographs of a wedding ceremony with she and Dennis in wedding clothes, on a beach. I saw some questionable photos on that website. I saw her talking about being married and, "my husband," and "my children." And I saw a --

Q Was --

A I'm sorry.

Q Were the references in marriage to her -- to someone who was -- to Mr. Kogod?

A To Mr. Kogod, yes.

Q Okay.

A I saw videos. There were videos that you could get to from the website. There's a wedding video. There's a video called "Dennis Kogod, the movie," which had not only Mr. Kogod and Nadya, but it had his entire family present in it and that was very surprising to me because I said, "Everyone knows about this?"

There was a book signing for the book that she had published. There were just pictures and, like I said, some questionable pictures and --

Q All right. So the only thing you had to do to connect Ms. Khapsalis and Mr. Kogod and her children was to

the Google search; is that what you're telling me?

A Yes.

Q All right. Let's go back, then, to North Carolina.

A Yes.

Q You work as a nurse investigator, is that a -- Is that a promotion in your career path?

A No, it was not.

Q Why do you say that?

A Because the North Carolina Board of Nursing was a -- is -- it's a quasi state employer and it was -- I remember talking to people about making the decision, and it was kind of considered, like, a state-level job, and people said, boy, that's --

MR. MARKS: Objection, hearsay.

THE COURT: Sustained.

THE WITNESS: I didn't believe that it --

MR. SMITH: No, no, no, wait.

THE WITNESS: No? I'm sorry, I'm sorry.

MR. SMITH: The Court sustained the objection, so --

THE WITNESS: Oh, I'm sorry.

MR. SMITH: -- when he says sustained, we stop.

THE COURT: Wait for another question.

THE WITNESS: Sorry.

BY MR. SMITH:

Q All right. So when you -- How long did you live in North Carolina?

A I think we moved to North Carolina in 1994, and then we lived there until we moved to California in 2000.

Q When did Dennis start traveling?

A I always remember Dennis traveling as far back -- When we lived in Pennsylvania, it was more local travel, but because of his positions, he was traveling -- he was going with sales representatives and to meetings and conferences across the country. When we lived in North Carolina, same thing, but then his travel also started including a lot of international travel, and because of that, he would be away for longer periods.

Q Dennis estimated his travel remained the same, about three days a week, that he was gone. Does that sound about right to you?

A Correct.

Q So, from early on in your marriage, he was gone three days a week, traveling?

A Correct.

Q So there was nothing unusual about that --

MR. MARKS: Objection, leading/suggestive.

MR. SMITH: That's fine.

THE COURT: Sustained.

BY MR. SMITH:

Q The -- Ms. Kogod, you -- describe for me your relationship with Dennis, first in Pennsylvania and then in North Carolina, in terms of whether or not you were happy in your marriage?

A I believed we were very happy in our marriage. We got married, we moved from Florida to Pennsylvania; we lived in a -- again, a corporate-sponsored apartment, and immediately started talking about buying a home. We had talked before we got married about having children. Dennis had names picked out for the children. We joked about who they should look like.

And then we moved into Pennsylvania, started building that home and we were very excited about the home, because it was going to be our very first home together. The thing that was unfortunate about our stay in Pennsylvania, was my mom was diagnosed with pancreatic cancer, and so there was time that was then spent going back and forth on weekends to New York, during her treatments. Dennis was traveling a lot and wasn't always able to come with me.

So, again, it was -- I never had a thought that that wasn't the way it was just going to be. We had -- The time that we spent together became more valuable to us, because we would really try to spend the quality time that we had.

Q What about communication when he wasn't there; did you guys communicate?

A Dennis called me -- I don't know how -- honestly, I don't know how an executive had the time in his day to call me as much as he did, because he called me six, eight, ten times a day, to the point where it was -- you know, we kind of joke about it.

Q And that was true in Pennsylvania, correct?

A That's correct.

Q And then when you moved to North Carolina, did your relationship change in any way?

A It did not. He continued to call like that, we did things on the weekends, we had -- we went out to eat; I cooked at home; we had people from the company come over; and, at the time, he was with Pelling and then it became -- that whole Teleflex transition that we heard about, but, no, I don't believe that it did. He was traveling more internationally.

He was traveling at -- I mean, I would say then at that point it was at least three days a week that he might not be home, but then extended periods, because when he would go away for the trips to Asia, Australia, South America, they would be -- tend to be longer, ten days, two weeks, sometimes.

Q Did he communicate with you on -- even on those trips?

A Yes, he did.

Q Was it his habit to call you at least once every day?

A Yes.

Q And that continued all the way through Pennsylvania and Durham, North Carolina, correct?

A Correct. Raleigh.

Q Raleigh, Durham?

A Raleigh Durham, yep, uh-huh (affirmative).

Q Okay. And then you -- And in Pennsylvania there was no concern about your career in the move, correct?

A No concern --

MR. MARKS: Objection, suggestive.

BY MR. SMITH:

Q Was there any discussion between you and Dennis in regard to your career versus your career -- his career, when it came to moving to North Carolina?

A No, there was not.

Q And then he moved again to California, correct?

A We moved to California.

Q Okay, but he -- did he move before you or at the same time, to California?

A We -- We moved at the same time, although, because of his getting -- coming on board with a new company, I

believe he was going back and forth to meetings before we started, but that was happening relatively quickly because if I recall, it was my birthday, July 12th, that he met with Larry Buckaloo (ph) who offered the position to him, and we ended up, then, I want to say, September, we were already moving there. We had our house on the market --

Q So part of Dennis's testimony was correct, he -- you guys did -- he did have a position in New Hampshire, he was up there in an apartment for about eight months; is that correct?

A That's correct.

Q Would he come back and forth --

A Yes.

Q -- or would he stay in the apartment?

A He would come back and forth, and there were times that I went there as well, because we were house hunting.

Q And then you -- And his description of you actually put an offer on a house, that was correct?

A That's correct.

Q Then you came out to California?

A Yes.

Q Did you purchase a home here -- or there? Excuse me.

A In California?

Q Yeah.

A Yes.

Q And where was that home?

A That home was in an incorporated community, Coto De Caza.

Q Okay, now Dennis's testimony revealed that there were two homes in Coto De Caza?

A That's correct.

Q Why was that?

A We were living in the first house for almost a year, and we had bought -- No, when we had first moved in, Dennis wanted to do almost a complete renovation, and so we were changing floors and the -- we just did a lot of changes.

Q Who was primarily responsible for coordinating that renovation?

A I was. Dennis had hired, through a contact at Gambro, he had hired someone who was referred to him as, like, a decorator, and I worked with her and did all of the coordinating and was there and trying to make myself available when she had to be at the house or sub with -- the subcontractors were there.

Q Dennis was traveling, still, at that time --

A Yes.

Q -- three days a week or so?

A That's correct.

Q All right. So, when you finished renovating the house, what happened?

A I think we had barely finished, because I remember calling that decorator and saying, "We're moving."

And she said, "We're not done," because she was surprised, but Dennis had come home one day and said, you know, we don't have any, you know -- like -- significant tax breaks, or whatever. I think we need to buy a bigger property and, in fact, let's go find something at the beach. So we were going to start looking around at properties that might have been closer to the ocean, and then we started looking around and, within Coto, there were a few homes that had just been built and they were models.

One of them was beautiful, it was almost 5000 square feet, I believe, it was almost 5000 square feet, and we started working with a realtor and ended up buying that property instead.

Q Okay, and what was your position on purchasing that property?

A About --

Q What was your position on it?

A About moving into a new house?

Q What was your -- Yeah, were you -- did you want to purchase a new property, or was that Dennis's idea?

A It was Dennis's idea. It was a beautiful home, so I was -- We had just done all this work on the other home and now we were moving into that, and I didn't understand, really, like what kind of a tax savings it was going to be representing to us, but I didn't protest moving into that home, it was a beautiful home.

Q And then at some time after -- When did you move into that home, if you recall?

A I think that we were there for about a year before we moved to Las Vegas. So if we moved to Vegas in -- I'm trying -- I'm trying to think now. I don't recall, but I would say that it was probably sometime in early 2002, mid-2002, like -- I don't recall.

Q Okay, and subsequent to that, what happened in terms of your home.

A We lived in that house for about a year, I believe. And my dad had come for a visit, and we had -- he went to visit his sister in Arizona while he was visiting us, and Dennis had been on a trip, and we coordinated Dennis coming back with my dad coming back, so they could meet at the airport and then Dennis brought my dad back to the house.

We were sitting at the kitchen table and Dennis said, "I found our next house."

I said, "We haven't been here a year yet."

He said, "I know, but this house is beautiful."

And my father said, "Is it Arizona --

MR. MARKS: Objection, hearsay.

THE COURT: Sustained.

MR. SMITH: I don't think it's offered for the truth of the matter asserted, but, that's okay.

THE WITNESS: Okay. So I remember saying, you know, we just got here, where is it? And he said Las Vegas. And I remember saying, people don't move to Las Vegas, they go and then they come back to California, they don't stay in Las --

And he said, no, but you'll have to see this house. I was at -- it was at -- I was at the Ritz Carlton, and I knew that that was where he was staying for a business meeting. And I asked somebody to show me the properties, and it's on the water and it's beautiful.

And I said, okay, and he said -- I can't remember if that day he said he had to put some money down on it to hold it, because it was the last new property that was available right on the lake like that.

MR. SMITH: Okay.

THE WITNESS: And so then we went down to see it.

BY MR. SMITH:

Q So you were there in California --

A Yes.

Q -- from 2002 to approximately 2003, correct?
A We were in California in that new house --
Q Excuse me, 2000 --
A In that second --
Q -- well, 2000 -- you were actually in California in 2000 to 2003?
A Correct.
Q I'll ask you the same questions I asked about Pennsylvania and Raleigh Durham.

What was your relationship like with Dennis when you were in California?
A It was very good. Dennis was traveling more, but, again, the time we were spending together was becoming more significant. We tried to make a real point of sharing that time together.
Q Did you have a sex life?
A Yes, we did.
Q How about your -- just the things that you did together, was it similar to the type of things you had always done together?
A Yes.
Q Did Dennis's behavior change in any manner in that period?
A I rem- -- And you mean the period from -- in

California?

Q 2000 to 2003, while you were in California.

A I remember in 2002, I was doing laundry and Dennis had come home and he was seeming a bit more distant, and he came into the laundry room and said, "I have to tell you something."

And I said, "What?"

He said, "I've been diagnosed as bipolar."

And I said, "Okay."

He said, "So I'm in counseling."

I said, "Is there something -- Do you want me to come with you to counseling? Do they want -

I don't have a psychiatric nurse background, but I believe that if someone is in therapy, that probably meeting the spouse, or having interaction with the spouse, might be significant.

And he said, "No, I'm on medication, and I'm in counseling, but right now it's primarily that I get my medications." It's not a lot of, like, what we think of as traditional therapy, where you're talking to the psychiatrist. The psychiatrist prescribed the medications.

And I said, "All right, are you okay?"

And he said, "Yeah," he said, "I think this is, you know, finally figuring -- helping me figure out what's going

on."

And I said, "Okay."

And then the other thing that he said, he said, "I have something else to show you."

And I said, "What?"

He rolled up his arm, and he showed me that he had gotten tattoos, and I believe he had gotten two, one on each arm. And that was very out of -- I didn't know where that came from. He didn't strike me as somebody who was interested in tattoos.

Q Okay, the -- In terms of your -- Did he ever communicate to you at that time, between 2002 and 2003 that he was unhappy in your marriage in any manner?

A No, he did not.

Q Were you happy, in your view, in your marriage?

A Yes.

Q Even after that behavior happened, after he told you that he had bipolar disorder?

A Yes, and I think that nurturing part of me as a nurse kind of came to life a little bit more, because my husband was in need of, like, additional care. So I loved him, he was my husband, he was my world.

I worked, I sustained my career, every time we moved. I wanted to make sure that I contributed to the

household, so I either had the job lined up before hand, or shortly after we got there, but my marriage was my world.

Q Why didn't you have kids?

A Because Dennis's career started taking off and I -- although I wanted children, I believed that I could have offered a lot to children. I thought that, as a couple, we were happily married, I thought we could have offered a lot to children.

Dennis talked about his relationship with his children from his prior marriage.

Q Was it a good relationship?

A No, it was not.

Q And what did he say about that to you?

A He had a daughter who was adopted by Dennis. His first wife was significantly older than he was and she had a child from a prior relationship, who Dennis said was always a problem. She had communication issues, she didn't like coming to visit. She would come to visit and it was a strain, because she had a mind of her own, she didn't seem to me to be a really happy young girl.

Dennis's son was, I think, seven or eight when I met him for the first time.

Q Joshua?

A Joshua. And we had a very good relationship, very

early on. When Dennis's daughter didn't want to continue to come to visit, because she was getting older, she had her friends; Joshua didn't seem to want to come as much, either. But they did come to visit us -- gosh, I remember when -- they definitely came in Pennsylvania. I can't recall when else they came, but that -- we didn't see them that much.

Dennis didn't have a relationship then. Dennis always said to me that his wife prevented him from having a good relationship with his son.

Q Did he discuss that in terms of you two having children?

A I think -- Yes, he did. He said that he was very confused about having children, because he didn't do a good job the first time around as a parent.

Q He had married -- I think you testified he had married somebody that was older than him, correct?

A Correct.

Q Did he tell you -- Did he have a good relationship with his parents at the time that you knew him?

A I don't know how to define good. It was different than the relationship I had with my parents.

Q Describe the relationship you had with your parents.

A With my parents, we had a -- we are from an Italian home, we had a very warm, comfortable -- My mom had a

wonderful sense of humor, loved opera, loved the ballet. They went to the opera at the Metropolitan Opera every weekend. There was singing in the home, there were big family dinners.

I think Dennis even testified about our Christmas Eve and how big of a holiday that was in my family. It was a very warm, loving family.

Q And how would you describe Dennis's family at that time. Dennis's relationship with his parents, Marcia and Sheldon.

A When I first moved to Florida, Dennis introduced me to his parents, and they -- I felt that they embraced me, and I felt that, you know, that we had a good relationship, we would go there for dinners. But what was odd, was that around the dinner table, Dennis's brother's would always get into it, like kind of mix it up with his mom, and I will be really honest, if the Court would permit, it was not uncommon for Dennis to get into arguments with his mother and tell her to go F herself and say F-U, and he called her Marcia.

It was a very odd relationship and he had told me that his mother went through periods of time where he would just -- she would just stop talking to people, to kind of get angry at them and make them come around and try to come to her way of thinking about things.

His father called me Raphealla. He couldn't get my

name straight for a good part of the early part of our relationship. They were younger than what I am now, so I thought that seemed kind of odd but, you know, that's -- And I thought we had a good relationship.

When we got married, shortly after we were married, Dennis's mother called my mother to talk about how much they loved me.

MR. MARKS: Your Honor, that would be hearsay.

THE COURT: Sustained.

MR. SMITH: Sustained as to that portion of her testimony.

THE COURT: Correct, correct.

BY MR. SMITH:

Q The -- In regard to the relationship, Dennis describes that there were problems in the relationship between you and your parents in 2000 -- in the time you spent in Raleigh Durham; is that true?

A When we were in counseling, Dennis brought up --

MR. MARKS: Objection to what they said in counseling. There has been a discovery ruling that they can't discuss what's in counseling.

THE WITNESS: Okay.

THE COURT: Sustained.

THE WITNESS: Okay.

BY MR. SMITH:

Q Don't tell me what you said in counseling, I just want to know your best recollection if there was a problem between you and the parents in Raleigh.

MR. MARKS: Objection, relevance.

THE WITNESS: We did not --

THE COURT: Overruled.

THE WITNESS: Oh, sorry.

MR. SMITH: You can answer.

THE WITNESS: We did not spend -- We never lived where Dennis's parents are. Dennis did not want to live near where his parents were. Dennis shared that he felt that his family was always trying to get money. So we never -- He even looked for job opportunities and purposely did not look in South Florida.

When his parents came to visit us, I -- I did not remember them visiting us in North Carolina. I believe that was the first time that they did come to visit us. I didn't have a strong recollection of that. I understood in conversations with Dennis later, that I did something that was offensive to them during that visit.

I remember them coming, I remember his mother having private conversations with him while I was sitting there, and not even acknowledging that I was at the table, and I remember

saying something to Dennis afterward, like, is that -- Are you going to address that? That seems like -- Did I do something? What's that?

That's how she is.

And, again, we didn't see them that often, so there would be that visit and then I don't believe we saw them again while we were in North Carolina, and we didn't go to Florida to visit.

BY MR. SMITH:

Q So one time in seven years he saw his parents?

A I --

Q I think you were in Raleigh Durham seven years, correct? That was the testimony of Mr. Kogod; is that accurate?

A That I know of.

Q Okay. So during that period of time there was one visit?

A From them to our home?

Q Right. And none to them?

A Correc- -- By me, no.

Q How about Dennis, did Dennis visit them?

A I don't know. Dennis would tell me that he had no relationship with his mother; that he didn't talk to her. And I would say, "Did you talk to your parents today?"

"No, I didn't."

And then when we would have a conversation that involved -- like, when we were in Florida, she would be having these conversations about all the details of his jobs and what his offers were, and I was, like, he doesn't talk -- that's odd that she knows all of that, because he said he doesn't really talk to her.

Q Was his relationship with his parents an issue between you two, either during the time in Raleigh or in California?

A In Raleigh, no, we never saw them. And, like I said, that --

Q In California?

A In California, it wasn't an issue, but there was a visit that they made and stayed in our home, that I seemed to create an issue.

Q And what was that?

A Dennis's parents came and stayed in our home. Dennis lent them our car, we had -- we each had our own car -- one car at that time, and he lent them the car and they went to Arizona, and they took their, you know, they took the trip. Dennis complained when they came home the gas tank was empty. Dennis complained that they bought souvenirs for everybody back home and didn't even think to acknowledge us. It was a

new home, I was cooking a lot then, and I was cooking meals for them, and his mother would refuse to come to the table saying that she had already eaten and she wasn't hungry.

And I will admit, in an Italian family food is love. When you reject someone's food, you are -- and so I would just be, like, wow, I just cooked all day, I don't get this.

The other thing was that Dennis had taken his daught- -- father to play golf and said he had never heard his father use the language that he was using, because he was saying how he wanted to divorce his mother, but they didn't have the money to be able to do that, and so they both hated each other, but they were staying in an unhappy marriage.

Q So you moved to Nevada in 2003. Who found the house here?

A Dennis found the house here.

Q Did you have any objections to moving to Nevada?

A I loved my job with Kaiser Permanente, but when Dennis told me the Gambro offer he literally said, you know -- Oh, I'm sorry, you're talking about California to Nevada?

Q California to Nevada.

A Oh, I'm sorry.

You know, I loved my job in Kaiser. I didn't understand why we would have moved from a beautiful home in Cota De Caza, and we were moving into a smaller home. And

when Dennis brought me out to look at the house he said, "Oh, I'm so relieved, I didn't think you were going to like it, because the kitchen is smaller than what you would have wanted."

I said, "If you want to move there, we'll move there. But I'm worried about Vegas."

And he said, "No, Kent has assured me as long as I have a place to work and I have an office --"

We spent a lot of time setting up the office in our house in Mira Monte in Henderson, because we had to get just the right furniture. DaVita sent a computer, printer; we had all that equipment, and it's now sitting in a box in a corner, because the -- what Dennis said Kent had assured him was that, "You're traveling a lot. You need to be here for meetings, but you don't need to be here beyond that, so work from home, I don't really care where you live."

Q 2005 is when DaVita took over from Gambro, so Kent wasn't involved in Gambro, was he?

A My recollection is that was we purchased the home in Mira Monte in August of 2005 -- of 2003 -- and we were having difficulty selling our home in Kota De Caza. We eventually did, and we moved on December -- it was either the 3rd, 4th or 5th of that year, 2003. And Dennis said, "I've got to leave tomorrow, because we have a big party, it's the Christmas

party, and they are announcing the DaVita purchase of Gambro."

And so he moved me to the house. We came in on a Friday night, we spent the night, our first night there; it was a model home, so there was furniture there already. And the next morning the moving truck came, and he left, because he had to go to the business meeting. And I was, like, okay. And I was unpacking, but it wasn't uncommon that I was doing things like that, that was part of our marriage. I took care of the home.

Q During that period of time in 2000 to 2003, did Dennis contact you? Did he call you?

A Between 2000 to 2003?

Q During 2000 to 2003.

A Yes, he did.

Q How many times did he talk to you during the day?

A It was the same. It was five or six times a day.

Q How about when you got to Las Vegas?

A When we got to Las Vegas, it was the same. In fact, into probably 2000 -- I was already working at Catholic Health Care West, which is now Dignity Health, so it was, like, 2006, 2007 -- 2006. I was at Montelago Casino with a girlfriend having a drink, or we were having dinner and a drink, and I had my phone inaccessible to me, and when we left the restaurant I looked and I said, "Oh, my God, he has called me

so many times." He had called, like, 18 times.

And when I called him back he said, "Oh, I was worried. You know I always call you."

And I was, like, "Oh my God." And she was laughing because it was, like, oh, my God, that many times.

She said, "I know, he calls you a lot during the day."

I said, "Yeah, he does."

Q There was -- When you came to Nevada, the testimony of Mr. Kogod is that you didn't have a sexual relationship; is that true?

A No, that's not true.

Q Tell me how that went, how your physical relationship went from the time you got to Nevada until sometime after.

A I remember that Dennis -- When we were still living in California, our sex life was becoming less, but then it kind of hit a plateau, where we were still having emotional and physical intimacy, but, when I would talk to Dennis about it, he would talk about how the medications -- and he was on a lot of -- he was on, usually, two or three bipolar medications and sleep medications. And he would just say that he was very numb, and it was the stress of the job, that he just couldn't.

Q Were you understanding in that regard?

A Yes, I did.

Q And he couldn't perform, that was the problem; correct?

A That was part of the problem, yes.

Q The -- But in 2003 and 2004, did you have a sexual relationship with Dennis Kogod?

A Yes, we did.

Q When did that stop? Did it -- Well, let me ask you this, did it stop at some period of time?

A I would say that probably in the later part of 2004 we were not having physical sexual relations.

Q And how did that stop? Was there a time frame when he said, I just don't want to have sex anymore, or was it just a gradual ending?

A I think it was just a gradual ending, and when I asked him about it -- I remember, even, he was sitting in the livingroom, and I came in and I said, "Dennis, do you not want to be married anymore? I don't understand what's happening."

He said, "No, it's -- it's the work. I've got to stop. I've got to figure out a way to just stop."

Q When was that conversation?

A That was several times during the -- because then once DaVida was in full force --

Q What time frame, though, was that conversation?

When did that conversation take place?

A The first one?

Q Yes.

A I have to say it was fairly soon after that, because I was, like, "What's going on?"

Q After what, what time frame?

A I'm sorry, that I felt that there was that change where we weren't --

Q A --

A I'm sorry?

Q Go ahead. Date, time. 2004?

A 2004. The latter part of 2004.

Q All right. Thank you.

A Sorry.

Q In regard to the -- In regard to the progress of your marriage, did the fact that you weren't having sexual relationships affect how you cared, or how you seemingly cared for each other.

A No, it did not.

Q What was the -- What would you have described as the foundation of your relationship, was it sex?

A No, it was not.

Q What was it?

A Early on, we had a very active sex life, but then,

as time went on, sex was just not -- it tapered off, but, again, I'm friends with married couples that are saying that they don't have sexual relations, and they're real happy, and I didn't think there was anything that, okay, it's not significant, but the reason why was something I felt that we needed to address.

Q And the reason being his bipolar?

A The medications, the bipolar and the stress of the job, and all the travel and time zones.

Q Dennis has indicated that he -- the conversations with you after you moved to Las Vegas were superficial; that they didn't involve anything serious, that was the impression that he gave; is that true?

A No, that's not true.

Q Tell me about what you shared with each other.

A I knew everything that was going on with DaVida, I knew that Dennis's relationship with Kent has -- throughout the time that we've been talking, we haven't talked now for -- about it, but it was always strained.

DaVida saw Dennis as a representative of the Gambro culture, and even though he felt that he had to take someone from Gambro, that there was always that edge to their relationship; that Dennis always felt that he had to come and do the cleaning up after Kent ravaged through some of the

other, you know, staff people, that he -- had reported to Dennis.

We talked about his job. He was constantly seeking other employment, because he always felt that with Kent, you know, maybe I'm going to be on the line some day, and I feel like I've got to get something backed up.

He interviewed at, I remember, Odyssey Hospice, Radiologic- -- he interviewed at many different places, and, again, looking always to stay either on this coast, or not venture too far.

Q Did you continue that level of close communication through July of 2010?

A Yes, we did.

Q How often did he call you during that period, that 2003 through 2010?

A He was doing more international travel and so there was probably a tapering, where it might have been two-to-three times a day.

Q But that was consistent --

A But that was -- yes.

Q -- throughout that period of time?

A Yes.

Q The -- The communication with Dennis changed in July of 2010; is that correct?

A Yes, it did.

Q Tell me about that, what happened?

A To the relationship or the way we communicated?

Q Both.

A Okay. So July 1st of 2010, I -- Okay. June 26 -- the last weekend in June Dennis came home. He came home on, I believe, a Friday. We went to dinner on Saturday evening with a couple that we had become very friendly with, the Miatas, and we went to Serendipity 3 at Caesar's Palace, and had a very fun time, and -- sorry.

Q Let me ask you this. Dennis had described that he had stopped coming home, or he came home less and less over time; is that true?

A Dennis was coming home -- When we first moved to Nevada, I was working at Sunrise Hospital. I worked there for about four months. When I started working at Catholic Health Care West as a legal nurse consultant, the position was part-time, they allowed me to decide what my schedule was. I purposely started working Monday, Tuesday, Wednesday, and people -- And it was strange, because why not work -- Why not take the Friday and the Monday.

Q Why didn't you?

A Because Dennis was coming home -- if he was going to be out of town during the week, he was always home Thursday,

Friday, Saturday, Sunday and we played golf with a couple that we had become very friendly with, the Handles (ph), from New Jersey, and then later on the Tresters (ph), that were from California.

Q Dennis describes that he would play golf by himself.

A There were times that Dennis played golf by himself. Thanksgiving he played golf by himself, because I was making the big dinner at home. There were sometimes he played himself.

Q Other than that?

A There might have been, you know, days that I was either doing some work at home or doing something with the cats, the cat baths, or whatever, that he would play himself, but we played -- In fact, I remember Dennis saying that the pros at the golf shop said, you know, for the amount of golf that you and Mrs. Kogod are playing, why don't you just get a cart, because every time you take the cart out and rent it -- And then that next Mother's Day he showed up and said, "Can you come out here, please."

I came out and there was a cart and he said, "Happy Mother's Day," and so that's why we have a golf cart, because we were playing so much.

Q All right, and you continued to play in that frequency through what period?

A We played up until -- not with that frequency, because he was away more, and he was going to Saudi Arabia and he was starting to build the international business with DaVida, so we weren't playing with that frequency, probably into 2000 -- I want to say, maybe after 2007, 2008. I think the last time we played, we played with friends, and that would have been early 2010.

Q Okay, and then the -- so, at the time of the -- of July 1st, did you -- of 2010, did you have any reason to believe that your marriage was in trouble?

A No.

Q Did Dennis ever indicate to you that he was unhappy in your marriage?

A No.

Q Did he ever indicate the opposite?

A Yes.

Q Tell me how he -- how you two discussed your marriage and how you talked about your relationship with each other.

A You know, we -- when we talked about the relationship it was, "Dennis, do you want to get counseling? What should we -- You seem like -- I don't know what's going on with our life. I just feel like you're traveling so much, the stress. We will go out and then when you come home, you

have work to do in your office, and I get that, but I feel like we need to be spending more time."

And he said, "I know, I have to talk to Kent, it's all -- you know, and I'm going to do that." And he would just say things like that and then it kind of wouldn't happen. But, again, we were still -- we were going -- I know it's been referenced that we would just go for a pizza, or decide, but that Friday night pizza was always a ritual in our relationship, and we started incorporating Sister Michael, from the hospital, my friend, Keith Weaver.

Dennis would say, "Invite them." And they loved being around Dennis, because we were happy together. They loved our relationship.

Q And at that time, did you -- how did you handle your affairs in terms of finances?

A I had -- When we moved to Las Vegas, we opened our bank accounts, and in 2005, we created a trust. The trust account was opened with our banker explaining, this is a trust --

MR. MARKS: Objection, hearsay.

MR. SMITH: I don't think she's offering it for the truth of the matter asserted.

MR. MARKS: They are, Your Honor, they definitely are, to try to say it's a legal trust, or something like that,

which it's not, and our accountant --

MR. SMITH: I'll have her go a different way, it's fine.

THE COURT: All right. The objection is sustained.

BY MR. SMITH:

Q All right. Without saying what somebody told you --

A Yes.

Q -- about the trust, did you have any understanding that this -- you had two accounts, correct?

A Right.

Q And what were the accounts, where were they?

A The accounts were at Bank of America and then it was consolidated through Merrill Lynch Investment Wealth -- I forget the name, but Merrill Lynch.

Q What was your understanding of the function of the two accounts?

A When we opened the trust, it was that the 6446 account was going to be the trust account. We were provided paycheck -- we were provided checks that had both of our names on it, and the understanding was that you do not use --

MR. MARKS: Objection, she's repeating hearsay, Your Honor.

MR. SMITH: She's giving her understanding --

MR. MARKS: From hearsay. From a direct hearsay.

MR. SMITH: Her understanding of the use of the accounts is an issue in this case that was raised by the Defendant. The Defendant has indicated that she had awareness of the accounts and, therefore, was aware of his activity with Ms. Kiovski (ph), or Khapsalis or --

THE COURT: Well, it's a foundational objection, so it's sustained.

THE WITNESS: I used --

THE COURT: You need to --

THE WITNESS: Oh, I'm sorry.

THE COURT: You need to wait for a question.

THE WITNESS: Sorry.

MR. SMITH: Judge, the statement was that there was an exception to the hearsay rule for state of mind, and her state of mind was the issue that was brought up by Mr. Kogod. He said that she understood that this account would be used for a particular purpose, primarily, to pay other expenses, and this just goes to her state of mind, as to what that account was for, and why she didn't look at it.

THE COURT: Well, but a foundation still needs to be laid, and that's the point. So sustained as to foundation.

BY MR. SMITH:

Q All right. You understood -- you said that you understood that this was a trust account, correct?

A Correct.

Q When you discussed this account with Dennis, what was the discussion about it's use of the account, the 6446 account?

A The discussion was that we had a set of checks that had both of our names on it, and the checks were to be used when we were making major purchases, with both of us acknowledging and authorizing that we would do that.

Q What were the things that you and Dennis agreed would be paid from the 6446 account?

A Nothing.

Q How was the mortgage being paid?

A I don't know how -- Dennis was paying the mortgage, and I don't remember --

Q How were the other expenses associated with the home being paid?

A I was paying those through a separate account that I had, which was where my paycheck was deposited.

Q What were the last four digits of that account?

A 0129.

Q Okay. So from the 0129 account you were -- Were you depositing your paycheck there?

A Yes, I was.

Q And you were paying what from that account?

A I was paying my car; I was paying all the household utilities; I was paying all my expenses. When I had credit card bills, I was paying everything. That was my spending money.

Q Okay. Dennis makes much of the fact that the 6446 account statements were coming to the Nevada home; is that correct?

A Yes, they were.

Q What was the standard and practice in regard to those statements when you received them?

A When Dennis traveled, I would take all the mail that had come for him during the week and I would put it in a pile, and I would leave it either in his office at the house, or on the kitchen table. And those envelopes would come, and I would put them in the pile, because it was not an account that I believed was being used, so I didn't think there was anything to be looking at.

Q Prior to July of 2010, did you ever have a discussion with Dennis in regard to the 6446 account?

A No.

Q Did Dennis ever suggest to you during that period of time, from the time 2003 to 2010, when you had that account, did you have any discussion with Dennis about the use of that account?

A No.

Q Did you have any discussions with Dennis about how you would use the money that was contained in the 0129 account?

A Yes. He said, make that your spending money, and so that's what I was doing.

Q But did Dennis put his paychecks in one of those two accounts?

A You know, I don't remember. For some reason I think he had -- because we always maintained separate bank accounts. I thought he had a separate checking account like I had my separate checking account. I did not know that the 6446 was, as I later learned, his checking account.

Q Between 2003 and 2010, did you write a single check from the 6446 account?

A No, I did not.

Q Did you take any ATM or other expenditure from that account in any way, shape or form?

A No, I did not.

Q Did you ever see a check from that account that had only Dennis's name on it, prior to July 2010?

A No, I did not.

Q The -- Dennis said that you were free to spend whatever you chose, correct?

A Yes.

Q What kind of car did you drive during the period -- tell me the cars you drove during the period that you were here in --

A In Nevada?

Q -- Nevada.

A I had a Lexus RX, which is the mom -- the mommy car, the kind of the smaller SUV. I think I had -- I leased my cars, so I think I had one or two of those, and then I moved into the GX, which was a larger SUV, and then I've had two or three of those, as the leases have came due, I traded in and get the next one.

Q How do you pay those payments on the leases?

A Prior to -- I want to say, whenever I started using the 6446 account, prior to that, I was using my 0129 account, and then I think it was sometime in the late summer, early fall, that I started using the 6446 account for that.

Q Okay. Late summer, early fall of 2000 and what?

A I'm sorry, 2010.

Q Okay. The -- So you're happy in your marriage, everything is going well, something happens in July of 2010.

A Yes.

Q What happened?

A I go to the mailbox on July 1st. Dennis had just --

I drove him to the airport. He was going to England and Amsterdam he had told me.

Q Did you tell each other you loved -- he loved you at that time?

A Yes.

Q Was that your custom and habit?

A It was our custom and habit. Every phone call, even a brief phone call would be, "I love you," the end of it. And, yes, I drove him to the airport. And I said -- And I remember, "Really? Can't -- you know, you just -- I feel like you just got home and now you're leaving, and July 4th is coming."

And he said, "I'm going to try to be home for the -- before the 4th, don't worry."

I drove him to the airport and on July 1st I went to the mailbox and there was a letter in the mail from the Family Court, and I thought, this must be a mistake. So I opened the letter and it said, "Kogod v Kogod." And I said, "what is this?" I thought it was something maybe related to, like, was he doing a real estate trans- -- maybe putting the house -- I didn't understand.

I called the Court and I said, I'm looking at this letter and they said, what's the number, the office number, and I told them and they said, okay, hold on. It was, like,

lunch time and they said okay, so they went and got -- connected me to a different department.

And the woman got on the phone and she said, Okay, she said, "who am I speaking with?" And I told her and she said, "Oh, you weren't served."

And I said, "Excuse me?"

And she said, "You were not --

MR. MARKS: Objection, hearsay.

MR. SMITH: This is not offered for the truth of the matter asserted.

MR. MARKS: No one is disputing. I think it's a record in the case that she wasn't served. No one is saying she was served. We don't have to have hearsay.

MR. SMITH: We're not suggesting --

THE COURT: Well that --

MR. SMITH: We're not suggesting that. It's just her describing her own reaction, which has been brought up as an issue by Dennis in this case.

MR. SMITH: He said the reason that --

THE COURT: The objection is overruled.

MR. SMITH: Okay.

THE WITNESS: And I said, "Served what?"

And she said, "Oh, honey, do you have an attorney?"

And I said, "Do I have an attorney?"

And she said, "Do you know Jim Jimmerson?"

And I said, "No, should I?"

And she said, "Honey, you'd better get an attorney, your husband is suing you for divorce."

I said, "What?"

BY MR. SMITH:

Q So what did you do after that?

A I hung up the phone and I called Dennis, and I tried to be very calm, and I just -- I got his voice mail and I said, "Dennis, it's Gab, could you give me a call, I have to ask you about something." And I hung up the phone and I think I fell apart -- I think I fell on the floor and called my friend, Desiree, who lives nearby. And she came running over and I said, "What --

She said, "We just went out to -- What is this?"

I said, "I have no idea." I was stunned. I wasn't angry, I was stunned. I was, like, what could this be, like, what's going on?

So he called back, and I said, "Dennis," I said, "Are you suing me for divorce?"

He said, "No, no. I went to talk to an attorney and after I talked to the attorney, I was sick to my stomach. I -- I -- I only gave them a consult. I only met with them once. I never met with them again."

And I said, "Dennis, they filed papers after one meeting?"

And he said, "I never gave him a retainer. I'm going to call him; I'm going to tell him to make it go away. I'll have him call you."

And I said, "Jim Jimmerson? How did you even get that name?"

"I found it in the phone book."

I said, "You found Jim Jimmerson's name in a phone book?"

I wouldn't have known who the heavy hitter divorce attorneys are in this town. I couldn't understand that Dennis would have just found his name in a phone book. So I said, "Dennis, we need to talk."

He said, "Gab, I'm so sor- -- I never met for this to happen. I'm so sorry. It was a mistake. It was a mistake. I'll have him call you."

And he tried to call several times; I couldn't talk to him. And it wasn't, I'm angry, it was how did this happen? Our marriage -- what's going on? If anything, I was asking, can we go to counseling? Do you want to -- What's going on, how can I help? How can I fix this?

And then to get that letter was, like, what?

Q What was the next thing that happened in your

relationship? You didn't talk to him for a few days, correct?

A I couldn't talk to him for a few days, and then he --

Q He describes that you called him and sent out a series of F-bombs, and --

A No.

Q Did that ever happen?

A If I said a foul word, it was like, you're suing me for divorce? What is this? But it wasn't you F- this, no, that's not my language. I don't speak like that. That's not something I would have ever -- Dennis and I don't talk like that with each other.

Q Did -- What was the next communication you had with Dennis after that?

A He -- he called -- Well, he was texting me and emailing me and saying, "I don't know how this happened. I went to the attorney, I was sick to my stomach after."

I can't remember if when we were talking, or he -- I don't believe it was in an email, but he talked about how he was here in town and we had -- he had gone to talk to the attorney and we went out for pizza after he had done that. I was, like, you know, you participated in our regular ritual after going to an attorney to talk --

I was, like, "Dennis, why didn't you come to me? I

don't understand. Please, we need to talk."

He said, "Gab, I love you."

And we had conversations like that that were tearful on my behalf, but not angry. It was like, please come home.

And he said, "No, I can't come home." And he was texting me at that point because he said, "I know this is the chicken way out, but I feel like I can't talk to you." I remember he was then going to Amsterdam, and I was trying to call him, and I felt like he wasn't taking my calls.

I never called Pat Murphy. And at that time I called Pat Murphy, Dennis's assistant, and I said, "Pat, could you -- " I left a voice mail. "Could you tell me what hotel Dennis is staying in because I need to reach him, and I don't know where he is." And she didn't call me back. And I called again, and I left a second message, and I don't remember the time frame when.

But I remember thinking, well, that's odd, I don't ever call her. He's the COO, the COO's wife is calling and saying, "I need Dennis's number," and she's not calling back.

So I asked Dennis about that and he said, "Oh, I'll have to talk to her about that. I don't know why she wouldn't have called you back." And then he said, "I'm not ready to come home."

I feel like I'm with people here, he was getting in

and out of limousines with business associates. The -- he was in Amsterdam. The -- The reception was sketchy, he couldn't talk, but he promised to come home.

Q Did he come home?

A He was supposed to come home on July 11th. That's what I knew. When he rang the bell and I opened the door and I said, "You're ringing the bell?"

And he said, "Gab. Gab."

And I said, "What, where's your suitcase, what's going on?"

And he came into the house and he was sobbing. And he said, "I can't believe -- I don't know what -- I don't know what I'm doing. Do you know? Do you know what?"

I said, "Do I know what? What are you talking about?"

And he said, "Gab, I don't know what I am."

And I said, "You don't know -- I said, "Dennis, are you gay? Is there something -- "

And he said, "Yeah."

And he just fell apart and he went and sat on the couch, and he told me about the therapist that he was seeing, who had told him, "Guess what, you're gay."

And he had people at work that had spoken with him, somebody who was in, like, their public relations department

that confronted him one day and said, "Well, you're gay, right?" Dennis never wore a wedding ring.

And he said, "And I always gravitate towards nice people, like, I like your father and your brother, and, you know, I always love to, like, listen to theater music and Barbra Streisand."

And I was, like, "What are you talking about?"

And he said, "And I love watching Queer as Folk with you on Sunday nights."

And I was, like, "Are you -- Are you finding things to say -- I love those shows also. Does that mean that I'm -

And he said, "I don't know, I feel like I need to get into counseling. I feel like I need to --

And I said, "What about this person you're already going with."

And he said, "Gab, I don't know what's going on." And then he started to tell me about a couple of things that had happened -- one thing that he wasn't truthful with to me about -- and then the other -- Well, both things that he wasn't truth- --

MR. MARKS: Your Honor, there is no question pending. It's becoming a narrative.

THE COURT: It's becoming a narrative --

THE WITNESS: Oh, I'm sorry.

THE COURT: So the -- It's sustained.

BY MR. SMITH:

Q In regard to the communication that he had with you at that time, was he truthful to you about what was going on in his life?

A Up until that time?

Q In that time. In other words, that conversation?

A He told me several things that he had given me other versions of previously, and so I said to him, "Is that it? Is there anything else that you want to tell me about?"

He said, "No, I -- I think we've covered it." That's what he said.

Q Okay. And after that time I think we've established through Dennis's earlier testimony, is he -- he had indicated to you that it became difficult for you to speak on the phone, correct?

A Yes.

Q So at that point did his habit of calling you multiple times a day change? Did he -- Did you speak on the phone during that period of time between --

A Yes.

Q From July 1st until approximately the time that you started therapy in, late 2000 -- I think it was '10.

A It did change. It wasn't as frequent, but I

remember the next day was my birthday and one of the things that Dennis had asked me on the 11th when he visited, and I believe it was longer than 30 minutes, he said, "I want to talk to Keith."

And I said, "My friend, Keith?"

And he said, "Yes."

And I said, "Why do you want to talk to him?"

And he said, "Well, because Keith is gay and Keith will be able to help me figure out if I -- how to come out, or what it feels like to live as a gay person."

And I said, "You want to talk to my friend about that?"

And he said, "Yeah."

And I said, "I don't know what you think --

And he said, "Please ask him." And he was crying. He was in pain. And I said, "I'll ask him, but --

Q He -- We went over some emails today in which he had indicated he had Asperger's --

A Yes.

Q -- and it was difficult to call you and so forth. Was most of your communication, at least during that period of time, through text and emails?

A Probably -- it was more -- it was not that we didn't talk on the phone at least once a day, we made that promise to

each other. But it was more texting than -- the number of calls had been reduced.

Q So even after sometime where he had indicated that, you know, he had Asperger's and it was difficult for him to call, did he start calling again? Did you start having phone contact again?

A Yes, yes.

Q Was that part of the whole therapeutic process?

A Yes.

Q All right, so you did -- did you -- after that time, what was the frequency of your telephone contact?

A It would go through spurts. It would go through times that he would call every day, and then he would either text me and say -- after Dennis, I believe, was seeing a psychiatrist, or said he was seeing a psychiatrist throughout this whole period, and after he would see the psychiatrist --

Q But you're not sure about that, correct?

A I'm not.

Q Okay, but go ahead.

A But he would say that after he had seen the psychiatrist, and then I understood that he was seeing a particular psychiatrist that one of our counselors had referred him to, he went into what he called his dark place, and he would have to process, and he couldn't talk to me. So

he would turn off his phone and shut off his emails, and he had also talked about that he was drinking very heavily and felt that he needed to get help for that.

So I was always worried when I didn't hear for him that he's drunken himself into a stupor and he's taking psychiatric medications, and I'd be worried so, sometimes when I would text him or email him, I would say, "Dennis, please, don't do this. Why are you -- I need to hear from you."

Q Okay. Much of your communication during that time, however, became text and emails, correct?

A Yes.

Q Because of the time frame we're under now, I can't go through any and all of the texts or emails, but I've asked you to do something in regard to those emails. What did I ask you to do?

A You asked me to review them and somehow categorize them so that they fall into certain categories that would be the primary theme of each particular text or email.

Q All right. Did you do that?

A I did that.

Q Did our office have any role in helping you do that at all?

A No. I forwarded the emails and they were sitting there.

MR. SMITH: Okay. Your Honor, I have a piece of demonstrative evidence. I'll provide a copy to Mr. Marks, that I'd like to have marked as the next in order. And, Judge, on a typical matter, what I've done is exactly what she's described, is I've asked her to go through the emails and categorize them. I've done that as an aid so that we can walk through, or the only other alternative would be going through each of the emails, and I just don't have the time to do that. I would normally do that, but with this amount of time, I just don't have the time. So if this is acceptable, I'd like to do it this way.

MR. MARKS: So all this is is closing of him saying here are the emails, which are in evidence, and him in closing saying her commitment to the marriage is, you know, 30 percent; his commitment, his Asperger's is 10. It's just closing argument.

MR. SMITH: No, it's an aid to the Court. Here's what I could do. I could go through each one of these and discuss how they meet these categories, but, Judge, you're going to have to give me another day to do that. If you give me another day, I will go through that exercise. If I don't have that day, I don't know how else I'd do that. I don't know how else I'd give you the information.

I could say, Mrs. Kogod --

THE COURT: Listen, I accept it as a demonstrative exhibit.

MR. MARKS: Well, can I make a -- okay.

THE COURT: Would you like to voir dire the witness in regards to the exhibit? We'll mark it. I haven't admitted it, yet, but if you want to --

THE CLERK: 118.

THE COURT: Which number is it?

THE CLERK: 118.

THE COURT: 118, okay.

MR. MARKS: Sure, I'll voir dire her. I mean --

THE COURT: Okay.

MR. SMITH: May I give this to the witness, Your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. MARKS:

Q First of all, the emails and text messages, I think from the copies that I have, that you submitted to your counsel in October of 2015; is that correct?

A I don't recall, but --

Q I think you have to go to Exhibit -- what is it -- 19?

MS. YOUNG: 18.

THE WITNESS: Which?

MR. SMITH: If I may, Your Honor --

MR. MARKS: Because I want to set the foundation for how we got here.

MR. SMITH: I get this.

Before we do that, if I could just include the other exhibits of which this constitutes as into admission into evidence.

THE COURT: Which ones are those?

MR. SMITH: Those are 21, 22, 24 and 25. I will take --

THE COURT: 21 --

MR. SMITH: 22.

THE COURT: 22.

MR. SMITH: 24.

THE COURT: 24.

MR. SMITH: And 25.

THE COURT: And 25.

MR. SMITH: I will take the -- I will have the foundation laid if the Court needs it, or if Mr. --

THE COURT: Is there any objection to the admission of Exhibits 21, 22, 24 and 25?

MR. MARKS: Let me look at them.

22 --

MS. YOUNG: 21, 22.

THE COURT: 21, 22, 24 and 25.

MR. SMITH: As an offer of proof, Your Honor, I would say that these are text messages and emails similar, different time frames, to the ones that have already been admitted.

THE COURT: And that's referenced in 116; is that --

THE CLERK: 118.

THE COURT: 118.

MR. MARKS: I don't have any objection.

MR. SMITH: And let me just note for the demonstrative exhibit, because Ms. Kogod did this, they are categorized by bate stamp number, not by exhibit. So the categories used in the demonstrative exhibit do not show the exhibits, but they show all the bate stamp numbers that are in the exhibits.

THE COURT: And for the Court's edification are the bate stamps chronologically set forth in the exhibits so that it -- numerically would follow?

MR. SMITH: Yes, but the mystery to me, though, is that the exhibits themselves are not chronologically in order.

THE COURT: Okay.

MR. SMITH: But if you --

THE COURT: The bate stamp numbers are.

MR. SMITH: The bate stamps are, so you could just put -- And I think you'd have to put, like, 23, 22, 24.

THE COURT: Oh, okay.

MR. SMITH: Although directly in order, and I don't know why.

THE COURT: Okay. All right, So Exhibits 21, 22, 24 and 25 are admitted.

(PLAINTIFF'S EXHIBITS 21, 22, 24 AND 25 ADMITTED)

BY MR. MARKS:

Q Okay. If you go to Exhibit --

MR. MARKS: If I can proceed, Your Honor?

THE COURT: Yes.

BY MR. MARKS:

Q Exhibit 23, for instance. The first page of Exhibit 23.

A Which volume?

Q It's in Defendant's Volume --

MR. MARKS: Can I approach, Your Honor?

THE COURT: Yes, you may.

MR. MARKS: This is Volume 2. All right, it's defendant's -- It's this one.

THE WITNESS: It's plaintiff's.

MR. MARKS: All right. Plaintiff's Exhibit 23, which is in evidence.

BY MR. MARKS:

Q So this shows that you sent an email to Radford Smith and Garima Varshney on October 16th of 2015, correct?

A That's correct.

Q Okay. So you had maintained for some five years various emails that you had sent to Dennis and Dennis had sent to you?

A Yes.

Q Is that correct?

A Yes.

Q And you had maintained all your text messages that you had sent to Dennis and he had sent to you --

A Yes.

Q -- during that five year period, correct?

A Yes.

Q And had you maintained them for a longer period or just the five years?

A We weren't -- prior to July -- Well, I think it was, like, May or June, and I had some earlier of 2010 that I had some but, prior to that, we weren't texting or emailing, we were talking more.

Q Okay. So after the July complaint was filed, you kept every communication, text or email with Dennis?

A I don't know of a July complaint being filed.

Q The March complaint that you found out in July.
A I'm sorry, could you repeat then, this --
Q So after July
A Yes.
Q -- of 2010 you kept every text and email from Dennis and from you to Dennis?
A I have every text and message from Dennis.
Q Okay, and you kept them and then you transmitted to your attorney?
A Yes.
Q Okay. So, now, on this new exhibit, when did you prepare this?
A I prepared this on -- When did the trial -- We started on Tuesday. I prepared this on, I believe, Monday or Tuesday of this week.
Q So do you know what exhibits you went through to prepare it?
A I went through -- I was provided the emails that I had provided them, and I went through every email and text.
Q So are you saying you went through every exhibit that has an email and text that's been admitted into evidence by your counsel?
A Yes.
Q Okay, and then, for instance, Gabrielle's Commitment

to Dennis?

A Yes.

Q You went -- you read every email. Do you know how many emails you read?

A No. I mean, I --

Q Was it thousands?

A You know, some of them are threads, so I was reading the same thing, but then with the response added, so I don't know --

Q So, for instance, on a bate stamp number, on an individual bate stamp number there could be more than one email, correct?

A Correct.

Q For instance, if you --

A There's a thread.

Q Correct, so for instance, if you look at -- Go to 12141, which is the same exhibit. I'm just taking that at random, there's Dennis to you at the bottom and then you to Dennis at the top?

A Correct.

Q So for each page, you're categorizing both emails, if there's more than one email?

A I don't know -- I can't recall now if this doesn't even include all of the emails that are in the exhibit,

because there were some that were, hey, I got your -- I got a ticket for you for such-and-such, and it wasn't -- I didn't think it was a significant -- Well, no, I'm taking that back.

I don't recall how many I characterized and if I did the thread. I think I just found, if there was an excerpt, I wanted to be able to look at it readily, so that it wasn't a question of that we're -- well, which page is that, or whatever, but that there's something on here that identifies the piece of the email that's significant for that category.

Q Okay. So you looked at an email and if it was part of a category you put it down on your chart?

A Correct.

Q But you can't say that you categorized every email that's in all the books in evidence, correct?

A No, what I'm saying is that there are several emails where I'm talking about buying Dennis -- sending him a website for Levi's, and buying New Balance sneakers, and I may have included that piece of it as, that was the nature of our relationship post 2010; but then, like the next page didn't have anything -- Like it was -- it's more so in the texts, Mr. Marks. It's more so, because there are -- the way the texts are photographed, there are long gaps where it's, like, yes, no, yes, no, and we're not saying anything, so -- but there --

Q Okay. But, for instance, at 12141, there were two

emails. And one of them deals with his job, it looks like, the other deals with --

A I would have put that in both categories.

Q -- about calls. Would 12141 then be in -- it could be in multiple categories?

A Correct.

Q Is that what you're saying?

A Correct.

Q And you're saying you looked in both threads of the emails?

A Correct.

Q Okay. So do you have -- when you have nature of relationship post July, 2010, would that be emails where Dennis -- Where you're complaining about lack of communication or lack of calling? Where would you put those?

A That -- it depends on what the rest of the email included. If it talked about -- in our, you know, in our counseling, we both agreed that I would come to Denver and I would spend time with you. I may have put that in the therapy column, because it was something that we were reviewing that wasn't happening.

Q Well, we had emails this morning about, you can't stand my voice and you don't want to see me. Is that Dennis's commitment to Gabrielle; is that your commitment to Dennis; is

that the nature of your relationship? Where would you put something like that?

A That would be -- If that's multiple pages, there would be -- it would be in nature of the relationship, post July 20th, and it would be Dennis's commitment to Gabrielle, depending on whatever the rest of the sentence is.

Q So Dennis's commitment to marriage is all of the text at the bottom of page 3 and all of the emails on page 4?

A I clarified by text and emails so that it would be easier to reference them.

Q Well where did you put the emails that we talked about this morning, things like, "You say you're going to call me and you don't." Where did you put something like that?

A Dennis's commitment to Gabrielle.

Q And you're saying this is your -- You went page-by-page of every text and email that's in evidence in doing this Court aid?

A Correct.

Q Is that what you're saying?

A Yes.

MR. MARKS: Your Honor, still, it's not evidence. It's -- she's summarizing for you categories that she's chosen, that could be demonstrative.

MR. SMITH: Yes, I'm not offering it as evidence at

all.

THE COURT: And then that's how I'm not receiving it. But I do find that it would be of assistance to the Court from a demonstrative standpoint.

The actual evidence will be the actual messages -- the exhibits upon which --

MR. MARKS: So it's a summary.

THE COURT: -- it's premised.

MR. MARKS: So you're treating it as a summary of evidence?

THE COURT: I am. I am. And, to that extent, the Defendant --

MR. SMITH: That's exactly what --

THE COURT: -- certainly may submit a summary as well. I'm not precluding that.

MR. SMITH: Yes, Your Honor.

THE COURT: But I find that it will be helpful for the Court.

MR. SMITH: Okay. So, Your Honor, I have an extra copy, Your Honor and that's not part of our exhibit list.

THE COURT: Okay, it's been admitted as Exhibit 118.

(Whispered conversation)

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DIRECT EXAMINATION CONTINUED

BY MR. SMITH:

Q So, looking at your chart you've categorized certain things. I want you to tell us about the categories. What are the type of things that you wanted to address in Gabrielle's commitment to Dennis; what were you looking for in those?

A I was looking throughout the time period of the emails where I was saying to Dennis that I'm continuing to honor you for what you're doing. This is a hard process. I appreciate that you want to fix yourself and that will help us fix our marriage, but it was more of a personal to Dennis about my commitment to him as my husband and the person I love and cared for.

Q You bolded certain emails, why did you -- and texts, why did you do that?

A I bolded ones that were more specific, that it's -- that's the entire email, versus it's -- you might find a sentence in there about it.

Q Okay, and Gabrielle's commitment to the home. What was that about, what category?

A That was looking at the emails that I continued to maintain our marital home. I continued to communicate with Dennis about renovations that were being done because of water damage, or that I was continuing to make our home together.

Q Gabrielle's commitment to the marriage, what was that about?

A That was about our counseling and my commitment to working with him beyond the fixing of himself. For example, Dennis would say, "I have to fix myself first before I can fix us, and I feel like I'm doing that." So I would have said that that was more commitment to the marriage because it was him saying, I going to fix myself, but I want to fix our marriage.

Q And how about Gabrielle's commitments to Dennis's career?

A Those are the emails where we are discussing everything that was going on with his career.

Q Emails and texts, correct?

A I'm sorry, emails and texts, yes, where he was discussing everything that was going on with the career, the legal issues related to what was going on with Davita, his emails about Kent; everything related to -- he would talk to me about that, seeking opinion about -- even when he was talking about retiring early in emails and, "This is what I think I want to do, what do you think?"

Q Did Dennis ever talk to you about retirement, vis-a-vis the Las Vegas home?

A Yes, he did.

Q What were the comments, what were the discussions?

MR. MARKS: I'd like some foundation of when?

BY MR. SMITH:

Q When was that discussion?

A I -- We talked about it -- probably in 2010 we didn't, but all during the time that we were in Vegas, we talked about his early retirement.

Q And what were the substance of those discussions?

A Dennis had a dream of being a golf starter, so that he would retire from his job and then work on a golf course, because he loved golf. He ate, slept, drank, breathed golf, and he thought that would just be ideal.

When he started -- I want to say that later on, when he -- from what I understood, rekindled a relationship with Larry Buckaloo, who was his former marriage -- his former mentor/manager at Gambro and brought us out to California. He got into the idea with Larry about serving on boards, and that you could make a million just by serving on a board. "I could serve on a few boards, and I could still make money, and then we can retire."

So part of the reason -- I love what I do. I will continue to work, but I always was focused on the early retirement, and thinking probably that when Dennis retires, I'm working part-time, so I'll be able to, you know, keep my

job if I want to, but then we'll have time together, because I'm part-time, and I can make those hours more flexible if I need to, but we'll be able to now do the things that we were saving for.

Q You're working part-time. Could you take on more work?

A Dignity Health does not have full-time work here in Nevada. And, in fact, in the recent weeks the medical malpractice claims are down. I fill out activity reports that show what I do with my hours. It's not like what you all do, but it's patterned after accounting, and I'm in need of work. I don't have a lot of cases that are coming in, so I'm spending more time on the cases and doing more interviewing on cases that are open, but the reason they put that in place, was to somehow justify that they need our positions in general, but I think the part-timers are being looked at a little closer, because do we really have the work to sustain the LNC program.

Q Okay. The category, nature of Dennis and Gabrielle's relationship. What were you trying to identify there? And that you said pre-July and then post-July?

A That there are -- again, we didn't have a lot of communication electronically, either by text or email prior to July, because we were talking all the time, but there are a

few texts that were in there, and that was more to say, this is how we communicated before, and there are communications that are very similar to that, as we were working through our counseling after that.

So pre-July 2010 would be the very early-on text prior to July 1st where we're joking about things, and we're talking about how he's coming home, and he's at the gym -- he's over at the health club and I'm going to meet him afterward and then he's saying, "Let's get Metro Pizza tonight, see if Keith is available." And then post-July of 2010, you know, would be the communications that really kind of show what were the things that you were continuing to do as far as trying to -- The things that I believed we were doing to work at doing the things we enjoy doing together. We went to movies, we went to the Mob Museum, we did things like that.

Q All right. So then you categorized deceptions. Who was being deceptive in these emails and texts that you addressed below, deceptions, on page 2.

A I -- Sorry.

Q Category No. 7, deceptions on page 2.

A Yes. I believe that those deceptions were committed against me.

Q Okay. And that was by Dennis?

A Correct.

Q Okay, so -- Does he ever -- when you have, "being gay, caught," does he ever admit in his emails that he's gay?

A He does not. He references, "The demons that I talked to you about last July, I still haven't come to a decision about them." So he never -- I -- There's an email where he says please stop sending emails to the DaVita email, and I think he was always very conscious that some of our emails might have been going to DaVita, and every email, he told me, was being looked at. So I think maybe he was being careful about his choice of words.

Q We've already identified the Asperger's. Why did you indicate that as a deception?

A It -- it -- it's the deception related to him using that for a reason why he might not have been able to do something where I thought, this was something that we agreed to in therapy, that you made an agreement to do, and now you're saying you can't, but yet you're working through the Asperger's, so I don't understand.

Q Where he lived. Is that Dennis you're speaking about --

A Yes.

Q -- where he lived on page 2 of that document?

A Yes.

Q What was he -- What were you trying to get at there?

A Where he lived and living alone will probably be very similar, but -- as far as the emails that you'll see in those two categories, because it was my understanding that Dennis was living in Overland Avenue, which was a condo, that I think we've already established, that he said he was living there with a roommate and a cat. That was --

Q Why didn't you visit him at that condo?

A I asked about coming to see him and he said, no, it's not -- "Gabby, I don't want to make that feel like a home, this is my home."

Q And he was traveling three days a week, right, at (Indiscernible) at that time?

A I believe that he was -- but when I say traveling, it was traveling from the Mira Monte home, so he may have been in California --

Q Oh, I see.

A -- for meetings and, therefore --

Q Okay. But when -- Okay. And the -- the -- Where did you think he was living after Overland?

A I thought he was living in Overland and then, when the DiVita Gambro acquisition happened, he told me that Kent had gotten him an apartment --

MR. MARKS: Objection, hearsay.

THE WITNESS: I'm sorry.

THE COURT: Sustained.

BY MR. SMITH:

Q Where did you think he was living after --

A I believed he was living in Colorado.

Q And the -- where he was with whom, is that what that address is, or is that something else? The category that you have where he was with whom?

A As Dennis started sharing with me about -- that his parents were living there and that Josh was living there, I was looking at emails that he was sending and saying, do I even know? Is he with his parents? Is he -- Is Josh still living there? I didn't know what was going on. So those address -- Where is he saying that he is, and where is he really?

Q And then drinking, why did you identify that as a category?

A Dennis -- Dennis maintained that he lived in an apartment in Colorado and was drinking heavily, and he would go home and sit with a bottle. He even talked about the fact that when he flew privately, they knew what he liked to drink, and they would put bottles of whatever that alcohol was on his seat, so when he would get on the plane, it would be waiting for him.

And it got to a point when he was trying to really

come to terms with that -- the drinking issue, that he told them to just stop doing that. So he -- In fact, I called Dr. Tucker at one point, who was his psychiatrist that was working with him with the bipolar and the Asperger's, because he was talking about drinking so much, and he was not answering my phone. And there was something about the nature of the conversation that got me so nervous that I called Dr. Tucker and I said, "I get it, you know, your office can't talk to me, but I am worried that I have not heard from him and I know that he was drinking."

Q Finances, what is the -- why did you include a category of finances?

A Those -- Those are the texts and the emails where he's talking about what he was doing with our money, as far as paying for his parents, you know, what -- what -- what he -- like the email where he says I'm sitting on 18 -- sitting on shares of stock, and I -- and I put that in there because I didn't have access to the accounts he was talking about, and I didn't know what -- what are you talking about? Where is it?

Q Did there ever come a time when Dennis promised to put you on accounts that you became aware of?

A Yes.

Q Tell me about that?

A He referenced UBS accounts. And I said, "What are

you talking about, UBS accounts?

And he said, "Well, I have an invest- -- I have investment accounts with UBS."

I said, "Well where are they? They are not in the Trust, and I always thought you fly so much, if something happens to you -- When we did our trust, he specifically had to make reference to his daughter, Mickisha (ph). "I know she exists, I don't want her to get anything."

He left a financial gift to his brother and his son. He -- We appointed my brother and his brother as administrators, but Dennis said, "I hope your brother will step in and take care of this in the event something happens to us at the same time."

So I knew that, my God, there's a real risk with what he does. And so that's why I was always saying, Is this -- do we need to put this in the trust to protect it, because what I understood from Dennis was that his family was seeking money, whether it was his children or his brother, he got to a point where he didn't want to talk to his brother because he always talked about money. And then, if something happens to you, where is this protected? So we need to put it into the trust. So there's a series of emails where he's saying he's going to do that.

There were two UBS -- When I said, "I need to see

the UBS accounts, I'd like them funded into the trust."

"I'll take care of that."

There was a very extensive paperwork process that he went through to first put my name on the accounts and then to put them into the trust, and I would say, "I didn't get the paperwork." So there's a series of emails where I'm inquiring about that.

So I believe that Dennis knew the process involved paperwork and getting a two-step process. I came to learn through all of this that there are more than two UBS accounts. So, because I didn't have access to be able to see them, and when I asked about UBS accounts, Dennis made a determination which accounts he was going to put my name on and fund into the trust, and I didn't know where the others were or that they were there.

Q In finances, you mentioned Oak Pass.

A Yes.

Q Was there ever a time when Dennis had revealed to you that he had purchased Oak Pass? How did that come about?

A When I -- When Dennis came in early 2010, Dennis brought home a color brochure from a penthouse that he had visited in Colorado, and left it at the house, and it was owned by the founder of Chipotle, and it was a rooftop, and it had all the full color pictures. It's the brochure that you

get when you go -- Like, the new home that I purchased, people coming to see that home, there's a color brochure, that's how you get it.

He brought that home and said, "I want you to come to Colorado. I want to -- to look at this. What do you think?" And we joked about penthouses because when he was coming to California -- when he was first coming out to Vegas, he still was unsure about Mira Monte, and he was looking at a condo penthouse --

MR. MARKS: Your Honor, this is a narrative and it doesn't have to do with Oak Pass.

MR. SMITH: It think it does, and it will get there.

MR. MARKS: It has to do with Denver.

MR. SMITH: I'll break it --

THE COURT: It does need to -- It's sustained.

MR. SMITH: I'll break it up.

THE WITNESS: Okay. Sorry.

BY MR. SMITH:

Q So the first thing that happened in terms of your understanding of Oak Pass came when you received a brochure on a condo in Colorado. How does that relate to Oak Pass?

A That relates because we were planning to make the move to Colorado, and if it wasn't --

Q When you say, "we were planning to make the move,"

who was planning?

MR. MARKS: I would like some foundation for when this conversation took place.

BY MR. SMITH:

Q When did this conversation --

A This happened --

Q -- take place?

A This happened in early 2010.

Q Okay.

A Dennis wanted to move to Colorado, because the apartment that Kent was renting him, he was staying, "That's limited, you're not going to be able to stay there forever, so you'd better start thinking about moving."

So when Dennis asked me about that, I was, like, "I thought we weren't going to have to move." So that was the discussion, we are going to move. I found out --

Q All right. So this --

A I'm sorry.

Q -- was before July 1st, 2010?

A Correct. No -- yes, this was -- Yes, correct.

Q And why is the condominium significant in relation to Oak Pass?

A Because when -- after I found out about that condominium, I got a notice in the mail from Bank of America

that we were changing our address to 1555 Blake Street, or Blake Avenue. And I --

Q Where?

A In Colorado, I'm sorry.

I asked Dennis about that, and I said, "Dennis, are you changing our mailing address?"

And he said, "No, I don't know what you're talking about."

And I said, "Well, I just got something from Bank of America in the mail, that says our new mailing address is Blake Street."

And he said, "No, I was just trying to change my mailing address."

And I said, "On our joint account? How are you changing your mailing address? This came to the house. Are my checks now --

MR. MARKS: Your Honor, again, this is a narrative not related to Oak Pass.

THE WITNESS: Okay, sorry.

MR. MARKS: She's talking about Colorado.

THE COURT: Sustained.

MR. MARKS: I would move to strike that.

THE COURT: Sustained.

BY MR. SMITH:

Q Okay. So you received -- he came home with this Colorado brochure --

A Correct.

Q -- for the purchase of the place?

A Correct.

Q And then after that, you received a notice from Bank of America that your address was being changed on your joint account?

A Correct.

Q Then what happened, relating to --

A As it relates to --

Q How it relates to Oak Pass.

A -- Oak Pass, I got a notice in the mail from Bank of America saying that the -- our address was now Oak Pass Road. And I was, like, what is this?

MR. MARKS: Can we have some foundation?

THE COURT: As to time?

MR. MARKS: I can't tell the time, yeah.

THE WITNESS: This was in 2013, I believe. Toward the end of 2013.

BY MR. SMITH:

Q How does this relate to Oak Pass? How does the condo relate to Oak Pass?

A That it was another instance where I was being

notified of a change of address and I didn't know anything about it. And so when I said to Dennis, "Dennis, what is Oak Pass Road?"

And he said, "That's not me."

I said, "That's not you? Bank of America just randomly picked Dennis Kogod and changed our address?" I said, What is this about?"

And he said, "I don't want to get into this anymore. I'm not talking about our money anymore."

I was, like, "What are you doing?" Then I asked about, Fine. If you have a property --

He said, "It was a short sale. I'm going to flip it. I'm not even going to move into it."

And I said, "But it needs to be in the trust." So there are emails that in here that you see that talk about the UBS accounts and the trust because Dennis said,

"Okay, I'm having conversations with Brad, who is our banker, who was our trust accountant, or a trust attorney, and he's got all the paperwork ready, and we're going to go ahead and do it."

Q Did the UBS accounts get placed into the trust?

A Two UBS accounts got placed into the trust.

Q Did the others that you had learned about now, through this litigation, get placed into the trust?

A No.

Q Did the Oak Pass Road property get placed in the trust?

A No.

Q Why not?

A Dennis was having -- according to Dennis's emails, he was having conversations with Brad, and he said, "All the paperwork is done. I don't know why it's taking so long."

And I started getting very anxious, because I had seen other things that represented -- There was a Kogod family trust, which was not our trust. And I said, "What's going on?" So I said, "You know what, I want to be on that phone call. I think I need to be on the call with Brad."

So we planned a conference call, I was sitting in my office --

MR. MARKS: Could we have some foundation?

BY MR. SMITH:

Q When was --

THE COURT: Sustained.

BY MR. SMITH:

Q When was the call?

A The emails reflect the date of the call, but I believe it was sometime in 2- -- it was -- it was the latter part of 2013, June -- I'm sorry, June or July of 2013.

Q Okay. And you were on a call with Brad. He was a lawyer?

A It was actually another person who is on some of the emails, and I can't recall her name. She was on the phone, Dennis was --

Q Give me a very short statement --

A Okay.

Q -- as to why Oak Pass wasn't placed into your trust?

A According to her, when Dennis said --

MR. MARKS: Object, Your Honor, it's hearsay. And it's really irrelevant at this point.

MR. SMITH: Really, it's part of the -- Mr. Kogod --

THE COURT: Well, we haven't gotten to a hearsay statement, so any objection is premature, it's not -- So the objection is overruled.

BY MR. SMITH:

Q Ms. Kogod --

A Yes.

Q Cioffi-Kogod, Gabrielle, as simply as possible, the Reader's Digest version. Why wasn't it placed into the trust?

A Because the house was already in the Kogod family trust and --

Q Were you aware of a Kogod --

A No.

Q -- family trust prior to that time?
A No.
Q What was Dennis's explanation to you as to why there was a Kogod family trust?
A Dennis was dead silent on this phone call --
Q Did he ever provide --
A -- and I never got an explanation.
Q Okay. And it was shortly after that time that you filed for divorce, correct?
A It was shortly after that time that I went to see an attorney, because I was concerned about -- I don't know what's happening, and I feel very unprotected. I'm finding things that I don't know about and I'm asking him and he's not telling me.
Q At this point in time did you know anything about his relationship with Ms. -- pick a name, Kioski (ph), Khapsalis?
A No.
Q Did you know about his children?
A No.
Q Did you know that he had purchased a home for the children and Nadya in Oak Pass Road?
A No.
Q Would you have any -- at ever time -- in your

marriage approved him making expenditures for a mistress?

A No.

Q Would at any time you would have -- would you have approved him from making expenditures to impregnate that mistress?

A No.

Q Would you have at any time approved expenditures for the benefit of a mistress and the children?

A No.

Q The --

THE COURT: I'm looking at breaking for lunch. I don't know if now is a good time. I didn't mean to catch you mid-stream.

MR. SMITH: The answer is this is a fine time.

THE COURT: Okay.

MR. SMITH: Judge, unless you say something to me, I will never stop. I just want you to know that.

THE COURT: Okay.

MR. SMITH: I've gone six or seven hours in a depo and finally somebody says, you know, Rad --

THE COURT: Let's take a break.

MR. SMITH: -- it's probably time to take a break.

THE COURT: All right. Well, we're going to take our lunchtime break, and we'll resume at 1:30.

MR. MARKS: Your Honor, what's the time left?

THE COURT: The time expended -- I haven't calculated the hours, I can break that down. I'll do that during the break, but I have Plaintiff has used, I think, 375 minutes. The Defendant has used 137 minutes. Whatever that breaks down into hours.

MR. SMITH: Six hours and 15 minutes.

THE COURT: Six hours and about two-and-a-half -- almost two-and-a-half hours, so just over six hours.

So keep that in mind as you chart the course. In that, again, I keep track of your cross examination time, direct examination time, and --

MR. SMITH: Voir dire, did you keep track of voir dire?

THE COURT: Voir dire is part of the Defendant's side. I break that out as well, that's not part of the Plaintiff's time.

MR. SMITH: Okay.

(COURT RECESSED AT 12:08:30 AND RESUMED AT 13:32:07)

* * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the digital proceedings in the above-entitled case to the best of my ability.

Adrian Medrano

Adrian N. Medrano

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Electronically Filed
Apr 06 2017 04:15 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD,

Appellant,

vs.

GABRIELLE CIOFFI-KOGOD,

Respondent.
_____/

Case No. 71147

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX
Volume 6

Docket 71147 Document 2017-11537

DOCUMENT	VOLUME	PAGE NO.
Acceptance of Service filed on April 24, 2014	1	14
Acceptance of Service Filed on November 6, 2015	2	394
Amended Notice of Cross-Appeal filed on September 23, 2016	46	9032-9148
Answer to Complaint for Divorce and Counterclaim filed on November 24, 2014	1	19-24
Case Appeal Statement filed on August 23, 2016	44	8590-8593
Case Appeal Statement, filed on December 13, 2016	47	9287-9290
Case Cross-Appeal Statement filed on September 21, 2016	46	9028-9031
Case Cross-Appeal Statement, filed on December 23, 2016	47	9298-9301
Certificate of Service filed on March 2, 2015	1	66
Certificate of Service filed on June 2, 2015	1	85-86
Certificate of Service filed on January 25, 2016	4	712
Certificate of Service filed on June 21, 2016	42	8082
Certificate of Service filed on September 14, 2016	45	8704-8802
Certification of Copy of Exhibits Presented at the 2/23/16-2/26/16 Non-Jury Trial, dated December 8, 2016	10	1876-1894
Certification of Copy Clerks List	41	7980-7983
Complaint for Divorce filed on December 13, 2013	1	1-6
Defendant's Closing Brief filed on August 1, 2016	43	8415-8473
Defendant, Dennis Kogod's, Reply to Plaintiff's, Gabrielle Cioffi-Kogod's, Opposition to Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the deposition of Jennifer Crute Steiner and Opposition to Plaintiff's Countermotion for Attorney Fees and Costs filed on June 25, 2015	1	151-178
Defendant's Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	1	87-110
Defendant's Exhibits Vol. I:	33	6161-7979

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit D- Teichner Accounting Rebuttal Expert Disclosure Dated: January 25, 2016	33	6162-6209
Defendant's Exhibit F- Teichner Accounting Sur-Rebuttal Report Dated: February 15, 2016	33	6210-6215
Defendant's Exhibit S- Bank of America Joint Checking Account Ending 6446 Statement From December 1, 2015 to December 31, 2015	33	6216-6223
Defendant's Exhibit T- Bank of America Checking Account ending in 0129 Statement from December 1, 2015 to December 31, 2015	33	6224-6229
Defendant's Exhibit U- Wells Fargo Complete Advantage Checking Account Ending 5397 Statement from January 9, 2016 to February 5, 2016	33	6230-6239
Defendant's Exhibit V- Wells Fargo PMA Account ending 8870 Statement from January 9, 2016 to February 5, 2016	33	6240-6242
Defendant's Exhibit W- UBS Trust – Fee Base ending 743 Statement From January 2016	33	6243-6252
Defendant's Exhibit X- UBS Checking ending 745 Statement for January 2016	33	6253-6264
Defendant's Exhibit Y- UBS Trust – PWS/GAM ending 134 Statement for January 2016	33	6265-6282
Defendant's Exhibit Z- UBS Stock Option ending 999 Statement for January 2016	33	6283-6290
Defendant's Exhibit AA- Merrill Lynch Ending 588 Statement from December 01, 2015 to December 31, 2015	33	6291-6360
Defendant's Exhibit BB- UBS Trust – Fee Base ending 43 Statement for January 2016	34	6361-6368
Defendant's Exhibit CC- Fidelity Dignity Health Statement from January 1, 2015 to December 31, 2015	34	6369-6372
Defendant's Exhibit DD- Davita Retirement Plan Statement from January 1, 2016 to January 31, 2016	34	6373-6375
Defendant's Exhibit EE- Davita Retirement Savings Plan Statement from October 1, 2015 to December 31, 2015	34	6376-6378
Defendant's Exhibit LL- UBS Premier Variable Credit Line ending 027 Statement for January 2016	34	6379-6384

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DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit MM- American Express Centurion Account ending 3005	34	6385-6396
Defendant's Exhibit NN- American Express Platinum Account ending 2003 Statement from January 18, 2016 to February 6, 2016	34	6397-6401
Defendant's Exhibit OO- American Express Platinum Account ending 9008 Statement from January 25, 2016 to February 23, 2016	34	6402-6406
Defendant's Exhibit PP- Master Card Account ending 1588 Statement From January 07, 2016 to February 06, 2016	34	6407-6412
Defendant's Exhibit QQ- Wells Fargo Account ending 1032 Statement from December 16, 2015 to January 15, 2016	34	6413-6419
Defendant's Exhibit RR- Banana Republic Account ending 4713 Statement from December 4, 2015 to January 4, 2016	34	6420-6423
Defendant's Exhibit SS- Discover Account ending in 4205 Statement from November 12, 2015 to December 11, 2015	34	6424-6427
Defendant's Exhibit TT- Kohls Account ending in 557 Statement from November 7, 2015 to December 7, 2015	34	6428
Defendant's Exhibit UU- Merrill Lynch Account ending 9677 Statement from November 13, 2015 to December 12, 2015	34	6429-6431
Defendant's Exhibit VV- Nordstorm Account ending 992 Statement from November 13, 2015 to December 13, 2015	34	6432-6436
Defendant's Exhibit WW- TJX Rewards Account ending 6951 Statement from December 1, 2015 to January 1, 2016	34	6437-6439
Defendant's Exhibit XX- Detailed Financial Disclosure Form for Gabrielle Cioffi-Kogod, Filed February 25, 2015	34	6440-6456
Defendant's Exhibit AAA- Email from Eugene to Dennis Dated: February 12, 2012	34	6457-6459
Defendant's Exhibit BBB- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: House	34	6460-6464
Defendant's Exhibit CCC- Various Checks from Gabrielle to Eugene Cioffi-Kogod Re: Misc.	34	6465-6467
Defendant's Exhibit DDD- Various Checks from Gabrielle to Eugene Cioffi Re: Eugene's Birthday	34	6468-6470
Defendant's Exhibit EEE- Various Checks from Gabrielle to Cassandra Cioffi Re: Cassandra's Birthday	34	6471-6473

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit FFF- Various Checks from Gabrielle to Stephanie Cioff Re: Stephanie's Birthday	34	6474-6476
Defendant's Exhibit GGG- Check from Dennis to Escrow of the West Re: 128 N. Edinburch	34	6477
Defendant's Exhibit HHH- Various Checks from Gabrielle to Cash	34	6478-6496
Defendant's Exhibit III- Various Checks from Gabrielle to Deaner, Deaner, Scann, Malan & Larsen Re: Kogod v. DeYoung #5504-0001	34	6497-6507
Defendant's Exhibit KKK- Notice of Entry of Stipulation and Order Filed on August 12, 2015	34	6508-6513
Defendant's Exhibit LLL- Email from Dennis to Gabrielle Dated: December 8, 2011	34	6514-6515
Defendant's Exhibit NNN- Plaintiff's Sixteenth Supplemental Production of Documents Pursuant to NRCP 16.2, Served on October 22, 2015	34	6516-656
Defendant's Exhibit OOO- Gabrielle Kogod's Resume	34	6561-6564
Defendant's Exhibit PPP- Plaintiff's Response to Defendant's First Set of Interrogatories Dated May 18, 2015	35	6565-6589
Defendant's Exhibit QQQ- Plaintiff's Response to Defendant's Second Set of Interrogatories Served on October 20, 2015	35	6590-6597
Defendant's Exhibit RRR- Plaintiff's Response to Defendant's Third Set of Interrogatories Served on October 29, 2015	35	6598-6603
Defendant's Exhibit SSS- Confidential Memorandum Limited Partner Interests in New Enterprise Associates 14, L.P. Dated: February 2012	35	6604-6683
Defendant's Exhibit TTT- New Enterprise Associates 14, L.P. Supplemental Schedule of Changes in Individual Partner's Capital Accounts	35	6684-6706
Defendant's Exhibit UUU- Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	36	6707-6906
Defendant's Exhibit UUU- Continued Plaintiff's Eleventh Supplemental Production of Documents Pursuant to NRCP 16.2 Dated: September 9, 2015 (Spreadsheet from Nadya's depo)	37	6907-7034
Defendant's Exhibit VVV- Davita Power Point Regarding 2015 Long Term Incentive Program	37	7035-7041

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit XXX- Davita Cash Performance Award Agreement, Exhibit B	37	7042-7048
Defendant's Exhibit YYY- Email from Radiology Partners regarding 2014 Tax Compliance	37	7049-7059
Defendant's Exhibit ZZZ- Radiology Partners Member Equity Statement Dated: July 31, 2015	37	7060
Defendant's Exhibit AAAA- Radiology Partners Practice Update, Dated July 31, 2015	37	7061-7067
Defendant's Exhibit FFFF- Kogod Equity Analysis of Dennis' outstanding Long-term incentives (Equity Bases and Cash-Based) and Explanation	37	7068-7070
Defendant's Exhibit GGGG- Thomasina Distribution Agreement	37	7071-7126
Defendant's Exhibit HHHH- Pray for Ukraine Agreement Dated: October 16, 2014	37	7127-7132
Defendant's Exhibit IIII- UBS Resource Management account Ending 899 Statement for February 2016	37	7133-7134
Defendant's Exhibit JJJJ- 2015 W-2 issued to Dennis L. Kogod	37	7135-7137
Defendant's Exhibit KKKK- Principle Life Insurance Company Statement for February 18 2016	37	7138-7139
Defendant's Exhibit LLLL- Email from Denise to Dennis Kogod	38	7140
Defendant's Exhibit MMMM- Filing with US Security and Exchange Commission	38	7141-7142
Defendants Exhibit NNNN- Email 2/23/16 Re: Award of 76,766 Shares And Sale of $33,290 Shares for Tax Purposes	38	7143-7144
Defendant's Exhibit OOOO- Assets & Debt Chart	38	7145-7148
Defendant's Exhibit PPPP- Martial Balance Sheet	38	7149-7151
Defendant's Exhibit QQQQ- Costs & Fees Through 1/31/16	38	7152-7174
Defendant's Exhibit RRRR- Jimmerson Fees	38	7175-7340
Defendant's Exhibit SSSS- Depo of Eugene Cioffi February 05, 2016	39	7341-7450
Defendant's Exhibit TTTT- Depo of Stephanie Cioffi February 05, 2016	39	7451-7467
Defendant's Exhibit UUUU- 9716 Oak Pass Appraisal	42	8042-8061

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit VVVV- Jennifer Bosco Resume	42	8062
Defendant's Exhibit WWWW- Hollywood Hills Escrow	42	8063
Defendant's Exhibit XXXX- February 2016 UBS account summary statement	39	7468-7474
Defendant's Exhibit YYYY- February 2016 UBS account statement for Accounts ending 743	39	7475-7484
Defendant's Exhibit ZZZZ- February 2016 UBS account statement for Accounts ending 134	39	7485-7500
Defendant's Exhibit 5A- February 2016 UBS account summary statement	39	7501-7508
Defendant's Exhibit 5B- February 2016 UBS account statement for accounts Ending 745	39	7509-7522
Defendant's Exhibit 5C- February 2016 UBS account statement for accounts Ending 899	39	7523-7532
Defendant's Exhibit 5D- February 2016 UBS account statement for accounts Ending 746	39	7533-7540
Defendant's Exhibit 5E- February 2016 UBS account statement for accounts Ending 027	39	7541-7546
Defendant's Exhibit 5F- February 2016 UBS account statement for accounts Ending 575	39	7547-7552
Defendant's Exhibit 5G- UBS Account Summary for account ending 17, Showing no value As of February 26, 2016	39	7553
Defendant's Exhibit 5H- February 2016 UBS account statement for accounts ending 75	39	7554-7559
Defendant's Exhibit 5I- May 2016 UBS account statement for accounts ending 76	39	7560-7567
Defendant's Exhibit 5J- May 2016 UBS account statement for accounts ending 43	39	7568-7577
Defendant's Exhibit 5K- May 2016 UBS account statement for accounts ending 45	39	7578-7587
Defendant's Exhibit 5L- May 2016 UBS account statement for accounts ending 34	40	7588-7603
Defendant's Exhibit 5M- Wells Fargo PMA Package account ending 5397 Statement from February 1, 2016 through February 29, 2016	40	7604-7613

DOCUMENT	VOLUME	PAGE NO.
Defendant's Exhibit 5N- Wells Fargo Checking account ending 8870 Statements from February 6, 2016 through March 7, 2016	40	7614-7616
Defendant's Exhibit 5O- Wells Fargo Visa account ending 1032 statements From January 16, 2016 through February 12, 2016	40	7617-7620
Defendant's Exhibit 5P- Wells Fargo Visa account ending 1032 statements From February 13, 2016 through March 15, 2016	40	7621-7625
Defendant's Exhibit 5Q- American Express Platinum account ending 9008 Statements from January 16, 2016 through February 23, 2016	40	7626-7636
Defendant's Exhibit 5R- American Express Platinum account ending 9008 Statements from February 24, 2016 through March 25, 2016	40	7637-7645
Defendant's Exhibit 5S- American Express Centurion account ending 3005 Statements from January 16, 2016 through February 14, 2016	40	7646-7659
Defendant's Exhibit 5T- American Express Centurion account ending 3005 Statements from February 15, 2016 through March 16, 2016	40	7660-7668
Defendant's Exhibit 5U- American Express Optima account ending 2003 Statements from January 19, 2016 through February 16, 2016	40	7669-7680
Defendant's Exhibit 5V- American Express Optima account ending 2003 Statements from February 17, 2016 through March 18, 2016	40	7681-7685
Defendant's Exhibit 5W- Master Card Black Card account ending 1588 Statements from February of 2016	40	7686-7691
Defendant's Exhibits 5X- Principle Life Insurance Company Statement of Coverage as of February 26, 2016	40	7692-7693
Defendant's Exhibits 5Y- Voja DaVita Retirement Savings Plan statement From 01/01/16 through 03/31/16	40	7694-7696
Defendant's Exhibits 5Z- DaVita Gambro Healthcare Executive Retirement Plan Benefit Statement from February of 2016	40	7697-7699
Defendant's Exhibit 6A- Cigna Health Savings Plan account balance of April 24, 2016	40	7700-7703
Defendant's Exhibit 6B- DaVita Stock Award Grant Statement, exercisable as of 06/01/16	40	7704-7705
Defendant's Exhibit 6C- Documents regarding sale of Ferrari	40	7706-7707

DOCUMENT	VOLUME	PAGE NO.
Detailed Financial Disclosure Form filed on February 25, 2015	1	28-44
Detailed Financial Disclosure Form filed on February 27, 2015	1	45-65
Detailed Financial Disclosure Form filed on May 29, 2015	1	67-84
Detailed Financial Disclosure Form filed on February 16, 2016	4	721-738
Detailed Financial Disclosure Form filed on February 19, 2016	4	819-835
Discovery Commissioner's Report and Recommendations filed on January 11, 2016	2	421-424
Discovery Commissioner's Report and Recommendations filed on January 22, 2016	4	707-711
Discovery Commissioner's Supplemental Report and Recommendations filed on February 22, 2016	4	843-846
Errata to Pre-Trial Memorandum filed on February 22, 2016	4	841-842
Errata to Notice of Filing Cost Bond for Appeal filed on August 30, 2016	44	8603-8606
Ex-Parte Motion to Enlarge Time for Service of Summons and Complaint filed on April 4, 2014	1	7-11
Ex-Parte Order to Enlarge Time for Service of Summons and Complaint filed on April 10, 2014	1	12-13
Ex Parte Request for Leave of Court to File Supplemental Pleading (With Notice) Filed September 21, 2016	45	8914-8944
Joint Preliminary Injunction filed on May 15, 2014	1	15-16
Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioners Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs filed on September 14, 2015	2	207-274
Motion to Compel Discovery and for Attorney's Fees and Costs filed on December 23, 2015	2	407-420
Motion in Limine to Exclude Updated Real Estate Appraisals and Newly Disclosed Rental Values Submitted by Plaintiff filed on February 19, 2016	4	836-840
Motion in Limine to Exclude Defendant's Witness Disclosed After Deadline to Disclose witnesses and Request for Attorney's Fees and Sanctions filed on February 22, 2016	4	847-858

DOCUMENT	VOLUME	PAGE NO.
Motion to Stay Enforcement of Decree of Divorce and for Other Related Relief filed on August 24, 2016	44	8594-8600
Motion for Attorney's Fees and Costs filed on September 13, 2016	44	8607-8703
Notice of Appeal filed on August 23, 2016	44	8588-8589
Notice of Appeal, filed on December 13, 2016	47	9280-9286
Notice of Cross-Appeal filed on September 21, 2016	45	8823-8940
Notice of Cross-Appeal, filed on December 23, 2016	47	9291-9297
Notice of Entry of Order filed on August 12, 2015	1	205-206
Notice of Entry filed on November 30, 2015	2	395-399
Notice of Entry of Order filed on December 3, 2015	2	400-404
Notice of Entry of Order filed on May 6, 2016	42	8064-8065
Notice of Entry of Order filed on May 11, 2016	42	8068-8069
Notice of Entry of Order filed on June 29, 2016	42	8086-8089
Notice of Entry of Findings of Facts, Conclusions of Law and Decree of Divorce filed on August 22, 2016	44	8474-8587
Notice of Entry of Order filed on October 24, 2016	47	9272-9275
Notice of Entry of Order from October 18, 2016 Hearing filed on December 5, 2016	47	9276-9279
Notice of Filing Cost Bond for Appeal filed on August 29, 2016	44	8601-8602
Objections to Plaintiff's proposed deposition Testimony and Submission of Additional Deposition Testimony filed on March 25, 2016	40	7721-7739
Opposition to Motion for an Order to Show Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs and Countermotion for Sanctions and Attorney's Fees filed on October 6, 2015	2	287-335
Opposition to Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner, and Countermotion for Attorney's Fees and Costs filed on June 23, 2015	1	111-150

DOCUMENT	VOLUME	PAGE NO.
Opposition to Motion to Compel Discovery and for Attorney's Fees and Costs and Countermotion for Protective Order filed on January 11, 2016	3	425-579
Opposition to Plaintiff's Motion for an Order to Show Cause why Defendant Should not be Held in Contempt of Court for His Multiple Violations of the Joint Preliminary Injunction, for an Order Limiting Access and Payments from Community Accounts, and for Sanctions, Attorney's Fees and Costs; and Countermotion for Attorney's Fees and Costs filed on February 8, 2016	4	713-720
Opposition to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's fees and Costs; and Countermotion for Sanctions, Attorney's Fees and Costs filed on July 8, 2016	42	8090-8153
Opposition to Motion for Attorney's Fees and Costs filed on October 13, 2016	46	9167-9174
Order to Show Cause filed on February 24, 2016	4	859-860
Order filed on May 6, 2016	42	8066-8067
Order from April 6, 2016 Hearing filed on May 11, 2016	42	8070-8071
Order filed on June 28, 2016	42	8083-8085
Order From October 18, 2016 Hearing, filed on December 5, 2016	47	9278-9279
Plaintiff's Closing Brief filed on August 1, 2016	43	8242-8414
Plaintiff's Ex Parte Motion with Notice for Extension of Time to File Motion for Attorney's Fees and Costs filed on September 15, 2016	45	8803-8822
Plaintiff's Motion for the Issuance of an Order to Show Cause why Defendant Should not be Held in Contempt for his Multiple Violations of the Joint Preliminary Injunction; Plaintiff's Motion for an Order Limiting the Access and Payments from Community Accounts filed on January 19, 2016	4	647-706
Plaintiff's Pre Trial Memorandum filed on February 19, 2016	4	780-818
Plaintiff's Exhibit 1- Financial Disclosure Form Filed on February 16, 2016	10	1896-1912
Plaintiff's Exhibit 2- Financial Disclosure Form Filed on February 16, 2016	10	1913-1930
Plaintiff's Exhibit 3- Detailed Financial Disclosure Form Filed on May 29, 2015	10	1931-1951

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 4- Detailed Financial Disclosure Form Filed on February 27, 2015	10	1952-1972
Plaintiff's Exhibit 5- 2014 Individual Income Tax Return	10	1973-1980
Plaintiff's Exhibit 6- 2013 Individual Income Tax Return	11	1981-2241
Plaintiff Exhibit 7- 2012 Individual Income Tax Returns	12	2242-2378
Plaintiff's Exhibit 8- 2011 Individual Income Tax Returns	13	2379-2427
Plaintiff's Exhibit 9- 2010 Individual Income Tax Returns	13	2428-2456
Plaintiff's Exhibit 10- 2009 Individual Income Tax Returns	13	2457-2489
Plaintiff's Exhibit 11- 2008 Individual Income Tax Returns	13	2490-2515
Plaintiff's Exhibit 12- 2007 Individual Income Tax Returns	13	2516-2542
Plaintiff's Exhibit 13- 2006 Individual Income Tax Returns	13	2543-2572
Plaintiff's Exhibit 14- 2005 Individual Income Tax Returns	13	2573-2595
Plaintiff's Exhibit 15- 2004 Individual Income Tax Returns	13	2596-2612
Plaintiff's Exhibit 16- 2003 Individual Income Tax Returns	13	2613-2627
Plaintiff's Exhibit 18- Text messages between the parties	14	2629-2772
Plaintiff's Exhibit 19- Emails between the parties	14	2773-2813
Plaintiff's Exhibit 20- Text messages between the parties	15	2814-2921
Plaintiff's Exhibit 21- Text messages between the parties	15	2922-2925
Plaintiff's Exhibit 22- Emails between the parties	15	2926-2962
Plaintiff's Exhibit 23- Emails between the parties	15	2963-3040
Plaintiff's Exhibit 24- Text messages between the parties	15	3041-3048
Plaintiff's Exhibit 25- Text messages between the parties	15	3049-3061
Plaintiff's Exhibit 26- Proposed Community Property Distribution Worksheet	15	3062-3063
Plaintiff's Exhibit 54- Jenny Allen's Curriculum Vitae and List of Cases	16	3064-3066
Plaintiff's Exhibit 55- Index of documents in Support of Spreadsheets in Anthem Forensic's Reports	16	3067-3121

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 56 Anthem Forensics' Expert Witness Report	16	3122-3232
Plaintiff's Exhibit 57- Anthem Forensics' Supplemental Expert Witness Report	17	3233-3368
Plaintiff's Exhibit 58- Anthem Forensics' Supporting Documents for facts set forth in Supplemental Expert Report	17	3369-3402
Plaintiff's Exhibit 59- Email from Joe Leauanae to Daniel Marks, Esq.	17	3403-3404
Plaintiff's Exhibit 60- Auto Related Exhibits listed on Exhibit 6	17	3405-3409
Plaintiff's Exhibit 61- Transactions that comprise the "adjusted" column on Exhibit 6	18	3410-3549
Plaintiff's Exhibit 62- Withdrawals and checks written to cash - Gabrielle Kogod	18	3550
Plaintiff's Exhibit 63- Anthem Forenscics' Response to Rebuttal Report	18	3551-3578
Plaintiff's Exhibit 65- Anthem Forensics' Supporting Documentation for Facts set fourth in The February 5, 2016 Report	19	3579-3640
Plaintiff's Exhibit 69- Joint Preliminary Injunction Order	19	3641-3642
Plaintiff's Exhibit 71- Settlement Statement for 10776 Wilshire Boulevard, Unit 604, California	19	3643
Plaintiff's Exhibit 72- Spreadsheet showing expenses for Khapsalis and children From May 2014	19	3644-3674
Plaintiff's Exhibit 73- Spreadsheet showing updated Outflows greater than $10,000 Since Anthem's December 15, 2015 Report based on updated statements provided by Dennis	19	3675
Plaintiff's Exhibit 74- Spreadsheet showing Outflows more than $10,000 Since May, 2014	19	3676
Plaintiff's Exhibit 75- Spreadsheet showing payments to or on behalf of Dennis' Family Members since May, 2014	19	3677-3678
Plaintiff's Exhibit 76- Spreadsheet showing payments to Jennifer Steiner since September, 2014	19	3679-3682
Plaintiff's Exhibit 77- Email from Bob Gehlen dated November 25, 2015	19	3683-3685
Plaintiff's Exhibit 78- Email from Dennis to Robert Gehlen dated December 8, 2015	19	3686-3690

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 79- Email from Ms. Varshney to Mr. Marks and Ms. Young re: Dennis Not adding Gabrielle to the UBS Account dated December 2, 2015	19	3691-3696
Plaintiff's Exhibit 80- Motion to Stay Service of Subpoena Duces Tecum and Notice of Deposition and for a Protective Order Prohibiting or Limiting the Deposition of Jennifer Crute Steiner filed on June 11, 2015	19	3697-3720
Plaintiff's Exhibit 87- Letter from Ms. Varshney to Mr. Marks re: Deficiencies in documents From DaVita dated October 1, 2015	19	3721-3725
Plaintiff's Exhibit 88- Letter from Mr. Jimmerson to Mr. Smith re: Dennis' intent to sell stock Options dated June 12, 2015	19	3726
Plaintiff's Exhibit 89- Letter from Mr. Smith to Mr. Marks re: Sale of Dennis' Stock Options Dated August 14, 2015	19	3727-3729
Plaintiff's Exhibit 90- Letter from Mr. Marks to Mr. Smith re: Subpoena to DaVita jeopardizing Dennis' position dated September 2, 2015	19	3730-3731
Plaintiff's Exhibit 91- 2008 Annual Proxy Statement	19	3732-3807
Plaintiff's Exhibit 92- 2009 Annual Proxy Statement	20	3808-3873
Plaintiff's Exhibit 93- 2010 Annual Proxy Statement	20	3874-3959
Plaintiff's Exhibit 94- 2011 Annual Proxy Statement	21	3960-4081
Plaintiff's Exhibit 95- 2012 Annual Proxy Statement	21	4082-4202
Plaintiff's Exhibit 96- 2013 Annual Proxy Statement	22	4203-4298
Plaintiff's Exhibit 97- 2014 Annual Proxy Statement	22	4299-4432
Plaintiff's Exhibit 98- 2015 Annual Proxy Statement	23	4433-4526
Plaintiff's Exhibit 100- Radford J. Smith, Chartered's Billing Statements	23	4527-4560
Plaintiff's Exhibit 101- Marc Herman's Billing Statements	23	4561
Plaintiff's Exhibit 102- Anthem Forensic's Billing Statements	23	4562-4627
Plaintiff's Exhibit 103- Clark Barthol's Billing Statements	23	4628
Plaintiff's Exhibit 107- Nadya Khapsalis' Facebook printout	24	4629-4691
Plaintiff's Exhibit 111- Plaintiff's Third Set of Interrogatories to Defendant	24	4692-4709

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 113- Plaintiff's Fourth Set of Interrogatories to Defendant	24	4710-4717
Plaintiff's Exhibit 116- Plaintiff's Sixth Set of Interrogatories to Defendant	24	4718-4761
Plaintiff's Exhibit 118- Summary of emails prepared by Plaintiff	24	4762-4765
Plaintiff's Exhibit 119- 2011 Tax Return	24	4766-4767
Plaintiff's Exhibit 120- 2012 Tax Return	24	4768-4772
Plaintiff's Exhibit 121- 2013 Tax Return	24	4773-4780
Plaintiff's Exhibit 122- 2014 Tax Return	24	4781-4784
Plaintiff's Exhibit 123- Kogod equity analysis	24	4785
Plaintiff's Exhibit 124- Dist. Comm prop as of February 2016	24	4786-4788
Plaintiff's Exhibit 125- 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	25	4789-5065
Plaintiff's Exhibit 125- Continued 9/11/15 Certified Transcripts of Deposition of Nadyane Khapsalis Kogod	26	5066-5170
Plaintiff's Exhibit 126- 9/15/15 Deposition of Patricia Murphy	27	5171-5305
Plaintiff's Exhibit 127- 9/26/15 Deposition of Mitchell Kogod	28	5306-5498
Plaintiff's Exhibit 128- 9/25/15 Deposition of Marsha Kogod	29	5499-5592
Plaintiff's Exhibit 129- 9/25/15 Deposition of Sheldon Kogod	29	5593-5745
Plaintiff's Exhibit 130- 9/26/15 Deposition of Dana Kogod	30	5746-5832
Plaintiff's Exhibit 131- 12/10/15 Deposition of Jennifer Crute Steiner	31	5833-6019
Plaintiff's Exhibit 132- Gabrielle's Ann Taylor Loft X5363 dated February 22, 2016	32	6020-6023
Plaintiff's Exhibit 132-2- Marc Herman's Curriculum Vitae	41	7984
Plaintiff's Exhibit 132-5- Gabrielle's expert, Mr. Marc Herman's updated Appraisal dated January 30, 2016	41	7985-8021
Plaintiff's Exhibit 132-6- Dennis' expert, Ms. Jennifer L. Bosco's appraisal Dated March 7, 2016	41	8022-8041
Plaintiff's Exhibit 133- Gabrielle's Banana Republic Luxe X4713 Dated March 4, 2016	32	6024-6026

DOCUMENT	VOLUME	PAGE NO.
Plaintiff's Exhibit 134- Gabrielle's Discover Card X5161 dated February 11, 2016	32	6027-6029
Plaintiff's Exhibit 135- Gabrielle's Discover Card X5161 dated March 11, 2016	32	6030-6033
Plaintiff's Exhibit 136- Gabrielle's Kohl's Card X2557 Dated January 7, 2016	32	6034-6036
Plaintiff's Exhibit 137- Gabrielle's Kohl Statement X2557 dated February 5, 2016	32	6037-6039
Plaintiff's Exhibit 138- Gabrielle's American Express Statement X9677 dated February 12, 2016	32	6040-6042
Plaintiff's Exhibit 139- Gabrielle's Nordstrom X992 dated February 11, 2016	32	6043-6048
Plaintiff's Exhibit 140- Gabrielle's Nordstrom X992 dated March 13, 2016	32	6049-6052
Plaintiff's Exhibit 141- Bank of America Merrill Lynch X0129 Statement dated March 1, 2016 through March 31, 2016	32	6053-6058
Plaintiff's Exhibit 142- Bank of America Merrill Lynch X6446 Statement Dated February 29, 2016	32	6059-6066
Plaintiff's Exhibit 143- Bank of America Merrill Lynch primary account 7GS-10588 dated February 29, 2016 (also includes secondary accounts 7GS-10637, 7GS-10588, 7GS-10093)	32	6067-6124
Plaintiff's Exhibit 144- Gabrielle's UBS account FN-20329 GM Dated March, 2016	32	6125-6132
Plaintiff's Exhibit 145- Gabrielle's UBS account FN 13134 GM Dated March, 2016	32	6133-6146
Plaintiff's Exhibit 146- Gabrielle's UBS account FN 12743 GM Dated March, 2016	32	6147-6160
Plaintiff's Motion to Compel Discovery, For Sanctions, and Attorney's Fees and Costs filed on June 21, 2016	42	8072-8081
Plaintiff's Opposition to Defendant's Motion to Stay Enforcement Of Decree of Divorce and for Other Related Relief and Countermotion for Attorney's Fees filed on October 12, 2016	46	9149-9166
Reply to Counterclaim for Divorce filed on December 5, 2014	1	25-27

////

DOCUMENT	VOLUME	PAGE NO.
Reply in Support of Motion for an Order to Cause to Hold Gabrielle Cioffi-Kogod in Contempt for Failure to Comply with the Discovery Commissioner's Recommendation Regarding Service of Jennifer Crute Steiner and for Attorney's Fees and Costs; and Opposition to Countermotion for sanctions and Attorney's Fees filed on October 12, 2015	2	336-345
Reply in Support of Defendant's Motion to Compel Discovery and for Attorney's Fees and Costs, and Opposition to Plaintiff's Countermotion for Protective Order filed on January 13, 2016	3	583-586
Reply to Plaintiff's Motion to Compel Discovery, for Sanctions, Attorney's Fees and Costs and Opposition to Countermotion for Sanctions, Attorney's Fees and Costs filed on July 13, 2016	42	8154-8192
Reply in Support of Motion to Stay Enforcement of Decree of Divorce and For Other Related Relief; and Opposition to Countermotion for Attorney's fees filed on October 14, 2016	46	9175-9180
Reply to Opposition to Motion for Attorney's Fees and Costs filed on October 17, 2016	46	9181-9186
Stipulation and Order filed on August 10, 2015	1	201-204
Stipulation and Order filed on December 15, 2015	2	405-406
Summons filed on May 15, 2014	1	17-18
Supplemental Billing Statements of Attorney's Fees and Costs filed on March 11, 2016	40	7708-7720
Supplement to Plaintiff's Motion for Attorney's Fees and Costs filed on September 21, 2016	46	8945-9027
Transcript Re: All Pending Motions (Hearing on June 26, 2015) filed on July 9, 2015	1	179-200
Transcript Re: Motion to Stay (Hearing on Wednesday September 21, 2016) filed on December 29, 2016	2	275-286
Transcript Re: All Pending Motions (Hearing on Wednesday October 14, 2015) filed on December 29, 2016	2	346-393
Transcript Re: All Pending Motions (Hearing on Friday January 15, 2016) filed on December 29, 2016	3	587-646
Transcript Re: All Pending Motions (Hearing on Wednesday, February 17, 2016) filed on December 29, 2016	4	739-779
Transcript Re: Non-Jury Trial (Tuesday, February 23, 2016) filed on April 28, 2016	5	861-1037

DOCUMENT	VOLUME	PAGE NO.
Transcript Re: Non-Jury Trial (Wednesday, February 24, 2016) filed on April 28, 2016	6	1038-1222
Transcript Re: Non-Jury Trial Vol. I (Thursday, February 25, 2016) filed on April 28, 2016	7	1223-1399
Transcript Re: Non-Jury Trial Vol. II (Thursday, February 25, 2016) filed on April 28, 2016	8	1400-1592
Transcript Re: Non-Jury Trial Vol. I (Friday, February 26, 2016) filed on April 28, 2016	9	1593-1766
Transcript Re: Non-Jury Trial Vol. II (Friday, February 26, 2016) filed on April 28, 2016	10	1767- 1875
Transcript Re: Status Check (Hearing on Wednesday April 6, 2016) Filed on April 28, 2016	40	7740-7808
Transcript Re: Hearing (Hearing on Wednesday May 4, 2016) Filed on December 29, 2016	41	7809-7979
Transcript Re: All Pending Motions (Hearing on Wednesday July 13, 2016) Filed on December 29, 2016	42	8193-8241
Transcript Re: All Pending Motions (Hearing on Tuesday October 18, 2016) filed on December 29, 2016	47	9187-9271

TRANS

ORIGINAL

FILED
APR 28 2016
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

GABRIELLE ROSE CIOFFI-KOGOD, Plaintiff, vs. DENNIS L. KOGOD, Defendant.	Case No. D-13-489442-D Dept. Q (SEALED)

BEFORE THE HONORABLE BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON-JURY TRIAL

WEDNESDAY, FEBRUARY 24, 2016

APPEARANCES:

The Plaintiff:	GABRIELLE ROSE CIOFFI-KOGOD
For the Plaintiff:	RADFORD SMITH, ESQ. GARIMA VARSHNEY, ESQ. 2470 St. Rose Parkway, Suite 206 Henderson, Nevada 89074 (702) 990-6448
The Defendant:	DENNIS L. KOGOD
For the Defendant:	DANIEL MARKS, ESQ. NICOLE YOUNG, ESQ. 610 South Ninth Street Las Vegas, Nevada 89101 (702) 386-6812

INDEX OF WITNESSES

	DIRECT	CROSS	REDIRECT	RECROSS
WEDNESDAY, FEBRUARY 24, 2016				
PLAINTIFF'S WITNESSES				
Dennis Kogod	05	107	--	--

* * * * *

INDEX OF EXHIBITS

	ADMITTED
WEDNESDAY, FEBRUARY 24, 2016	
PLAINTIFF'S EXHIBITS:	
18 - Text messages	83
19 - Email	85
20 - Text messages	83
23 - Email	45
69 - Joint Preliminary Injunction	104

* * * * *

LAS VEGAS, NEVADA WEDNESDAY, FEBRUARY 24, 2016

PROCEEDINGS

(THE PROCEEDINGS BEGAN AT 13:43:19)

THE COURT: Please be seated.

THE CLERK: On record, Judge.

THE COURT: We are on the record in the Cioffi-Kogod matter, Case D-13-489442-D. Please confirm your appearances.

MR. SMITH: Radford Smith, 2791, on behalf of Gabrielle Kogod, who's to -- Cioffi-Kogod, who's to my right.

THE COURT: Good afternoon.

MR. MARKS: Your Honor, Daniel Marks and Nicole Young for Dennis Kogod.

THE COURT: Good afternoon.

MR. MARKS: Good afternoon.

THE COURT: All right. This is a continuation of our trial. We'll go ahead and continue. We -- when we adjourned yesterday, the Defendant was testifying. So I assume, Mr. Smith, you want to pick up where we left off and continue?

MR. SMITH: Yeah, that would be great.

THE COURT: Okay.

MR. SMITH: Thanks.

THE COURT: Sir, if you'd go ahead and take the

witness stand, and when you get there, raise your right hand to be sworn.

THE CLERK: One moment. I'm choking.

THE COURT: All right. You okay?

THE CLERK: Yeah, I'm sorry. You do solemnly swear the testimony you're about to give in this action shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you.

THE COURT: Okay. You may be seated. Counsel, you may proceed.

MR. SMITH: Okay.

DENNIS KOGOD

called as a witness on behalf of the Plaintiff and being first duly sworn, testified as follows on:

DIRECT EXAMINATION CONTINUED

BY MR. SMITH:

Q When we left yesterday we were on investment opportunities that you have. You had testified that there was an investment opportunity for I think it was International -- hold on just one second, see where I'm at. New Enterprise Associates. And that normally it's a five billion dollar buy-in but you were able to buy in for a million because of

your association with the folks at DaVita, correct?

A Not specifically with DaVita, with the -- one of the partners of NEA sat on our board.

Q Okay. So it's the board of DaVita.

A Yes.

Q All right. So through your associations there you were able to make that investment. New Enterprise Associates is a good fund, correct?

A I believe so.

Q High returns?

A Reasonable returns.

Q What are the returns recently? Have you kept check -- kept track of that?

A I don't recall off the top of my head. I think we provided the spreadsheets on NEA but --

Q I'm just asking if you knew. Radiology Partners, that's another investment that you had?

A Yes.

Q That was outside of UBS, correct?

A Actually, the prospectives came through UBS.

Q Okay. And the Radiology Partners, is that something that you were advantaged by in any way in regard to your relationships with other members of DaVita or -- or associates of DaVita?

A The relationship was that some of the founders of Radiology Partners used to be employees or executives at DaVita.

Q Right. And you invested money into that as well, correct?

A $150,000.

Q And iChill, what kind of investment is that?

A iChill is a -- a melatonin drink that's commercially available, a relatively new product, and -- and I invested 150,000 in it.

Q So I want to talk about the -- your marriage with Gabrielle. Throughout the -- the opening statement you said that it was I think irretrievably broken, so I want to talk about the history of that relationship. Your relationship with Gabrielle was good during the time leading up to the move in 2004 to Las Vegas, correct?

A First of all, I think it was 2003 when we moved to Vegas and I think when we were in Southern California from 2002 until the move that our relationship was deteriorating.

Q It was deteriorating. You were still having sexual relations with Mr. -- Ms. Kogod even through 2005, correct?

A Absolutely not. We -- from the time we moved to Lake Las Vegas we had no physical contact, no intimacy at all.

Q Okay. So and that physical relationship, at the

time that -- that you started having trouble with your physical relationship, you had indicated to her that you were having problems performing sexually, correct?

A I believe I did.

Q And you were indicating to her that was as a result of both your bipolar disorder and the medication that was from -- to address the bipolar disorder, correct?

A I think I attributed it to the medication.

Q Okay. And the medication was a certain kind of serotonin inhibitors that have a side effect of inhibiting either desire or performance in males, correct?

A I'm not a physician, but I believe so.

Q And that's what happened to you?

A That's what I described to Gabrielle. The fact of the matter is there just was no physical relationship.

Q Right. And this was at or about the time that you began a physical relationship with Nadya Khapsalis.

A No. We moved to Las Vegas in 2003. I didn't meet Nadya until November of 2004.

Q Did you have other people that you were involved with, other relationships prior to 2003.

A No.

MR. MARKS: Objection. Relevance.

THE COURT: Overruled.

A No.

Q None at all?

A No.

Q You were the one that desired to move to Nevada, correct?

A I suggested it. It ultimately became a mutual decision. As I said yesterday, we went back and forth several times looking at the house, considering the opportunity, withdrew the offer, and both agreed that it was a good move. I simply found the property.

Q And October 2004 is when you started your relationship with who was then Nadine Kievski (ph), correct?

A November.

Q And in November of 2004, she was a hostess at a restaurant, right?

A Correct.

Q She had nothing. She wasn't even a citizen, right? Well, she had nothing. She had no asse --

MR. MARKS: Objection. Compound.

Q She had no assets --

THE COURT: Sustained.

Q Correct.

MR. SMITH: I withdrew the question.

MR. MARKS: Can you rephrase?

BY MR. SMITH:

Q She had no assets, correct?

A To the best of my knowledge, no.

Q And she wasn't even a citizen at that point, was she?

MR. MARKS: Objection. Relevance.

THE COURT: Overruled.

A She had a green card. She had been married before and she had a green card.

Q Okay. And she was working at (sic) a hostess in a restaurant. What was the name of the restaurant?

A I believe it was Track Tier (ph).

Q Track Tier. You told her you were -- in the course of your relationship, prior to June of 2005, you told her you worked at Gra -- Gambro.

A When I met her I told her I worked at Gambro.

Q Okay. And you told her you were -- the office that you had at Gambro, correct?

A I'm sorry?

Q You told her the office that you had at Gambro. You told her what position you had at Gambro, correct?

A Yes.

Q Which was what at the time?

A President and co-chief operating officer.

Q Okay. And she was impressed by that, correct?

MR. MARKS: Objection. Calls to (sic) speculation.

THE COURT: Sustained.

BY MR. SMITH:

Q If she told you -- did she tell you that she was impressed by the fact that you were an executive?

A No.

MR. MARKS: Calls for hearsay. And relevance.

THE COURT: As to hearsay, it would be sustained.

MR. SMITH: All right.

BY MR. SMITH:

Q You didn't tell her you were married, correct?

A In the very beginning, I don't believe I did.

Q You in fact took her to Cancun and surprised her with a wedding ceremony, correct?

MR. MARKS: Objection. Relevance.

THE COURT: Overruled.

A No, that's not correct.

Q Did -- did you and her -- have you had a chance during the course of this proceeding to read Nadya's deposition?

A No.

Q I'm going to represent certain things about her statements. In fact, I may even quote some of her statements

and you tell me whether they're true.

MR. SMITH: Can I get Nadya's deposition, please, (indiscernible).

MR. MARKS: Are you going to give us the page and line numbers?

MR. SMITH: I will.

MR. MARKS: Your Honor, I don't think it's proper to read a statement that's not in evidence from a third party. That would be hearsay until it comes in. So I'm -- I don't think he can do it this way.

THE COURT: Well, nothing's happened at this point, so any objection is premature.

MR. MARKS: But I just -- he's going down a road that I don't think is permissible because it would be hearsay --

MR. SMITH: As the Court has indicated, I haven't even made a statement yet --

THE COURT: Yeah, we'll --

MR. SMITH: -- so I don't know exactly --

THE COURT: -- we'll see. I mean --

MR. SMITH: -- what the objection is.

THE COURT: -- this is all --

MR. MARKS: Okay.

THE COURT: -- irrelevant at this point.

BY MR. SMITH:

Q You went to Cancun with her in June of 2005, correct? With --

A I don't remember --

Q With --

A -- the exact date, but we went to Mexico.

Q And that was Ms. Kievski, correct?

A Correct.

Q And you had engaged with Ms. Kievski in a ceremony on a beach, correct?

A A civil ceremony.

Q But then the civil ceremony was tantamount to a wedding ceremony in -- in Mexico where you were, correct?

A No. It was quite clear when we did that in the documentation it was not legal. We had not applied for a marriage license in Mexico. We did not meet the requirements, we did not go for blood testing, and it was a civil ceremony administered by a civilian.

Q And it wasn't your intent at that time to give the impression to Ms. Kievski that you were being married?

A No.

Q And your understanding from conversations with her leading up to that wedding ceremony or marriage cer -- or civil ceremony was that you were -- she -- she understood you

were not going to be married based upon --

MR. MARKS: Calls for speculation as to what she thought.

THE COURT: Sustained.

BY MR. SMITH:

Q Did you have a conversation with her prior to that civil ceremony in which you indicated to her that Gabrielle was -- you were married to Gabrielle Ko -- Cioffi-Kogod?

A I honestly don't remember when I told Nadya about Gabrielle.

Q But at sometime either -- well, you don't know if it was before or after, but at some time in or about that time, June of 2005, you told Nadi that you were married to Gabrielle, correct?

A At some point, yes.

Q Why didn't you divorce Gabrielle at that time?

A For the same reason that I didn't divorce her in '10 and '11 and '12. I didn't want the stress, I didn't want to damage a new relationship going into DaVita as the only outsider or the only Gambro person. A very different pedigree than the rest of DaVita and at that point I wasn't willing to ruin a good opportunity that turned out to be a great opportunity for Gabrielle and I ec -- financially.

Q Okay. So instead you moved her in with you into a

condo that you bought, correct?

A Correct.

Q And this condo was a condo that you misrepresented to Gabrielle was a condo that was owned by another person in your company, correct?

A Not only correct, but as Dan said yesterday, I am sorry of a lot of decisions I made and that was one --

Q Okay.

A where I certainly misled her.

MR. SMITH: As a result of the time frames in this case, Your Honor, if I ask for a yes or no, I would appreciate if we just get a yes or no as opposed to --

MR. MARKS: Your Honor --

MR. SMITH: -- a speech because --

MR. MARKS: -- I think he's been --

MR. SMITH: -- I think that's what's going to happen.

MR. MARKS: -- responsive.

THE COURT: All right. But listen to question and if it asks for a yes or no you'll -- your attorney will have an opportunity to ask you questions, but I know there's a natural desire and inclination --

THE WITNESS: Sure.

THE COURT: -- to -- to explain.

THE WITNESS: Okay.

THE COURT: But it asks -- calls for a yes or no answer, if you could --

THE WITNESS: Yes, sir.

THE COURT: -- answer yes or no.

BY MR. SMITH:

Q Okay. So in this instance, you -- you told Gabrielle that this was a condominium owned by someone else in your company, correct?

A Yes.

Q And you told Gabrielle that you were living with the son of that individual in that -- that condominium --

A Yes.

Q -- correct? And that condominium was in Overland Avenue in Los Angeles, California.

A Correct.

Q And Overland Avenue is near Beverly Hills, correct?

A It's within 15 minutes of Beverly Hills.

Q Do you find it surprising that -- or you don't believe that Gabrielle has not had sexual relations since the time you had sexual relations, right?

A I've -- I don't know the answer to that, what she's done.

Q Well, you actually did answer in your deposition and

you expressed doubt that she had sexual -- sex for the last 10 or 13 years.

MR. MARKS: Objection. It's improper use of impeachment in the deposition.

THE COURT: Overruled.

MR. MARKS: He doesn't have the deposition in front of him. He -- he can't just comment on a document he hasn't seen.

THE COURT: Overruled.

THE WITNESS: I don't recall what I said in the deposition and I honestly don't know what Gabrielle did over those 10 years.

BY MR. SMITH:

Q But you expressed -- you believed that -- you doubt that she didn't have sexual relations.

A I don't recall exactly what I said.

MR. SMITH: Give me his deposition. I'm going to have to go through that process.

Q The -- one of the problems that you indicated -- or the concerns you had was that someone at -- at DaVita would find out or -- or Gambro would find out about your relationship with Ms. Kievski, correct?

A DaVita, yes.

Q Okay. And at DaVita, but you -- that didn't stop

you from having Pat Murphy book travel with Ms. Kievski and your children on corporate jets, correct?

A No.

Q No, it did not stop you.

A No.

Q And in fact, you continued to come to Las Vegas even after the commencement of your relationship with Kievski, correct?

A Yes.

Q And that continued -- you continued to come to Las Vegas and actually stay at the Las Vegas home until July of 2010, correct?

A I believe it was June, but 2010, yes.

Q And in -- it was common for you and Gabby to play golf from Thursday through Sunday, in other words, all day Thursday, Friday, Saturday --

MR. MARKS: I need some --

Q -- Sunday.

MR. MARKS: -- foundation for what time.

Q During --

THE COURT: Sustained.

MR. SMITH: I'm just not -- I wasn't done with the question.

BY MR. SMITH:

Q So it was common for you to have -- to play golf with Gabby Thursday through Sunday from the period between 2005 and 2010, correct?

A Incorrect.

Q You did play with Gabby, golf, between Thursday and Sunday on weekends between that period of time, correct?

A No.

Q Never?

A Occasionally.

Q You in fact bought Gabby a golf cart, correct?

A I bought us a golf cart when we moved to Lake Las Vegas.

Q Except you gave it to her on Mother's Day as a gift, correct?

A I don't recall.

Q It was around late 2009 to 2010 that Nadya started complaining about you being home on the weekends, correct?

MR. MARKS: Objection. Hearsay.

A I don't remember.

THE COURT: Overruled.

A I don't remember Nadya complaining.

Q Did you advise Nadya during that period of time in 2009 that you were going to seek a divorce?

A I don't really remember what I told Nadya in 2009.

Q And you -- you actually saw Mr. Jimmerson in -- for a divorce in 2009, correct?

A January or March of 2010 was the first time I talked to him.

Q Did you pay him money before you talked to him?

A The day that I saw him, yes.

Q Okay. But you never paid him any money in 2009? That's your testimony?

A That's what I believe, yes.

Q You filed tax returns in -- as a residence of Nevada until 2014, correct?

A 2013.

Q And the Overland Park payments that you paid for Overland Park or monies for Ms. Kievski came out of the 4 -- 6446 account, correct?

A I believe so.

Q Okay. And the 6446 account was a trust account.

A I don't remember how it was set up.

Q You -- that trust account was used solely by you. Gabrielle never wrote a check on that account, did she?

A I don't know if she did or not.

Q The -- the -- do you have any recollection of Gabrielle writing a check on that account at all?

A I honestly don't remember.

Q The 6446 statements went to Las Vegas, but when you arrived at Las Vegas to review those statements, they were always closed, correct?

A I never really paid attention to my statements at all.

Q The -- you never at any time came to Las Vegas and saw a 6446 statement that was actually open, did you?

A I don't recall looking at very many statements and their envelope to determine if they were open or closed.

Q So the answer is you don't have any recollection of ever seeing an open statement at the time you arrived in Las Vegas to review those statements, correct?

A My answer is I never paid attention, so I don't know.

Q Okay. Well, either you have a recollection of seeing them open or you don't have a recollection --

MR. MARKS: Your Honor, it's --

Q -- which is it?

MR. MARKS: -- argumentative.

THE COURT: Overruled.

A I don't remember if they were opened or closed.

Q The Ms. Khapsalis never made any money during your marriage, did she?

A No.

Q Or excuse me, during your relationship.
A Thank you.
Q And during that relationship, again, you talked about being worried about people at -- at Gambro knowing about that revelation -- or, excuse me, DaVita knowing about the relationship, but you went through in vitro fertilization with Ms. Kievski-Khapsalis, to have children, correct?
A Correct.
Q And you went through multiple procedures in order to do that, correct?
A Correct.
Q And each of those procedures was quite expensive, agreed?
A I think it was $13,000.
Q Per procedure.
A And I don't know how many we went through.
Q Okay. But there were multiple procedures, correct?
A I believe two.
MR. MARKS: Objection. Asked and --
Q In other words --
MR. MARKS: -- answered.
Q -- it was your in --
MR. MARKS: Your Honor, asked and answered. You just can't ask the same thing multiple times.

THE COURT: Overruled.

BY MR. SMITH:

Q The in -- your intent was to have children with Ms. Kievski-Khapsalis, correct?

A To try and have children, yes.

Q And in fact you had the twin girls in 2007, correct?

A Correct.

Q Were you there for the birth of those children?

A I was.

Q And in fact you had gone to -- that year you had gone with Gabrielle to Brooklyn for Christmas, correct?

A Christmas Eve and Christmas Day, yes.

Q And you advised her that you had to leave because you had indicated that a -- a Russian contractor that you had worked with son died in an accident and so you had to leave at that time.

A I don't remember that explanation at all.

Q Do you ever recall telling her that -- that you had to leave Brooklyn at any time because you had a Russian contractor, a friend whose son had died?

A I do not. And I also remember leaving a couple years before at the same time period, the day after Christmas.

Q In 2008 -- excuse me, in 2007 you returned -- when -- later on it came -- you had a discussion about that in

later years and you had told her that that's not why you had left, that in fact you had left because you wanted to see your parents; is that correct?

MR. MARKS: Your Honor, compound.

THE COURT: Sustained.

MR. SMITH: Let me -- let me go to a different area.

BY MR. SMITH:

Q The -- so you were coming to weekends in Nevada between 2005 and 2010; that is correct, correct?

A Friday evening till Saturday night or Sunday morning, correct.

Q When you lived with Ms. Khapsalis, you paid all of her expenses, correct?

A I paid all of my expenses and she lived there and I gave her some spending money, correct.

Q Well, you paid for her clothing, correct?

A Some, correct.

Q All right. You paid for any utilities she was using.

A Utilities she was using was the same house that I was living in.

Q You paid for her food?

A Yes.

Q You paid for your -- everything for your children,

your children's clothes, food, everything, correct?

A Correct.

Q You paid Ms. -- Ms. Khapsalis to go to spas, correct?

A Correct.

Q You paid for Ms. Khapsalis to shop at various stores, correct?

A Correct.

Q Was there ever a time that Ms. Khapsalis paid for anything for herself or the children between June of 2 -- well, yeah, June of 2005 until now?

A I don't believe so.

Q Why did you go through in vitro fertilization?

A As you stated, I wanted children.

Q Did you have any -- was it as a result of having any trouble performing sexually?

MR. MARKS: Objection. Relevance.

THE COURT: Overruled.

A No, we just weren't able to conceive normally.

Q Even during that time, when you're having in vitro fertilization and you're coming home to Gabby on the weekends, you bought Gabby a kitten, correct?

A I'm sure I did. I bought her a couple of kittens over our life together.

Q But you weren't concerned with Ms. Khapsalis was posting photos on the internet of you and the children, were you?

A You know, I never once looked at her Facebook account in all these years, so I had no idea what she was posting.

Q Even when she posted the movie she made about your life online?

A I only found out about her Facebook posting through these proceedings when I saw copies of her Facebook account. I had never once visited her accounts.

Q You weren't aware of the movie she made about you?

A For my birthday?

Q Yes. For your 50th birthday.

A Yes, we showed at my -- at my home.

Q And you weren't concerned that that was on the internet?

A No.

Q This scandal, this notion that you were concerned about people knowing things at DaVita is the same story you gave about the Steiner (ph) deposition, correct?

MR. MARKS: Objection. Relevance. It deals with these legal proceedings, not underlying facts.

THE COURT: Overruled.

THE WITNESS: Can you rephrase the question? I'm not clear.

BY MR. SMITH:

Q This statement, that the reason why you didn't divorce Gabby was because you were concerned about this -- the scandal at DaVita if you got divorced, this is the same thing that you're -- you said when you requested that Ms. Steiner's deposition in this case not be taken; do you recall that?

A There were three or four reasons that I requested Ms. Steiner's deposition not be taken.

Q But that was one of them. You were afraid, like you've said about Gabby, that she would go to DaVita and cause problems for you, correct?

A Correct. And I was concerned about it getting back to her new company as well.

Q Well, and you told this Court through your pleadings in this case that Ms. Steiner had actually told you that, that she had told -- she had threatened to go to DaVita and -- and cause you problems with the company, correct?

MR. MARKS: Your Honor, these were discovery disputes. They were ruled on by the discovery commissioner.

THE COURT: What's -- what's the evidentiary objection?

MR. MARKS: Relevance to this trial. You can't

replay the discovery disputes that were already ruled on by the discovery commissioner.

THE COURT: The objection's overruled.

THE WITNESS: Can you repeat the question?

BY MR. SMITH:

Q Let me have you look at the -- the pleadings that were filed on your behalf in this case. I'm going to --

(PAUSE)

Q Just to give the Court some background, who is Jennifer Steiner?

A She is a person that I had a relationship from beginning September 19th, 2014.

Q And after September ten -- well, has that relationship continued through today?

A No.

Q When did you stop or when did that relationship end?

A It has been off and on for the last couple of months and it is off for the last X weeks.

Q The -- Ms. Steiner was someone that you met at DaVita, correct?

A Ms. Steiner worked for DaVita. I think during the life of her career I actually sat with her three or four times for about --

Q Again --

A -- 30 minutes.

Q -- it's a yes --

A Yes.

Q -- or no question.

A Yes.

Q So you met her at DaVita. In fact, like Gabby, you interviewed her for her job, correct?

A I was the last person to interview, correct.

Q The -- when we noticed her deposition in this case, you had your attorneys object to that deposition notice, correct?

A Correct.

(PAUSE)

MR. MARKS: What exhibit number?

MR. SMITH: 80.

MS. VARSHNEY: 80.

MR. SMITH: Volume IV.

THE WITNESS: Which tab, please?

BY MR. SMITH:

Q Are you at Exhibit 80?

A 80.

Q 8-0. It's a pleading entitled Defendant's Motion to Stay Service of Subpoena Duces Tecum.

A Okay.

Q And you read this -- this motion before it was filed, correct?

A I did not.

Q The information contained in this motion came from you, correct?

A I think some of it came from me and some of it came from Jim Jimmerson.

Q From Jennifer Steiner?

A From Jim Jimmerson.

Q Oh, Jim Jimmerson. Look at Page 3 of the motion.

MR. SMITH: And, Your Honor, this is a motion that's been filed with the Court. I would ask that for our purposes of the record and examination it be marked as -- or it be admitted as an exhibit.

MR. MARKS: Your Honor, I believe this is totally irrelevant to the issues in the case. It was a discovery dispute that was resolved. The deposition was taken. I just think it's totally irrelevant with the limited time we have to go -- to belabor these discovery dispute issues.

MR. SMITH: The same exact excuse that he's giving as the basis for his marriage not being divorced at a particular time as opposed to his love and desire to remain in the marriage is the exact same excuse he used for the Steiner deposition.

THE COURT: The objection's overruled.

MR. SMITH: Thank you.

BY MR. SMITH:

Q If you'll look at Page 3 of Exhibit 80.

MR. SMITH: And, Your Honor, the admission of Exhibit 80?

THE COURT: Any objection --

MR. MARKS: Yeah, Your Honor --

THE COURT: -- other than --

MR. MARKS: -- I think it's -- every -- like we said yesterday, all the pleadings and papers you can take judicial notice of. This shouldn't get any greater weight than anything else.

THE COURT: Well, and I -- I concur that it doesn't receive any greater weight, but for a case presentation, I don't have a problem with it being marked and introduced as an exhibit. So Exhibit 80 is admitted into the record.

MR. MARKS: I point out while pleadings have evidentiary value, there's no affidavit of Defendant, there's nothing to cross examine him on unless he's going to cross him on just the pleading, you know, pleadings and motions.

THE COURT: Understood.

MR. MARKS: It's not --

THE COURT: Well --

MR. MARKS: -- even a pleading, it's a motion.

MR. SMITH: Because I truly understand why he doesn't --

THE COURT: That goes to the weight.

MR. SMITH: -- want this in, but I hope this is levied against him.

MR. MARKS: Your Honor, it's a --

THE COURT: Yeah, I -- I've made --

MR. MARKS: It's not even a pleading.

THE COURT: -- my ruling.

MR. SMITH: You made your ruling.

THE COURT: Listen. It's objection overruled, sustained. I've made -- let's --

MR. SMITH: Thank you.

THE COURT: -- let's move on.

MR. SMITH: It's a motion. It's not a pleading.

BY MR. SMITH:

Q Okay. So at Page 3 I'm going to quote from the page of the pleading. It says prior to employment with the behavioral health company, Jennifer --

MR. MARKS: What line are you on?

MR. SMITH: I'm on Line 15, Your Honor.

BY MR. SMITH:

Q Prior to employment with the Behavioral Health

Company, Jennifer was a division vice president for DaVita, the same company that employs Dennis. That's true, correct?

A Yes.

Q In these capacities, Jennifer attends meetings with DaVita as well as with Dennis. Was that true?

A It needs clar -- there's not a yes or no answer for that.

Q Did she attend meet -- meetings with you as the division president of DaVita?

A She attended meetings that I held with many division presidents; she was one.

Q While attending these meetings Jennifer and Dennis developed a business type relationship which blossomed into a personal relationship that terminated in or about April or May 2015. Is that accurate?

A No.

Q Because your relation -- you've indicated now that your relationship didn't begin until shortly after she left your employ at DaVita in 2014, correct?

A Incorrect.

Q When did your relationship blossom into a personal relationship?

A September 19th, 2014.

Q And that was after she left the employ of two

thou -- of --

A Correct.

Q -- DaVita, correct?

A Yes.

Q All right. Looking at Page 1 of the affidavit --

(PAUSE)

Q Okay. So on Page 4, if you'll turn to Page 4 of that motion, it states, and I quote --

MR. MARKS: Can you tell us --

Q -- Line 6 --

MR. MARKS: -- the line? 6?

MR. SMITH: 6.

BY MR. SMITH:

Q Jennifer's advised Dennis upon information and belief, in an emotional response to Dennis informing Jennifer of her probable deposition in this matter, that she will consider reporting to his employer with the intent of having Dennis terminated. Is that true?

A Yes.

(PAUSE)

Q If you're return -- go down to the -- Page 4 at Line 19, and I quote, in the instant matter, Dennis and Jennifer had a short term personal relationship. Jennifer is a married woman who also has minor children of her own. Upon

information and belief it is Jennifer's family, especially her husband, were to become aware of the relationship by way of service of notice of deposition as being on served (sic) Jennifer, it would likely have an unhappy and harmful effect on her marriage and her minor children. Is that true?

A Yes.

Q Did Jennifer tell you that?

A Yes.

(PAUSE)

Q Did Jennifer -- if you'll turn to Page 5, it indicates -- and I quote at Line 5 -- Jennifer could destroy her marriage and devastate her minor children which would prove to be an unnecessary and undue burden and possible harmful result.

MR. MARKS: Your Honor, he didn't read a whole sentence, so that's not proper to read one line of a sentence --

MR. SMITH: I read the --

MR. MARKS: -- in cross.

THE COURT: Well, whatever the sentence is, read the entire sentence.

MR. SMITH: Okay.

BY MR. SMITH:

Q Although Dennis fully admits that he has spent a

relatively modest sum of money for the benefit of Jennifer between September 2014 and May 2015, the service of the notice of deposition and subpoena duces tecum upon Jennifer could destroy her marriage and devastate her minor children, which would prove to be an unnecessary and undue burden and possible harmful result. Did Jennifer tell you that?

A Yes.

Q The next line, and I'll quote: Additionally the proposed deposition of Jennifer could have a deleterious effect on both Gabrielle and Dennis as Dennis may be subject to losing his employment, which has placed the parties in the financial position they enjoy today, end quote. Is that true?

A Yes, I believe so.

Q You didn't commence this relationship until -- according to your testimony, until after she left DaVita, correct?

A Correct.

Q And you can't even tell me what the policy is in terms of DaVita having -- or at least you couldn't tell me at the time of the deposition a policy in regard of fraternizing with employees.

MR. MARKS: Improper use of a deposition, Your Honor.

MR. SMITH: No, I'll rephrase the ques --

MR. MARKS: It's not a proper question.

MR. SMITH: I'll rephrase the question.

BY MR. SMITH:

Q In regard to the -- you don't know the policy in regard to fraternization of employees of DaVita, do you?

A Other than it is looked down upon for two married people that potentially report up to the other to have a phys -- an emotional relationship.

Q But you didn't have an emotional relationship with her while she was at --

MR. MARKS: Objection. Argumentative.

THE COURT: Overruled.

A No.

BY MR. SMITH:

Q The -- and the question that was interrupted was you didn't have an emotional relationship with her at the time she was working for DaVita, correct?

A Correct.

Q All right. And then I go on to quote at Page 5 of this pleading, Jennifer's employment with a behavioral health company would also be threatened if her deposition is allowed to proceed, correct?

A Correct.

Q And Jennifer told you that, correct?

A Correct.

Q You told Nadya that you didn't want to divorce Gabby because you cared about her, correct?

A I don't remember exactly what I told Nadya.

Q You had indicated you traveled with -- you traveled with Gabrielle to -- to Brooklyn for Christmas 2008, correct?

A For about towo and a half days, correct.

Q And in 2009 you begged off claiming that you were sick because you had mono, correct?

A Correct.

Q And you didn't have mono during that time, did you?

A No.

Q And in -- you -- when you admitted that you didn't have -- to Gabrielle that you didn't have mono in 2009 in Christmas, you claimed you were with your parents, correct?

A I don't remember.

Q Well, that wasn't true. You weren't with your parents during the -- the Christmas of 2009, correct?

A Correct.

Q And you came home the weekend before July 1st, 2010. You came home to Nevada, correct?

A I don't remember the details.

Q Well, you -- do you recall having dinner at Serendipity at Caesar's the week before Gabby called you and

told you she got a notice in the mail of a pending divorce action?

A I don't remember.

Q The divorce action, when was the divorce action filed, if you recall?

A Somewhere around March. I don't remember. Somewhere in that time frame.

Q All right. And you understood issues of community property after hiring Jimmerson in 2010, correct?

A Yes.

Q And the story I heard Mr. Marks say was that you didn't divorce Gabrielle in 2010 because you were afraid that she would to to DaVita, correct?

A Yes, one of the reasons.

Q Okay. And -- and that reason is also compounded by the statement in your pretrial memorandum that Gabrielle knew about the money that you were -- you had and that's why she wanted to hang onto the marriage, or words to that effect, correct?

A I believe so, yes.

Q Okay. Why in -- how do those two reconcile themselves? Why would she go to DaVita if she was concerned about the money?

A Anger. Frustration. Finding out about Nadya and

the kids. And when she did and got over that, then she decided it was worth staying in it.

Q Oh, I see. Well, when did you tell her about Nadya and the kids? You came clean right then, didn't you?

A I don't understand the question. Please --

MR. MARKS: Objection.

Q You --

MR. MARKS: Compound.

Q You came clean about Nadya and the children as soon as she found out about the divorce action, right?

A No.

Q No. In fact, you didn't tell her about Nadya and the children until a case conference in this case held on February 3rd, 2015, correct?

A Incorrect, I believe.

Q Oh, really? Did you tell -- you've got a note that you sent to her or some communication you had with her telling her that you had children with Nadya Khapsalis?

A I have a email from her attorney at the time, Denise Gentile that referenced having a family and two children.

Q The --

A September 14th, 2014.

Q The reference was to a statement you made at a 2013 dinner for DaVita where you were accepting an award and said

that the year was difficult relating -- and you were relating that to the struggles of having children, small children. Do you recall that?

A First of all, it was 2014.

Q Okay.

A And I do remember the presentation. And I got the email from Denise through Jimmerson with Denise saying I always suspected there was another family, now we have proof. So I believe Gabrielle knew, if not sooner than 2014.

Q In regard to the -- in regard to the information, that was a speech you gave at a DaVita meeting with all the DaVita members there, referring to your children, correct?

A Yes.

Q Gabby had attended DaVita meetings with you before, DaVita functions, correct?

A Two in the very early years in a small group.

Q People at DaVita knew you had no children with Gabrielle, correct?

A People in DaVita believe that I adopted my two grandchildren.

Q That's what you told them?

A Yes.

Q That's how you identified your children?

A Yes.

Q So in -- let's turn to Exhibit 23. It's in volume two of the trial exhibits, Plaintiff's trial exhibits.

A I don't have that volume.

MR. SMITH: Let's make sure he has that.

MS. VARSHNEY: It should be up there.

MR. SMITH: I think it's up there and it's -- we'll get that for you, Mr. Kogod. It's up on the -- it's up there.

MS. VARSHNEY: Is it?

MR. SMITH: Yeah.

THE CLERK: I don't think so. I think those are Defendant's.

MR. SMITH: No, the black ones that are in the --

THE CLERK: Oh, is it? Here?

MR. SMITH: They should have been there.

MS. VARSHNEY: Those are the two black ones.

THE CLERK: There's nothing in here.

MR. SMITH: Oh, those are the two blacks ones? Okay.

THE CLERK: Hold on.

MR. SMITH: All right.

BY MR. SMITH:

Q So just -- while we're looking for that, Mr. Kogod, when Gabrielle receives this notice from the Court, she didn't come at you and say that she was angry. She didn't threaten

you, did she?

A She was quite emotional. She used the F-word numerous times during the conversation. She was incredibly angry and incredibly emotional; exactly what I had feared she would be.

Q Let's look at Exhibit 23, and then I want you to turn to Page 12210.

A Can you repeat that, please?

Q 12210.

A Okay.

Q This was -- Gabrielle didn't talk to you at all after the letter and the initial conversation about the letter, correct?

A I don't remember the sequence after that conversation that day.

Q It was your custom and habit prior to July 1st, 2010 to call Gabrielle multiple times per day, every day, wasn't it?

A I don't know that I'd say multiple, but we spoke every day.

Q And on some days you -- you called her multiple times, as much as five to 10 times, correct?

A I don't believe it was five or 10 times, but multiple times is fine.

Q Spoke to her every day. You were coming home for weekends. You were still going to, at least through 2008, to Brooklyn, and then she gets this letter, correct?

A Uhm --

MR. MARKS: What letter?

Q The letter from the Court.

A Yeah. Yes, to your question.

Q And then you send her this on July 7th, six days later, correct?

A That's what it says, yes.

Q Okay. And these are your words, correct? These are what you wrote.

A Yes to that question.

Q Are these lies in here or were you just leading her on? Is that what is hap -- was happening here?

MR. MARKS: Your Honor, can you let him read it to himself?

MR. SMITH: Please. Let's all read it together. Well, move for the admission of Exhibit --

THE COURT: 23.

BY MR. SMITH:

Q First of all, Mr. Kogod, if you'll look at Exhibit 23, these contain communications of email between you and Ms. Kogod between the dates of --

MS. CIOFFI-KOGOD: July 7, 2011 through June 27, 2011.

Q Correct?

A I believe so, yes.

MR. SMITH: Move for the admission of Exhibit 23, Your Honor.

MR. MARKS: Your Honor, I don't know if these are a complete set of every email or every text that the Plaintiff's claiming she kept. It should come in through her.

THE COURT: Well, the doctrine of incompleteness does not preclude the admission of the exhibit into the record, but the party complaining that it may be incomplete certainly has the right to supplement the record with additional communications. So that objection is overruled and Exhibit 23 is admitted into the record.

(PLAINTIFF'S EXHIBIT 23 ADMITTED)

BY MR. SMITH:

Q So, Mr. Kogod, these are in the July 7th email you sent. These are your words. And please take a chance to review it if --

A Okay. I read it.

Q Is everything in this email true?

A No.

Q And in fact, you -- you purposely misled her and

deceived her in order to manipulate her, correct?

A No.

Q Let's -- let's see what you say in this email. You indicate, first, I'm not ready to throw in the towel. Do you see that in the third full paragraph of the email?

A I do.

Q And that's because you were trying to give her the impression that you did not want to get divorced at that time, correct?

A No.

Q What did you mean by not ready to throw in the towel?

A I simply wanted to calm her down. She was so incredibly emotional, so hurt, so angry. I just wanted to calm her down.

Q Is that why you called her the perfect wife?

A I don't recall why, sitting here today in 2010, I called her the perfect wife. You asked me what my objective was. My objective was to calm her down given her emotional, angry, hurt state.

Q Was it true when you said that we drifted apart, I drifted more than you, and yes, you hung in there and gave me everything I wanted, never really complained about how much time I spent traveling, working, et cetera. You gave me your

support and were always there for me. I did not do the same for you. I put too many things in front of our marriage.

Was that true?

A Partially.

Q What part are you saying now if false?

A She didn't give me everything I asked for. When I think about the years and the treatment of my children not being allowed in my home, my parents having to stay at a hotel because they weren't welcome in my home, I don't think that constitutes giving me everything.

Q You've changed your mind since you gave this letter, right? Is that the idea?

A Now as I read this letter, I'm answering your question, what was true, what was not. At -- at --

Q In most ways, when you say that she as perfect wife, I suppose that's not true anymore either, correct?

A It's wasn't true then and it isn't true now.

Q The -- when you say in the paragraph two below that -- or excuse me, below that it says I can't explain why I did what I did. I remember the day, I remember how I felt after doing it, totally sick to my stomach. Do you see that line?

A I do.

Q In that, you were referring to going -- seeing a lawyer and filing for divorce, correct?

A Correct.

Q The -- when you talked about, in the next paragraph, a chicken approach but it kills me that we are not talking. That's because you were used to talking to her every single day, correct?

A I think I already answered the question that we spoke every day.

Q Is that why you said it's a chick -- that's why said it kills me that we are not talking?

A I don't remember exactly what I meant by that. The chicken approach was that I didn't tell her before I went, that I was going to do that. That was the chicken approach.

Q Okay. Gab, I know -- here's another approach from this letter. Gab, I don't know what to do. I do know for certain that I'm not ready to give up, although I may have created enough stress that you may have had enough.

The give up was reference to your marriage, correct?

A I appears so.

Q In or about that time you actually told her that -- that the fact that Jimmerson had allowed that letter to be sent to you was a mistake, correct?

A I think I told her whatever I felt she needed to hear to keep her calm or to calm her down.

Q That's exactly what you're doing in this case.

You're saying whatever the judge wants to hear --

MR. MARKS: Objection.

Q -- to try to support --

MR. MARKS: Argumentative.

Q -- your story.

THE COURT: Sustained.

Q When you say, in the top of the next page, I love you, have always loved you and always will, did you mean it?

A I did. I -- I did love Gabrielle.

Q And you knew she loved you, correct?

A And we -- yes, and we had a bad marriage.

Q And you promised her at that time that you would have Mr. Jimmerson drop the case, correct?

A I told her that, yes.

Q And you did in fact have Mr. Jimmerson close the case, correct?

A No, I asked him not to serve the complaint.

Q Well, the case was ultimately dismissed, correct?

A Eventually, for lack of service, yes.

Q So it was your intent to proceed forward?

A I wasn't clear at that point whether I was proceeding forward or not, so I -- I don't know.

Q So when you told her in this letter, quote -- and this is about one, two, three, four, five, six lines down on

the -- the second page, 12211. I did tell the attorney to drop the case and kill the motion. He said it would bake -- take a few days and understood and would kill it. That was false?

A Yes.

Q Let's go to Page 22 -- 12208. It's just going the opposite direction. It indicates at the bottom of the page, I love you, I want to try to at least be a better partner as we figure this out but I need some time, Gab. So did you mean that? Was that true?

A At the risk of being repetitive, I think I was trying to do everything I could to calm her down. That -- that's my answer.

Q Okay. So when you took the blame for this, at the bottom of the page when you said, quote, I am not giving up, I'm committed to fixing this, but I need to fix me. I cannot keep doing what we are doing -- what I am doing to you. Did you mean that?

A I can't tell you what I meant in 2010. I just can't.

Q Did you think anything was wrong with you at that time?

A Can you be more specific? Wrong in what way, please?

Q Something that you needed to fix at that time.

A Yeah. The part I needed to fix was to probably have the courage to deal with things head-on with Gabrielle. I mean, that probably the part I needed to fix.

Q This was written -- the -- the one we were looking at is in July eight -- Sunday, July 18th. On July 11th, you actually went to the residence at Miramonte in Nevada, right?

A Yes, for 30 minutes.

Q Yeah. And you showed up at the door and you told her you were gay, correct?

A No.

Q You never told her that?

A I told her that I had some questions about my sexuality, yes.

Q Okay. And that was again designed to manipulate her not to file for divorce; is that what you were saying?

A No. I actually used that as a way of getting Gabrielle to come to the conclusion on her own that we had a marriage that was broken. I was having a hard time saying the words to her that I wanted a divorce. And I was hoping that through counseling, and not returning to the marital house anytime after that one day, and telling her I had questions of my sexuality, that she would conclude this was a broken marriage and would make the decision to divorce.

Q You actually asked her if you could talk to a friend of hers, Keith Weaver, who's a lawyer, who you knew was gay, right?

A I did.

Q But it wasn't just this time that you weren't straight with Gabby, right? You had been deceiving her for years, correct?

A Correct.

Q And in fact when -- at this point, one of the things, the key things that she wanted was for you to just be open with her, correct?

A I don't know what Gabrielle wanted. You'd have to ask her, please.

Q Well, we'll look in the emails, but when you start this letter at 2 -- let's go to 12206. It's basically you saying and talking about the money that you had spent. Do you see that?

A I do.

Q Because at that point, after she received the divorce pleadings, was the first time she opened up a 6446 account statement and saw that you had been spending money from that statement, correct?

A No.

Q Well, that's where she got the information that's

contained that you're addressing in your November 23rd, 2010 email that's twel -- starts at 12206, correct?

A On that part, correct.

Q Okay. And in that 6446 statement, she saw checks from -- to Nadi -- Nadine Kievski; do you recall that?

A I don't remember exactly when.

Q And you told her that -- that Nadine Kievski was associated with a Russian mafia person that you were dealing with on the Edinburgh home, correct?

A I don't remember the exact explanation for Nadya, but yes, I misled her about Nadya.

Q Okay. On the Edinburgh property, the -- that was the property that you purchased after Overland, correct?

A Correct.

Q You did that without Gabrielle's knowledge and consent, correct?

A Correct.

Q And she knew nothing about the Edinburgh property other than what you told her until she visited the property sometime in 2011, correct?

A You're going to have to restate that. Yes, she visited --

Q When --

A -- the prop --

Q When did you -- when did you move into the Edinburgh property?

A I'm going to guesstimate in 2010, but I could be off on that date.

(PAUSE)

Q On the -- and the Edinburgh home, when she looked at the 6446 statements and saw that there were expenses associated with this home, you told her that this was a home you had invested in with the Russian mafia. Do you recall that?

A I do.

Q And that it was dangerous for her to go to that home because you were dealing with very dangerous individuals in the Russian mafia.

A I don't think I told her it was dangerous for her to visit. I did tell her there was Russian people involved.

Q She didn't believe you lived in California at that time, correct?

A I don't know what she believed.

Q You told her that you had moved to Denver when Denver became the offices in 2010 of DaVita's corporation, correct?

A I did maintain a residence in Denver..

Q No, no, no, no. I asked you a question. Did you

tell her that you moved to Denver when you -- the offices of DaVita relocated to Denver in 2010?

A I did move to Denver.

Q Okay. You moved to Denver but you had the Edinburgh home in -- where Nadya and the children resided, correct?

A Correct.

Q What was your address? Was it Denver? Was it Edinburgh? Was it Las Vegas?

A It was both Denver and California.

Q But you didn't tell her about the Edinburgh home being also a residence of yours, correct?

A I don't remember what I told her.

Q But you, in all your communication, you indicated to her things that you were doing in Colorado, correct?

A I don't recall.

Q Okay. You indicated that you made certain expenditures out of the 6446 account and you've accounted for all of those expenditures in the -- in the email that is 12206 that she questioned, correct?

A I don't know if 11,000 was all of it, but I accounted for a bunch of it.

Q Well, there were also some -- some checks written to political candidates it appears.

A Correct.

Q In regard to the -- you have -- give the impression --

(PAUSE)

Q Your pretrial memorandum suggests that Gabrielle became aware of the money that you had and that's why in part she continued with the relationship after --

MR. MARKS: Your Honor, argumentative dealing with the pretrial memo.

THE COURT: Overruled.

THE WITNESS: Can you ask the question again, please?

BY MR. SMITH:

Q Let me ask you this. You read your pretrial memo before it was filed, correct?

A Yes.

Q Okay. And in that pretrial memorandum there's words to the effect that Gabrielle -- you -- learned what you were spending money on, and that was part of the reason why she stayed married to you.

A I believe so, yes.

Q In fact what you claim, and specifically on Page 13, is based on the fact that Gabrielle chose to stay married to Dennis after she consulted counsel and reviewed his bank statements in 2000 -- 2011, the Court should find that

Gabrielle tacitly agreed to Dennis' expenditure of community funds. That's a quote from your -- do you believe that that's true?

A I do.

Q Okay. Well, you told her about your money -- she didn't Google to try to find out about your money; you told her in your -- this email that you sent her in -- in November of 2010, right?

MR. MARKS: Your Honor, it's compound. He's making a statement then answering -- asking a question rather than just asking a question.

THE COURT: Sustained as to --

BY MR. SMITH:

Q Did --

THE COURT: -- compound.

Q Did you tell her in 2010 that you had 18 million dollars?

MR. MARKS: In terms of a foundation of what time period are we talking about?

BY MR. SMITH:

Q It's contained in your -- if you'll -- let me ask the question this way. I'll quote from your own email to Gabrielle dated November 23rd, 2010. I didn't have much regard for dollars. I am sitting on one million stock options

with a weighted average of $18 per shares or 18 million of profit to be taken out over the next few years. That is all on the SE filings for DaVitá. Do you see that?

A I do.

Q Gabrielle didn't Google to find out how much money you had; you told her.

A I don't -- I don't know if she Googled or not.

Q You then -- you weren't even straight about what you were revealing, right?

A I'm -- I don't know how to respond to that.

Q When you say I did buy --

MR. MARKS: Your Honor, it's argumentative to say someone's not straight. You're just --

THE COURT: Sustained.

MR. MARKS: -- supposed to ask questions.

THE COURT: Sustained.

BY MR. SMITH:

Q I -- I did buy a Porsche and it's stored in a garage. That was true, correct?

A Correct.

Q My parents, father, my mother no longer drives -- is driving a Mercedes. Your father wasn't driving that Mercedes; that was Nadya driving the Mercedes, correct?

A That was Nadya and myself, yes.

Q You also -- you weren't even straight with her about how you handled real estate.

MR. MARKS: Objection.

Q You said at the --

MR. MARKS: Argumentative. Just ask the --

THE COURT: Sustained.

MR. MARKS: -- the question.

THE COURT: Sustained.

BY MR. SMITH:

Q At the bottom of the page you said I've made some bad real estate investments over the years. Sometime -- something like a REIT, real estate investment trust. Bad timing and I found out the hard way I don't belong in real estate, but I could easily absorb the hit of carrying costs, unloading one piece of property. Do you see that?

A I do.

Q In fact you had bought two separate houses without her knowledge or consent. You didn't tell her that, did you?

A I didn't.

Q What was the REIT that you invested in?

A I was referring to the Overland property without calling it Overland. That was the only bad real estate investment where it depreciated.

Q That wasn't my question. My question was what was

the reference to the REIT --

A Yeah.

Q -- that you had indicated?

A I don't recall.

MR. MARKS: Your Honor, asked and answered. He said that's what he was referring to.

THE COURT: Overruled.

THE WITNESS: It was the Overland property I was referring to.

BY MR. SMITH:

Q But the Overland property wasn't part of a REIT, correct?

A Correct.

Q Say -- so in November, was Gabrielle mad about the fact that -- well, let me ask the question this way. Look at 12204. So Gabrielle's response to your disclosure was not, you know, any kind of anger. What was instead -- she just asked that she thought that you had earned your money together, that you should make decisions together, correct?

MR. MARKS: And, Your Honor, I don't know if he's -- there's two emails, which one he's referring to. Could you tell him which one he's referring to?

MR. SMITH: Gabrielle's email which starts at November 23rd, 2010, which should be relatively obvious from

the question, but --

MR. MARKS: Well, then can he --

BY MR. SMITH:

Q Can you look at that -- can --

MR. MARKS: -- have an opportunity to look at it?

Q Can you please look at the email that is set forth at 12204?

A Okay.

Q That was Gabby's response, correct?

A One of hers, yes.

Q What other response was there?

A I don't know particularly. We're -- we're looking at one. I don't know if all the emails and the text messages indicating her frustration, her disappointment, her anger, are captured in this book; but yes, she wrote this email.

Q Do you recall responding to her request that if you make any further decisions that you do it jointly?

A I don't recall what my response was, if -- if there was one.

Q It was a pretty reasonable request; don't you agree?

A I don't think it's a yes or no answer.

Q You either agree it's reasonable or you don't think it's reasonable --

MR. MARKS: Your Honor --

Q -- one of the two.

MR. MARKS: -- argumentative. If he -- he can only answer what he can answer.

THE COURT: Overruled.

A Based on that criteria, the answer is no.

Q You don't think it was reasonable for her to respond in that manner?

A As asked, I do not, no.

Q Why not?

A She hated my parents, so making joint decisions about two people that she treated miserably over the years to the point that they weren't allowed to stay in our home, the same treatment to my children, to think that she was going to be a good partner making decisions about the well-being of my parents just doesn't line up for me.

Q You -- you responded with an email that's at Page 12201, in which you again -- you indicate to her that you haven't given up at all. Do you see that?

A So am I reading the top one?

Q Yes.

A Yes. I'm reading that.

Q And you were referring to your marriage, correct?

A In this memo, yes.

Q One of the things that were complained about was

that you never celebrated birthdays or holidays together. Do you recall Mr. Marks talking about that in your -- in the opening statement?

MR. MARKS: Your Honor, my opening statement's not evidence, it's on opening statement. He keeps referring to it as part of the testimony. I think he should ask just a question.

MR. SMITH: I don't --

THE COURT: Over --

MR. SMITH: -- refer to --

THE COURT: Overruled.

MR. SMITH: -- his testimony --

THE COURT: Overruled.

THE WITNESS: I remember Mr. Marks' statement.

BY MR. SMITH:

Q Okay. In fact what happened was you just didn't show up for these things, correct?

A I was not present for most or many, correct.

Q You promised to be there, but you just didn't show.

A I don't recall promising. I think I made excuses why I couldn't be there.

Q If you look at 12197.

A Okay.

Q And the last -- second to last line, I love you,

Gab, and I'm sorry that I ruined your birthday, Thanksgiving and summer, not to mention the past six months of your life, period. What you were referring to there was the fact that she had found out about the divorce action, correct?

A According to the date stamp, she would have known by then, yes.

Q Well, that's what you're referring to in that, correct? That's the -- that you -- not to mention the past six months of your life, period. That was what you were referring to.

A I don't recall exactly what it was referring to, but that's what it implies.

Q You finished the email by saying I love you, I hope one day you can forgive me. Do you see that?

A I do.

Q And in fact you continued to tell Gabrielle you loved her until approximately August of 2013, correct?

A Correct.

Q And the reason you stopped telling her you loved her in August of 2'13, is that she found out that the Oak Pass ho -- Road home was already in a tru -- the Denika (ph) trust. Do you recall that?

A I recall her finding out about Oak Pass. I don't have any correlation between telling her I don't love her

versus Oak Pass.

Q We'll look at that. Did Gabrielle ever indicate that she would -- that she would go to DaVita? That never happened -- well, let me ask the question this way. Gabrielle never indicated to you that she would go to DaVita, correct?

A I don't think we ever had that conversation, so I was relying on instinct more than anything else.

Q She never threatened you to go to DaVita at anytime ever, from the time she knew about Mr. Jimmerson's letter -- or, excuse me, a letter from the Court until now, she's never threatened to go to DaVita, correct?

A She may not have used those words. I was very concerned that she would.

Q You started therapy sessions with Gabrielle after that time, correct?

A Limited, yes.

Q And you -- you went to sessions with Michelle Gravely, correct?

A At some point, yes.

Q And you -- at some point in time you advised Gabrielle, after this incident with finding -- or getting a letter from the Court, you told her that you had Asperger's; do you recall that?

A Yes.

Q And the -- what are the components of Asperger's, to you knowledge?

A Emotionally (indiscernible), repetitive action, and inability to have a sustainable relationship.

Q And one of the characteristics is no touching or intimacy, correct?

A Correct.

Q In fact there is this -- Mr. Marks reflected on the notion that one of the evidence of your big -- of your fact that you had a broken marriage is that you didn't hold hands; do you recall that statement?

A I recall what he said, yes.

Q Right. And that's because you told Gabrielle that you felt uncomfortable holding her hand because of your Asperger's, correct?

A I may have told her that, yes.

Q And in fact, you had developed a plan so that if she wanted to hold your hand, which she did relatively often, you -- she had to ask you to hold her hand, correct -- or hold your hand, correct?

A I don't recall that happening like you described, no.

Q Let's look at 12184. It is an exhibit -- let's see, it's Exhibit 23 as well. Prior to the letter -- and July 1st,

when the letter was received by Gabrielle, you two talked about everything, correct?

A No, we didn't.

Q You didn't talk about business?

A Can you give me the dates again, please?

Q Anything prior to Jan -- July 1st, 2010.

A No, we did not talk about very much very often.

Q How about after that time? Did you talk about your business?

A Yes, at certain points.

Q Okay. And you talked about your medical condition?

A Yes.

Q You talked about what she was doing?

A Superficial talk, yes.

Q All right. Talked about your kitten that you gave her.

A I'm sure I asked how the kitten was doing.

Q And during that period of time, you talked almost every day as well after a period of about -- well, until -- about -- from November, or the time that you began seeing Ms. Gravely, until approximately August of 2'13, you talked regularly on the phone with Gabrielle, correct?

A I don't believe so, no.

Q And the reason you didn't, because you said that you

had Asperger's, correct?

A Yes, I was -- I was seeing someone for that, yes.

Q Okay. And, well, the reason why you said that you didn't want to talk to her on the phone as much or share as much with her was because you were -- you had Asperger's.

A I don't recall specifically if -- but I did and we weren't talking on the phone very often.

Q Okay. Well, let's look at your own statements. Look at 12184. It's a email you sent to her on January 7, 2001. You indicate that -- words to the effect that talking to her would be something that was contrary to your Asperger's. Is that a fair reading of that email?

A Can you point to the line where I said that, please.

Q Yes. I'm not going to pretend I need help talking to you. You can help me. I don't know what prevents me from talking to you. It goes to the core, the very core of my issue. I can't express myself. I can't share anything.

And then lower than that. These are both bolded. We are seeing major symptom of Asperger's and an inability to share anything personal.

A Correct.

Q Was that true?

A I believe it was one of the factors that I could not talk to Gabrielle.

Q The other factor is that you didn't want to tell her about Nadya and the children, correct?

A I've already said that I concealed Nadya and the children from Gabrielle, yes.

Q Okay. But I'm saying that was one of the reasons why you didn't want to continue to talk to her, correct?

A No.

Q You had indicated in this email that you can -- you -- you would text message her but it was too difficult for you to call; do you recall that? Look at the bottom of the page and see what you said.

A Yes. That's what I wrote.

Q It says so as much as I hate what I'm doing and the text messages --

MR. MARKS: It's as much as you hate what I'm doing.

MR. SMITH: Excuse me.

Q You hate what I'm doing and the text messages, it's going to have to be enough for the next few days until we sit together and get help. You were talking about your sessions with Ms. Gravely, correct?

A I believe so, yes.

Q I try to pick up the phone but I can't hit send. That was your discussion of why you wouldn't call her.

A That's what I told her, yes.

Q Okay. When you told her in the middle of that email, Page 2, that I love you, I want to put all this behind, I will work very hard in marriage counseling to make that happen, until then, I can't do any better, you were trying to assure her that you would work hard on reconciling your marriage, correct?

A I was -- no.

Q That's not what you were intending to say by that?

A That's what I said; that's not what I meant.

Q So what exactly did you expect her to take from that statement?

A I don't know. I expected her to derive some calmness and some peace from that.

Q The -- if you'll turn to 12187, it's the next one down from that one. This is an email you wrote on Sunday, December 12th, 2010. And you've indicated that your As -- I think you meant Asperger's is out of control right now. Do you see that as a second sentence?

A Yes.

Q You also, in bold letters, say I'm not drinking, so please don't worry. Do you see that?

A I do.

Q That's because you had discussions with Gabrielle about the fact that you felt that you were drinking too much,

correct?

A I had discussions that I thought I might be drinking too much.

Q But you weren't drinking too much. That was just something you told her to manipulate her as well, correct?

A No, I actually at this point was drinking more than I normally would.

Q Okay. And she expressed concern, correct?

A I don't recall how she responded.

Q So when you said don't worry, you weren't assuming that she was worrying about you, right?

A I can't tell you exactly what I meant six years ago, or six years ago, five and a half years ago.

Q Gabrielle's response to your statements about your Asperger's and the like was contained in emails as well, correct?

A Can you repeat the question, please?

Q Look at pa -- turn to 12176 in that same exhibit.

A Do you want me to read the email?

Q The email -- yeah, go ahead.

(PAUSE)

A Okay.

Q Okay. So she was expressing that she was happy with what you were doing and that she was glad you were working

through your problems. Is that a fair characterization of this email?

A Yes.

Q Did you go to marriage counseling just to manipulate her not to divorce you and go to DaVita? Is that what you're -- what you did?

A I went to marriage counseling because, number one, I thought it would be helpful for Gabrielle. And number two, I thought having a trained professional help her understand that the marriage was irreconcilable and having her make the decision would change the way that she may react afterwards. And third, I -- I was thinking about avoiding scandals at work, so those three reasons.

Q So one of the reasons you decided is that you wanted Ms. Gravely, Dr. Gravely, to -- to recognize that your marriage was broken and then convince Gabrielle that you should get a divorce. And agree -- is that -- do I have that right?

A Can you repeat the last part, please?

Q That you had -- your goal, one of your goals, of three you've stated, is that you would have Dr. Gravely indicate to -- or recognize that our marriage was broken and convince Gabrielle that you should divorce, correct?

A Yes.

Q Is that what you told Gabrielle?

A I don't remember what I told Gabrielle.

Q Well, let's look. Let's turn to Page 12174. This is an email that you sent to her on March 9th, 2011; do you see that?

A I do.

Q You wrote this email, right?

A I believe so.

Q Okay. So in the middle of the second page of that email you write: So I'm thinking we should ask Michelle when we see her next together if we should set some date goals on when we should be back together or doing different things till we see how the progress works. I'm not being clear. I wanted to avoid being here six months from now with me saying I'm not -- I'm making progress, yet no signs of it that make sense. Does that sound like you were looking for Michelle to figure out that your divorce was -- or that your marriage was broken?

A I don't know if it sounds that way. I'm just responded to what my objections were of seeing Dr. Gravely.

Q Well, when you told that to Gabrielle, was your goal to get back together?

A My goal was to stay in counseling long enough so Dr. Gravely could help her.

Q So this was a lie then. You wouldn't -- you didn't

have any intent to have Dr. Gravely set forth date goals on when we should get back together.

A No.

Q Did you ever express anything to the contrary to Gabrielle while she was going through counseling with you?

A Not by my words but certainly by my actions.

Q You again reassure her in this email that you're not giving up; specifically, you state, quote, that all I am saying, you deserve that. I have not given you anything up till now other than to say it is true. I am working hard on fixing me, so hopefully that translates to me being a partner for you, a real partner.

A I'm sorry, can you tell me where --

Q That's in -- if you go about four or five paragraphs down from what you just wrote in terms of I'm thinking that we should ask Michelle to -- for some date goals.

A Can you read -- which page are we on, please? I'm not seeing --

Q We're on 12175.

A Oh, I'm sorry, I was on 174.

Q Do I need to repeat the quote for you, Mr. Kogod?

A No, I think once I find it --

Q And it's -- it's the first paragraph after a series of lines --

A Okay.

Q -- on the page. Do you see it? That is all I'm saying.

A So can you repeat your question, please?

Q You're saying that the goal here was not to fix your marriage, but to fix you, correct?

A No. I'm saying the goal is to help Gabrielle. Our marriage was broken. It wasn't going to be fixed.

Q And you're saying at that point Gabrielle -- you were concerned that Gabrielle was going to do something inappropriate in a divorce, correct?

A I believe so, yes.

Q Okay. Let's look at 12173. You had already told Gabrielle at this point that you were getting stock options by March 13, 2011, right?

A I'm sorry, can you point out what you're referencing, please?

Q There's the date, Sunday, March 2 -- 13th, 2011. This is an email sent from you -- from Gabrielle to you, correct?

A Yes.

Q And you missed a session with Michelle, so she was expressing her disappointment. Do you see that in that email? And, please, take your time to review it.

A Yes, I see the reference to Michelle.

Q Was her response anger?

A I don't recall specifically how she responded in 2011. I just don't.

Q Well, let's read her words. At the -- Page 2 of that email, which is 12174, and this is the second to last paragraph. She says, and I quote: Dennis, are you really out of control with how you're handling us? Regardless of your work being your safety zone, it's hard for me to imagine you can be such a high-powered decision maker and deal interpersonal issues you've described over the last months and yet keep doing what you're doing with us and not seeing ahead of the -- ahead to the outcomes. Or are you continued to set this up to fail, setting me to get so disgusted that I walk away from it so you don't have to do it first, like you tried last year, but felt sick to your stomach. If you want to be with me, you say you want us to work this out, then be with me. If you don't, then don't be with me. Don't do it dishonestly. I deserve better than that. Do you see that?

A I do.

Q Can you imagine a better opportunity to come clean with her and say, you know, Gabrielle, I've done this, I'm sorry, you're going to get a lot of money, we're done.

A I think there were a lot of good opportunities but I

had a hard time making that call or having --

Q But you're presenting --

A -- that conversation.

Q -- to this Court that somehow Gabrielle was trying to create this relationship longer so that she could grab money.

MR. MARKS: Objection. Argumentative.

Q Isn't that your pitch to this Court?

MR. MARKS: It's not -- he's got to --

MR. SMITH: I've withdrawn --

MR. MARKS: -- ask a question --

MR. SMITH: -- the question.

MR. MARKS: -- not a pitch, not the ar --

THE COURT: He -- he's withdrawn the question.

BY MR. SMITH:

Q Isn't that your argument to the Court, that Gabrielle stayed in long enough to get money and she's got enough, so whether or not you gave money to your girlfriend or children or anyone else, she got enough money?

MR. MARKS: Argumentative, Your Honor.

THE COURT: Overruled.

A Can you ask the question again, please?

Q Isn't that your argument? Your argument is that Gabrielle stayed in this marriage so that she could get money,

and she got enough, and so no matter how money you spent on other people, it doesn't matter. She got enough money.

A There's -- there's multiple parts to that question, so how would you like me to answer that?

Q I want you to answer the question honestly.

MR. MARKS: Your Honor, it's compound.

A There were mul -- multiple parts to that question.

MR. SMITH: He's making his own objection.

BY MR. SMITH:

Q All right. Mr. --

MR. MARKS: It is compound.

Q Let me -- let me break it down. Your argument is that Gabrielle stayed in the marriage with you because she wanted money, correct?

A Yes.

Q And you believe she's got enough money for the time she stayed in with you, so it doesn't matter how much money you spent on your girlfriend and children, correct?

A No.

Q Well, what is your argument in that regard, because I certainly heard that argument when Mr. Marks said it.

A You -- you're going to have to clarify the question, please.

Q The argument is that Gabrielle has gotten enough

money by staying in the marriage and therefore it doesn't matter if you've given money to someone else or their -- the children that you had with that person.

MR. MARKS: Your Honor, he's asking for a legal conclusion based on proportionality --

THE COURT: Overruled.

MR. MARKS: -- contributions --

THE COURT: Overruled.

A I think that my spending over the years, as you pointed out yesterday, was commensurate from all the way back in the days when we met up until the future and current. So I -- I didn't spend it thinking it was okay, I continued to spend money as I have always spent money, commensurate with my income.

Q You had no doubt in your mind that Gabrielle would not approve you spending money on Ms. Khapsalis or your children, correct?

A I think that's a reasonable assumption, yes.

Q And as a result, that's why there were so many things to deceive her, even going through marriage counseling with her and deceiving her, correct?

A No.

Q You didn't deceive her?

A I did, but it wasn't about --

Q It wasn't about the money.

A I -- at one point we were going to reconcile the money. There was no question about that.

Q All right. Let's look at 12 -- 12168. I'm sorry, excuse me, 12169. This is an email you wrote on March 26th to Gabby in 2011, correct?

A Yes.

Q The -- you describe in the first -- if you look at the second page, there's a series of things you describe as here you are today. I think you state, so where I am today and what do I think about -- and then you list certain things.

A Yes.

Q You talk about your fear of intimacy.

A Yes.

Q And you indicate you're retreating into your private, alone Denver world, correct?

A Yes.

Q That's because you didn't know you were retreating into her not so private California world, right?

A I think when I wrote this I was in my condo in Denver by myself.

Q When you said two questions remain that were present last year about yourself I still (indiscernible) perhaps unwilling to answer, attempt to answer. You were referring to

the fact that, in your words, you had sexual confusion, correct?

A I can't tell you if this memo specifically addressed it, but that's a reasonable assumption.

Q Okay. Okay. And again, in the bottom of the paragraph 3, you indicate you love her and you always will and believe you always will. Do you see that?

A I'm sorry, which -- I was reading something else.

Q Number 3. The bottom where it says I love you, always have, and I believe I always will.

MR. MARKS: Is it number 3?

Q It's number 3 on the third paragraph that's marked numbered, and it's the last statement in that sentence, in that paragraph.

A I've never denied not loving Gabrielle. I just didn't want to be married.

Q Looking at the second page, the -- when you said so my big take-away from yesterday was -- and you were referring to your time with Ms. Gravely, correct?

MR. MARKS: Can we have a --

MR. SMITH: Yes.

Q On 1271, at the bottom of the page, there's only numbers, 1 through 7. Right above that it says so my big take-away from yesterday was -- in those numbers, 1 through 7,

you're referring to the session that you had with Michelle Gravely.

A I believe so, yes.

Q Yeah, and at one point in time, you even told Gabby that you went through residential treatment in a treatment facility in Oregon; do you recall that?

A I do.

Q Did you go?

A No.

Q So you made that up?

A I did.

Q And you even sent her an email -- or text messages when you said you were at this facility, right?

A Correct.

Q And you described that the doctors has observed you sleeping and determined that you had sleep apnea; do you recall that?

A No, I don't.

Q Well, let's look.

A Okay.

Q If you'll -- and before we get to there --

MR. SMITH: I'm going to have Ms. Cioffi-Kogod find that for me.

Q Before we get to there --

(COUNSEL AND CLIENT CONFER BRIEFLY)

BY MR. SMITH:

Q Okay. If you'll look at Exhibit 20 in -- do you recognize these documents in Exhibit 20?

A They appear to be text messages.

Q And they're text exchanges between you and Ms. Cioffi-Kogod, correct? Between you and Gabrielle?

A I believe so.

Q All right.

MR. SMITH: Move for the admission of 20, Your Honor.

MR. MARKS: No objection.

THE COURT: Exhibit 20 is admitted.

(PLAINTIFF'S EXHIBIT 20 ADMITTED)

BY MR. SMITH:

Q On 12 -- 12244 in Exhibit 20 --

A I'm sorry, 12244?

Q 12244, yes. When you were talking in the bottom text message, when you said just letting you know I'm okay, getting settled, nothing really going till mother -- other than -- tomorrow other than small group dinner. You were referring to your stay at this Oregon residential treatment, correct?

A Yes.

Q And then if you'll turn to 12248, you state: Goodnight, Gab, text tomorrow. They toi -- toiled, but you meant told me -- I have sleep apnea. They observed sleep last night. Big reason I'm tired. Not sure what is next there. Text tomorrow. That's what you told her had happened at this residential treatment, correct?

A It appears so, yes.

Q But that wasn't true.

A I've already said I wasn't at the treatment center.

Q You've indicated in your -- your pretrial memo that you went to counseling from 2010 to 2011. Your counseling with Ms. -- Dr. Gravely actually ended in about March of 2012, correct?

A I -- I accept your dates. I wasn't clear on what the dates were or how long it spanned.

Q You repeatedly in your communication with her throughout 2011 through 2012 indicated to her that you were going to come home.

A You're going to have to show me the communication where I --

Q Let me give you an example. I don't have time to show you all of them, but --

A But --

Q -- I'm going to show you one of them.

A But you've referenced I consistently, so if you want to look at one, we can do that.

Q 12534.

A Well, I'm sorry, which one?

Q It's in Exhibit 19. I'm sorry. And I don't know if that's admitted, so I'm going to ask you if you recognize those emails in Exhibit 19.

A I -- there were email messages.

Q I'm sorry?

A Do I recognize them? I recognize them as email messages.

Q Okay. Just -- I want to have you look at a couple real quickly. 12521.

MR. SMITH: Oh, move for the admission of 19, Your Honor.

MR. MARKS: No --

THE COURT: Any objection?

MR. MARKS: -- objection.

BY MR. SMITH:

Q 12521 --

THE COURT: Exhibit 19 is admitted.

(PLAINTIFF'S EXHIBIT 19 ADMITTED)

BY MR. SMITH:

Q -- that's a message from Dr. Gravely after you had

asked her for sessions, correct?

A Yes.

Q 12529, in April 29th, 2012. Do you see that one?

A I do.

Q You indicate that I -- in third line, I know I'm not ready to commit to coming home. I also know that I'm not ready to ask for a divorce. Do you see that?

A Yes.

Q And you specifically tell her that, and I quote, I'm not stalling hoping I force you into asking for a divorce, I'm certain of that. But you're telling us that's exactly what you were doing, correct?

A Correct.

Q So you're telling her one thing and you're hoping for another; is that the idea?

A The idea was not to push her so much that she felt like she was being manipulated, that she would come to that conclusion on her own.

Q Come to the conclusion that she was manipulated or come to the conclusion that she needed a divorce?

A The latter.

Q And then, again, as you signed off on most of these, you say goodnight, Gab, I love you, I will always -- always have and I always will, and I know that doesn't mean very much

and you may not even believe that, but it is the truth. Do you see that?

A I do.

Q Turning to 12534, you indicate I'm -- this is dated Sunday, May 13th, an email you sent to her. It says I'm -- quote, I'm just not ready to come home. It doesn't mean I love you (sic), I really do, just not ready to come home. Do you see that?

A I do.

Q And the home you're referring to is -- was the home with Gabby in Las Vegas, correct?

A Correct.

Q You continue to refer to that as your home through 2013, correct?

A It was just a choice of words.

Q Do you think it was just a choice of words to Gabby?

A How else to I refer to it? Lake Las Vegas? Nevada? It was just a word I assigned.

Q And again in August of 2012 you assured her that you had about 18 million dollars in your UBS account; do you see that?

A I'm sorry, where is that, please?

Q I'm sorry, 12 -- I'm going quickly -- 12541. Sorry. If you can get there. If you want to look at it, let me know.

A Okay.

Q Okay. And -- and that account -- that -- you started talking about the money that you had cashed out of stock options, correct?

A I assume so, yes.

Q Well, the first (indiscernible) of stock options you cashed out actually back in 2010, correct?

A I'd have to go back and look at the sheet.

Q That looks like 2011 actually, based on Mr. Marks' chart. In any event, you had about 18 million in your UBS account and at that point Gabrielle asked you to -- to add her to the accounts; do you recall that?

A I don't remember exactly when she asked to be added and when she was added to some accounts.

Q Okay.

A I don't recall.

Q Even to this day you have not added her to those accounts, correct?

A So she's added to some, and when this came up again with Jimmerson, we got on the phone with Robert Galen (ph) from UBS and we repeated that exercise with Dan, and I -- I can't tell you why she wasn't added to the rest.

Q The -- one might think that it was because you were still spending money out of those accounts.

MR. MARKS: Objection. Argumentative.

THE COURT: Sustained.

BY MR. SMITH:

Q The --

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

MR. MARKS: Your Honor, should we take a little break?

MR. SMITH: Sure. I'm almost done.

THE COURT: Are you ready to break?

MR. SMITH: Yeah, I'm almost done though. I probably got -- well, I probably got anoth -- about 15 minutes where maybe a break is okay.

THE COURT: Okay. Well, it's up to you. I mean --

MR. SMITH: Yeah.

THE COURT: -- if it's that's short, I don't want to cut you off midstream, but if you'd rather -- we can take a break now.

MR. SMITH: We're keeping time. I don't get charged for these breaks, right?

THE COURT: No, no.

MR. SMITH: Okay.

THE COURT: This is not on your time.

MR. SMITH: Okay.

THE COURT: I'm keeping time but --

MR. SMITH: All right.

THE COURT: -- the clock stops.

MR. MARKS: I would just like the witness --

MR. SMITH: Thank you.

MR. MARKS: -- to be able to stretch.

MR. SMITH: No problem.

THE COURT: Yeah.

THE WITNESS: I'm actually fine, so --

MR. MARKS: You're fine.

THE WITNESS: -- don't do it for my --

MR. MARKS: You want to just --

THE WITNESS: -- don't do it for my -- if it's --

MR. MARKS: Then fine, let's --

THE WITNESS: -- 15 minutes.

MR. MARKS: -- let him finish

THE COURT: That's fine. Then let's --

MR. MARKS: Then let --

THE COURT: -- go until --

MR. MARKS: -- him finish.

THE COURT: -- until you finish.

MR. SMITH: That's great.

MR. MARKS: That's fine. Then let him finish.

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

BY MR. SMITH:

Q Okay. Just while we're looking for that, between '10 -- 2010 and 2013, you came to Las Vegas about once a week and had dinner with Gabby, correct?

A I don't know the frequency. Once a week sounds too much, but I did come back and forth to Vegas and had dinner.

Q Well, there were some times when you were on international travel where you couldn't, but those times when you were back in the United States you did come to have dinner with Gabby once a week, correct?

A I don't believe it was once a week. I did come back to Las Vegas. I don't think the frequency, even when I wasn't traveling to international, was once a week.

Q Just an example of -- if you look for 12 -- I want to turn you to Exhibit 18. Do you recognize these documents?

A More text messages.

Q I'm sorry? Do you --

A Yes.

Q -- recognize --

A More --

Q -- these --

A More --

Q -- text messages?

A More text messages.

MR. SMITH: Move the admission of Exhibit 18, Your

Honor.

MR. MARKS: No objection.

THE COURT: Exhibit 18 is admitted.

(PLAINTIFF'S EXHIBIT 18 ADMITTED)

BY MR. SMITH:

Q And if you look at 12436 --

A Okay.

Q -- and this is a message that you sent to Gabby in -- looks like 2012, October of 2012, correct?

A Correct.

Q At that point you were talking to her about whether or not you were even going to stay at DaVita, correct?

A Correct.

Q You were worried about whether or not she was going to DaVita but you're informing her in 2012 that you may not even be staying there?

A Would you like to hear the background for that or --

Q Well, isn't that --

A -- just a --

Q -- a damaging --

A -- yes or no?

Q -- piece of information if you --

MR. MARKS: Objection. Argumentative.

THE COURT: Well, he hadn't --

MR. SMITH: Let me --

THE COURT: -- finished the question.

MR. SMITH: Let me get a -- let me get a -- actually an answer to the previous question.

BY MR. SMITH:

Q Isn't it true that -- it is -- it would be damaging to you have an employer learn that you were considering leaving that employ? That is not good for your career at that job, correct?

A That's reasonable.

Q Okay. But in fact you were -- at the time that you claim that you were concerned about DaVita knowing about your divorce, you were sharing with Gabrielle that you were thinking about leaving DaVita, correct?

A I was sharing information, correct.

Q Did you think that -- were you trying to manipulate her? Were you not really thinking about leaving DaVita?

A No, I was definitely thinking about leaving.

Q And you were sharing information because that's what you did with Gabrielle throughout your lifetime with her, correct?

A Correct.

Q In fact you told her everything about the qui -- there was a big qui tam filed against DaVita.

A Yes.

Q For edification, that's where an employee finds that there's wrongdoing, goes to the government, the government pays a certain amount or percentage to the individual, and the government brings the suit against the company, correct? That's an accurate statement of a qui tam suit, correct?

A It's 90 percent accurate.

Q Okay. Well, the -- let's use it for today's purposes. You had a qui tam suit filed against DaVita and you were involved in that suit, correct?

A Yes.

Q In fact you were named, I think, individually, weren't you?

A No. Not in the suit.

Q Well, at some point in time you hired a criminal attorney.

A One was hired by the company.

Q Okay. But you told this to Gabrielle.

A I told her this part.

Q And you told her all about that lawsuit, correct?

A One isolated incident of sharing something with her that could have had an effect on both of us.

Q In fact, you had discussions with Gabrielle when you would see her on a weekly basis about the preparation that you

were doing for the qui tam suit, correct?

A I'm -- I'm not denying that we talked about the qui tam suit.

Q If you were really worried about her having things on you that could hurt you at DaVita, why in the world would you give her -- what is -- amounts to inside information about the strategy to defend a qui tam suit?

A Yeah, I can't give you a good answer on why I did that other than I didn't have anyone else to talk about it. That's the best answer I can give you.

Q You don't want to admit the fact, Mr. Kogod, that the reason why is because you loved her and trust her. Wasn't that the reason?

A The answer is the same. I had no one else to talk to and I can't tell you why I shared that with her.

Q What about -- what about the girl who bore your children?

A I'm sorry?

Q What about the woman that bore your children? Did you talk to her about the qui tam suit?

A No, you -- you've interviewed Nadya. You know English is her second language and she doesn't have the same command that Gabrielle did of the legal system, so.

Q And in fact, that was kind of your relationship with

Gabrielle. You two would talk about things. She was bright. She would tell you things. You exchanged idea (sic). That's what you loved about her, right?

A Yeah.

Q Well, in fact you certainly didn't get that with Nadya, did you? You didn't sit and have intellectual discussions --

MR. MARKS: Objection. Relevance.

THE COURT: Overruled.

THE WITNESS: So what's the question?

BY MR. SMITH:

Q You didn't have those same types of discussions about work or other intellectual matter with Nadya, correct?

A I had many conversations with Nadya, but not as many about work, correct.

Q At some point in time you invested in a company by Mo (ph) -- named Mo LLC, correct.

A Correct.

Q And you invested in that company solely because Nadya was interested in a fashion career, correct?

A That was Nadya's description. I invested because I liked the designers. They had incredible credibility and credentials. And I actually thought that they could make a go of it. The fact that Nadya wanted to be involved but she

never was, other than going to a trade show, was -- was no part of my consideration to invest.

Q The -- you said that that's what Nadya said. Was that in the -- your reading of her deposition or is that something that she told you?

A Something that she told me.

Q Okay. In regard to the -- you also made an investment in a movie, a company that made a movie; do you recall that?

A I do.

Q And what's the name of that company?

A Amer -- America on Fire.

Q And that company actually produced a movie that is now up for an Oscar, correct?

A That's correct.

Q Do you have any rights in the distribution of that movie?

A No. It was a simple loan agreement to produce a movie.

Q Okay. And so your entitlement is simply to -- the return on your investment?

A And producer's rights, credits, getting an invitation to the Oscar, yeah.

Q Okay.

A That's it.

Q All right. In your -- in the opening statements made by your counsel, he indicated that part of the delay in this case was what caused Gabrielle to get more money. Do you recall that statement --

A I do.

Q -- or words to that effect. When this case was commenced in 2013, correct, and you were finally served in 2014 -- correct?

A Correct.

Q And you met with Ms. Gentile, correct?

A Correct.

Q Now Judge Gentile. And -- and in your meeting with Judge Gentile, you had indicated to her what you felt was a -- a distribution, correct?

A No, I was responding to her request for a financial document of our assets and I put them together.

Q Okay. The financial document was simply an email from you or attachment to an email that listed certain items, correct?

A Correct.

Q Okay. You -- at that point she asked you for more documentation, correct?

A I don't recall.

Q Well, she certainly corresponds with your lawyers about providing more documentation, correct?

A You'd have to ask my lawyers. I think Denise was disengaged in our case almost from the beginning.

Q Well, there was nothing about your lawyers. Your lawyer was Mr. Jimmerson, correct?

A Correct.

Q There's nothing about Mr. Jimmerson that disengaged with the case; was there?

MR. MARKS: Objection. Relevance.

MR. SMITH: The argument is that somehow she benefitted from the delay of this proceeding.

MR. MARKS: She clearly has, Your Honor.

THE COURT: The objection's overruled. Let's move on.

MR. MARKS: But I -- but he can't ask it the way of what Mr. Jimmerson is doing unless I guess he shows --

MR. SMITH: Asking if --

MR. MARKS: -- him some --

THE COURT: Well --

MR. SMITH: -- he knows.

THE COURT: -- the objection as to relevance is overruled.

THE WITNESS: I'm sorry, what what the question,

please?
BY MR. SMITH:
Q That if the -- I'll let you know that the first production in this doc -- in this case came after my involvement and request for documents and the -- the first production was on February 11th, 2015. Do you have any reason to believe that any other documents were provided prior to that date?
A I don't know what I provided to Denise. I'd have to go back and check.
Q But is -- and a suggestion that somehow Delise -- Denise delayed this case. Do you think she delayed this case?
A I don't think she delayed it intentionally. I don't think she was engaged. I think she, at that time, was -- had made a decision to run for the bench and even in my email communication with her, she was to deliver an extension on the filing. I would have to remind her multiple times to do that, so I just think she was distracted.
Q Well, you -- your lawyers asked for the extension. In fact, the answer to this complaint wasn't filed until seven months after the time that the complaint was served.
A Yeah, for the first couple months, when Gabrielle said we should -- would you be agreeable to having one lawyer try to adjudicate this, I wasn't working through Jimmerson or

-- or Shawn Goldstein, I was dealing directly by myself with Denise.

Q You were present when Mr. Jimmerson made representations to this Court about a couple things; one about providing an accounting, correct?

A I -- I don't recall. I -- but, yes, I was with Jim a couple of times.

Q But you don't recall him saying that he was going to provide an accounting?

A I don't specifically recall, but I also have to say that there was a reason I fired Jim and re -- retained different counsel. Jim and I did not agree with the way my case was being handled.

Q Okay. And one of the reasons that you didn't agree is because Jim wanted to do an accounting for your case, correct?

A Incorrect.

Q And he hired Ms. Melissa Otinosio (ph) to do that accounting, correct?

A He hired Melissa, yes.

Q Okay. And the purpose of that hiring was to -- to perform an accounting, correct?

MR. MARKS: Your Honor, it deals with attorney-client privilege with him and Mr. Jimmerson --

MR. SMITH: It was about three --

MR. MARKS: -- and work -- attorney work product, strategy.

MR. SMITH: You're three questions late on that. He's already answered --

MR. MARKS: No, he -- he's now --

THE COURT: Well, but that question. You're -- you're right, but that que -- it's sustained.

BY MR. SMITH:

Q In regard to -- you -- all right. Let me just flip through my notes here. I think I may be -- if you'll look to Exhibit 72.

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

Q On -- let's go back to -- I'm sorry, Mr. Kogod, let's go back to --

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

Q At some point in time, Ms. Kogod, you had asked for the permission to sell certain stock. Do you recall that? Certain -- or actually exercise certain options.

A I do.

Q And the reason for that was because you had already exercised options without -- during the time of the joint preliminary injunction. Well, let me ask you this question. I'll withdraw that. You know that you were served with a

joint preliminary injunction in this case, correct?

A I do.

Q And you read that and understood that document, correct?

A I -- I didn't read it. I didn't --

Q Okay. Well, let's read it together. It's Exhibit --

MS. VARSHNEY: 69.

Q -- 69

MS. VARSHNEY: In Volume 4.

Q Volume 4.

A Okay.

Q You've seen this document before.

A I think I saw it with Mr. Marks this week.

Q Okay. Well, the document was actually served upon you personally in May --

MS. VARSHNEY: May 15.

Q -- May 15th of 2000 --

MS. VARSHNEY: 14.

Q -- 14, correct?

A I don't recall being served or -- it was sent to my attorneys or me directly?

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

MR. SMITH: Move for the admission, Your Honor.

THE COURT: Any objection?

MR. MARKS: You know, I think they should attach the service if they're claiming a certain date and violations.

MR. SMITH: I asked him --

MR. MARKS: It's already in the file.

MR. SMITH: I asked him a question and he said he wasn't served. If it's already in the file, we'll -- we'll go ahead and -- it -- it's in the court's file.

THE COURT: It's in the system, right.

MR. MARKS: It's in the court's file.

THE COURT: So I recognize that, but the -- Exhibit 69 still may be admitted. It doesn't -- Exhibit 69 as presently constituted it sounds like does not establish the service, but that's something I can look at. So it is admitted into the record.

(PLAINTIFF'S EXHIBIT 69 ADMITTED)

(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)

BY MR. SMITH:

Q Let's take a look at the -- number 88.

MR. SMITH: Where is that in?

MS. VARSHNEY: Same. Same book.

MR. SMITH: Number 88.

MS. VARSHNEY: Number 4.

BY MR. SMITH:

Q Well, actually let's look at 87.
A Okay.
Q Have you ever seen that letter before?
A I have not.
Q Okay. Look at 88. Have you ever seen that letter before?
A I may have come across it, but I don't recall it.
Q What was your understanding of the agreement regarding your ability to sell stock options?
A I don't think I had a specific knowledge. I think I had always sold stock options, traded portfolios, and Gabrielle had zero interest, never asked about, so this was -- I was the most qualified person to decide when DaVita stock was at a high. So in the interest of our estate, I made the best decisions on behalf of our estate.
(COUNSEL AND CO-COUNSEL CONFER BRIEFLY)
Q And you don't recall the deal that was made between Mr. Jimmerson and I in regard to how you were going to handle the sales of the stock; is that a fair statement?
A I think at some point -- I don't remember the sequence of events. I remember talking about some options that were coming up for expiration or vesting. And I think we had a similar conversation with Mr. Marks, but I can't tell you where and which options we were talking about. But I do

recall that I think you even acquiesced that I was the most qualified person to decide when to sell the stock.

Q No doubt about it, but the point -- you don't recall an agreement that indicated that while we would leave it in your hands, we would ask that before you sell anything, that you actually let us know that you're going to sell it. Do you recall anything like that?

A I don't recall, but I'm not -- I'm also saying that conversation didn't happen; I just don't recall.

Q Okay. All right.

MR. SMITH: Judge, we could take a five minute break now and I'll just look -- review my -- I just don't want to use my time up using -- looking at my notes, so if we could just take a five minute break and then I'll look at my notes and see if there's anything further I have to --

THE COURT: All right. Let's break. We'll resume in -- in 10 minutes.

(COURT RECESSED AT 15:36 AND RESUMED AT 15:49)

THE COURT: We're back on the record in the Cioffi-Kogid -- Kogod matter.

MR. SMITH: Pass the witness, Your Honor.

THE COURT: Okay. And I remind you, you're still under oath.

THE WITNESS: Yes.

THE COURT: Mr. Marks, examination?

MR. MARKS: Yes, Your Honor.

CROSS EXAMINATION

BY MR. MARKS:

Q Mr. Kogod, you were shown a lot of emails and texts in the period after July of 2010 into 2011, in which the Plaintiff is indicating that you led Gabrielle on to stay married to you. Do you recall that testimony from earlier today?

A I do.

MR. SMITH: Objection. Misstates the testimony. The exhibits go all the way through 2014, I believe.

THE COURT: Objection is noted, but overruled.

BY MR. MARKS:

Q Did you gain financially by leading Gabby on in any way?

A No, quite -- quite the contrary.

Q How much did you lose by leading her on?

A If we go back to 2003, where even one of her emails said we moved to Lake Las Vegas thinking we would be happy but we're further apart, we're -- we're not physical. You looking at $750,000 if I had gone through and not procrastinated in 2010 and avoided all the things that this trial provoked. The estate was worth four million dollars, so four million dollars

to 40 millions dollars is -- is -- is what -- what this inability on my part to have a tough conversation has cost.

Q Okay.

MR. SMITH: Objection.

Q Now --

MR. SMITH: Move -- objection, foundation. Move to strike the reference to a document that is not in the ev -- is not in the record. He -- he said that there was an email from Gabby. I haven't seen such an email.

THE WITNESS: It's 12171.

THE COURT: The objection is sustained in reference to that document.

MR. MARKS: It's in the -- it's in evidence, Your Honor.

THE COURT: It's one of the exhibits in --

MR. MARKS: Yeah. That's what he just said.

THE COURT: Okay.

MR. MARKS: It's one of the emails.

THE COURT: If you can identify the exhibit.

MR. MARKS: 12 --

THE COURT: That's coming from --

MR. MARKS: -- 171.

THE WITNESS: I think I pulled the right one. And if not, I'll look through --

BY MR. MARKS:

Q It's in Exhibit 23, 12171, if that's the one.

A Yes. Can we read it?

Q Sure.

MR. SMITH: This --

A The house represent -- this is an email that Gabrielle wrote, and maybe (indiscernible) --

MR. SMITH: That's not correct, Your Honor. It's an email that Mr. Kogod wrote.

THE WITNESS: I'm sorry. You're right, I did. I did but --

THE COURT: Which exhibit number is it again?

MR. SMITH: 121 -- well, it's --

MR. MARKS: It's in 23.

MR. SMITH: It's in Exhibit 23, and Your Honor, the email actually begins on 12169 and Mr. Kogod is referring to a page of his email.

THE WITNESS: Okay. You're correct.

BY MR. MARKS:

Q What -- what are you referring to?

A I'm referring to the part where I wrote to Gabrielle that -- despite all the other emails we read today -- I think we were already at that point. The house represents sad thoughts for me. When we moved in, I think we were already at

that point in our relationship where we stopped sharing, stopped being intimate. So when I think about Las Vegas, it makes me sad, even though I created the Vegas dynamic by making the impulsive decision to move there. But --

Q Okay.

A -- it was my email.

Q But the implication that somehow you led Gabby on and therefore you financially gained; is that correct?

A No, not at all.

Q Okay. Explain what was going on in your company first in the '0 -- I think you said there were things going on in '04 or '05, and then things going on later. Why don't you start with '04,'05. What was going on that affected to ability to ask Gabby for a divorce in the '04, '05 period?

A In '04 it was announced that DaVita would be acquiring -- I would be acquiring Gambro, and -- which I think we covered in testimony yesterday. I was the only senior executive that was being asked or requested to come over to DaVita. So I was the odd man out. I was not the -- the ivy league undergrad or the MBA and I -- I had no track record at all with DaVita. And any type of scandal, any type of controversy, anything that would take me away from performing my job, would have probably been a very quick career at DaVita for me.

Q And if you got divorced in 2004, you believe your net worth was 750,000?

A Whatever the chart says. I can't read it.

Q Okay. You had your house in Lake Las Vegas for sale.

A Correct.

Q All right. Then what happened? You met Nadya, obviously, and started dating her in that '04 -- late '04, '05 time period. So you didn't get divorced then. Then the next time, did you think about a divorce sometime later between '05 and 2010?

A I thought about it a lot over the years but I actually took -- first attempted some action in early 2010.

Q Okay. And you filed a complaint.

A Yes.

Q Okay. And what was going on? Why did you not serve the complaint at that time?

A A couple of reasons. Number one, I -- I did start to think about the impact on Gabrielle. I -- I didn't want to hurt her. I just -- our marriage was broken, it was over. But she wasn't a bad person and all those emails when I talked about loving her, I do. I did. But we -- we didn't belong together, it was not a healthy marriage, so I didn't want to hurt her.

I was one year into my job as a chief operating officer of a Fortune 400 company at that time, still proving myself every day to my boss and our board of directors. And that's a very, very fragile part of my career in 2010, to test that I'd earned enough credibility with Kent and the board to -- to engage in any outside activity.

And -- and then there's -- there's just the -- the -- the pure fact that how much this has consumed since we have have actually started doing this over the last year. I could have never endured going through a divorce in 2010. So those are the three reasons.

Q And in terms of the financial impact, if you got divorced in 2010 versus today, what is -- would have been the financial impact?

A Yeah, I think it would have been about --

MR. SMITH: Objection. Foundation.

A If we had --

THE COURT: Sustained.

Q What was your net worth in 2010?

A Approximately four million dollars.

Q And what's your net worth today?

A Approximately 40 million.

Q And were you aware that Gabby -- in 2010 that Gabrielle would get half of your net worth?

A I knew what Nevada law was as it related to community property and assumed it was 50/50.

Q Now you -- you were shown a bunch of emails by counsel. You know, based on the limited time, I really don't want to go email by email, but did you also read Gabrielle's reaction to your emails when counsel was showing you the emails in those exhibits?

A Can you --

Q When counsel earlier today was showing you the emails that Gabby wrote you and you wrote Gabby, without going email by email, were you reading her response to your email as he was showing you the emails?

A Sometimes.

Q Okay. Was she complaining about the state of your marriage?

A Yes.

Q And what types of words, how was she characterizing your marriage?

A It's broken, we're not together --

MR. SMITH: According to the best evidence rule, if we're going to talk about a document --

MR. MARKS: They're in evidence.

MR. SMITH: -- let's look at it.

MR. MARKS: He's summarizing it. I don't want to

spend all my time going email to email. I stipulated they would come in.

THE COURT: The objection is overruled.

THE WITNESS: That the marriage was broken, we weren't spending any time together, we weren't communicating, this is no type of life, you're living a separate life, I don't know who you are or what you're doing. So those are just some choice words that describe.

BY MR. MARKS:

Q And was that all true?

A Yes.

Q What she said?

A Yes.

Q Now when she even said it looks to me, Gabby, that you wanted her to pull the plug on the marriage rather than you, she obviously came to that conclusion at some point in one of those emails, I think in 2011. Why didn't you just say yes at that point?

A Dan, I think about that decision every day for a bunch of reasons. I -- all I can tell you is I have very hard time with personal conflict and as -- despite my professional career where I lead an organization of 75,000 people around the world, I have a hard time personally making those tough decisions. So I procrastinated. I took the chicken way out.

And there just is no other way to say that.

Q But the money that you've made, all the money that you've made, you're willing to share with her 50/50.

A That's what the laws of Nevada say and -- and, as I said, in 2010, if I had gone through after signing the complaint, it would have been quite simple, roughly four million dollars and -- and it's very different today. So she has benefitted from -- from the years of tolerating and not making any effort to understand my life and just enjoy hers in Lake Las Vegas.

Q Now regarding the options, was -- what was your understanding of who would make the decision on the timing of the sale of your options?

A Me. I was the best person. I was most qualified. I understood where the market was going. I understood things like reimbursement trends, growth factors that would have an impact, positive or negative on our stock.

Q And did you have a discussion with Mr. Smith at your deposition, even, about that?

A Yes, we did.

Q Regarding -- he mentioned, I think, the -- has Mo been liquidated.

A It has.

Q Was Mo a legitimate investment?

A Very legitimate. I had high expectations. I took a young designer that won every amateur award in Europe. Designer of the year. When I first met her, we were -- she was actually under negotiations with Louis Vuitton to do a project together, so I had every reason to believe that this could make money.

Q In terms of the movies, did you take any movies on your column?

A I'm taking the movies on my column.

Q And has there been any interest by Gabby to take init -- or to take part of the movies?

A Not that I'm aware of.

Q All the assets that you bought that she didn't know about, are you taking those on your side of the column?

A I'm taking all of those assets on my column, the non-cash assets, yes.

Q And is that -- do you have -- and how do you -- do you believe that's good or bad in terms of what she'll receive at the end of the case, which is what you will receive?

A At the end of the case, all things being equal, she will get approximately 18 million dollars of cash and her house that's paid for. Her ability to invest that into any portfolio with any manager, including UBS or anyone she wants to hire, she'll have 18 million dollars of capital at work.

If she just invested it in bonds she'd probably make a two and a half to three percent return. Just bonds. They're safe. I will have single digit millions. I'm not complaining about that. It's -- it's a nice life, but at the end of the day, I've go a house that I'm not going to kick my parents out of. Mr. Smith alluded to my brother leaving. I don't know. He's been talking about leaving since he got here, so I don't know when that happens. I don't know what the outcome is of Nadya and the house. So I will have single digit to invest and she will have 18 million dollars. And there's no reason in the world why she shouldn't achieve just a reasonable -- even as a novice or non-investor -- a four percent return on that.

Q Is there any reason to believe UBS wouldn't manage her money, the same 18 to 20 million that they've been managing for you and her?

A They have repeatedly asked for permission to reach out to Gabrielle. They are excited to manage her money. And I don't believe for any reason at all that they would handle it any differently than any other client. They're familiar with me. They'd love to have her portfolio. These guys get paid on volume, so to lose an account isn't in their best interest. But by the same token, you know, if she's not comfortable, she can literally go to any investment house around the country. They would -- including the bank -- and

they would gladly invest her money for her.

Q Now Bob Galen, your broker, we reached out and that name was given to Mr. Smith and Gabby, wasn't it, to call?

A Yes.

Q And in fact I think Mr. Leauanae even called Mr. Galen, correct?

A I'm -- I'm not certain.

Q (Indiscernible). But Mr. Smith had the number to call.

A Yes.

Q So it's not like that's hidden from them.

A I think I gave it to him during my deposition, if I'm not mistaken.

Q Now they mentioned any -- a -- the radiology associates and iChill. Are those sort of secret, top secret, only you can invest in those?

A No. UBS got the prospectus for iChill. It so happened that I knew the executive, so I was comfortable investing in -- in Radiology Partners. NEA is handled by UBS. It just so happened that because of my relationship with John Neurer (ph) at the time that he lowered the threshold of investing. That is the only consideration I got. iChill is a small investment in the overall scheme of our portfolio. It was my old college roommate who -- who introduced me to the

principles of iChill, and all he did is introduce me to them. Whether or not it turns out to be a good investment, I don't know.

Q On our marital balance sheet which we've given to the Court, do we divide those three assets equally between you and Gabrielle?

A Yes.

Q From your -- on your proposed vision on your marital balance sheet, you are taking assets that you believe she would not want, right? The real estate in California, correct?

A And the cars, correct.

Q And the loans to your family of course.

A Yes.

Q So are you trying to stick her with any bad asset?

A None whatsoever.

Q So she's going to have 18 million plus half of those three assets that Mr. Smith asked you about, being NEA, iChill and -- and the radiology, correct?

A They are part of her portfolio and a house that's fully paid for.

Q And then during this case, did she buy a house?

A She did.

Q And how expensive was the house?

A Roughly two and a half million.
Q And how big was the house?
A Over 7,000 square feet.
Q And is that bigger than any of the houses you own?
A Significantly.
Q Okay. And she's one person?
A So she says.
Q Okay. And no kids.
A Correct.
Q And did you sign the documentation to facilitate that?
A Yes.
Q In addition to that house for 2.5 million, as part of our agreements in the interim of the case, did she receive cash, which is in her own UBS account?
A She did.
Q And how much cash is that?
A I think approximately 1.2 million.
Q So she's familiar with having a UBS account, and that is handled by Mr. Galen, isn't it?
A Correct.
Q And in fact that 1.2 is invested, correct?
A I -- I --
MR. SMITH: We should probably go back to

non-leading questions.

Q Do you know what the status --

THE COURT: Sustained.

Q -- of the 1.2 million account at UBS is?

A I believe it's invested. I don't know specifically what Mr. Galen has her money invested in.

Q And generally when we talk about a liquid account, tell the judge -- I don't know that he's got these investment accounts, maybe he does -- just what generally are in those investment accounts.

A They are stocks. They are bonds. They are holdings in REITs, real estate investment trust. They -- they're typically anything that are liquid or could be liquidated quickly to give you cash to reinvest, make different decisions, cash out quickly if you think the market or the portfolio is under-performing. So it is as close to being completely liquid as you can be.

Q And how do you -- and explain to the Court the process whereby the client, such as you and Gabby, would interact with Bob Galen. Just give a quick synopsis in terms of what you invest in and what your rate of return would be.

A Yeah. So first of all, you need to know they're compensated on growth. The more money you have in their account, they charge you a management fee to manage, so the

more you have, they more they make. So their incentivized to see you grow your portfolio.

And number two, typically Bob or Dave -- and I'm sorry, I don't know Dave's last name, his partner.

Q Muncha (sic).

A Mun -- Mucha, would call and say we're looking at a couple of different opportunities that have hit UBS and we -- we've gone through and we think given your investor profile of relatively low risk, low returns, or lower returns, that we found a couple of different opportunities that we think you ought to take a position in. So they lead the process. They're trained experts; I'm not. And more times than not I've said just walk me through your logic of why you think it's a good investment, how's the fund performed. Anyone can ask that question. What's the history. What's the trajectory. And -- and probably 99 percent of the time I've said you made your case, I accept your recommendation.

Q Now the last tax return that you filed would have been for 2014, and I believe that's in evidence, correct?

A Correct.

Q And without wasting our valuable time, does that return reflect investment income that you and Gabby would hav earned on an account of an approximate 20 million dollars?

A It did.

Q So the Court can see the returns on that tax return; is that correct?

A Correct.

Q Now coun -- opposing counsel asked you about a qui tam action in 2012.

A Correct.

Q Do you recall that earlier? And can you explain what concerns you had regarding the qui tam action, how that related to that?

A Yeah, my concern, even though I wasn't named, it was a transaction that happened in Denver, Colorado before I was a chief operating officer and I was a division president of a very different geography. One of the analysts filed a qui tam suit alleging that DaVita was giving -- gifting two physicians ownership shares in joint ventures, selling them below market value, so essentially gifting a referral source, which is a Stark violation.

During the course of that, my boss, who was very political and very astute and a good CEO and has done well by DaVita for most of the years was working hard to distance himself, even though he had handled that transaction. Again, I wasn't involved at all. And there was a point at the case where I think Kent was deliberately looking for people that he could, if he needed to, to sacrifice to the government because

this is a case where the government decided to intervene. It was intervened on behalf of the US Attorney's Office out of Colorado. The lead Assistant USA and Kent did not get along. He threatened a criminal violation, criminal prosecution. He started threatening exclusion from the Medicare program. And as the intensity to settle increased and I -- and I saw one of Kent's videotaped depositions or his grand -- not dep -- grand jury. I saw one of his videotapes and there were some statements in there that were in accurate and I -- I believed at the time that Kent was looking for a scapegoat or scapegoats. And -- and there were too many conversations and too many questions where my name was being introduced into a matter that I had absolutely nothing to do with.

Q And what concern did you express to Gabby in 2012?

A That I believed at the current trajectory that if push came to shove and Kent believed that he was in harm's way, either criminally or facing exclusion from the Medicare program, that he would not hesitate to sacrifice me as a scapegoat to the government. And they may have been satisfied with that.

Q And how would that have affected you and Gabby's financial situation?

A If I was terminated, any un-vested option would have gone away. There is nothing in the option agreement that

gives you pro rata. If I'm not there the day it expires, it goes away. Number two, I would have been excluded from Medicare, so taking a job in the healthcare section where I've spent almost a majority of my life working would have been physically impossible, at least for any organization that dealt with the government as a payer. It would have been disastrous.

Q So did you have a real concern about your career at that time?

A I not only had a concern about my career, I had a concern about just being dragged into a civil or criminal prosecution that I had nothing to do with the initial case. And the company, as Mr. Smith identified, provided criminal counsel for me.

Q I want to show you a couple of emails that opposing counsel showed you and didn't look at all of the issues. If you got to Exhibit 23 in their book and you go to -- I think it's Bates stamped 12176.

A Okay.

Q Is this email March 7th, 2011 from Gabby to you?

A Yes.

Q And if you look at the first paragraph, the second sentence, this is in March of 2011, starting with I guess I'm feeling that way. Can you read that to the Court?

A I'm sorry, I guess I'm feeling that way?

Q Yeah, I guess I'm feeling --

A Yeah.

Q -- that way.

A I guess I'm feeling that way because our situation is still going on this way, and unlike in the way too distant past, it feels no different when you're far, far away than it does when you're simply away. I think it's because I'm just so used to you being away and out of my life these days.

Q And the date of that is March 7th of 2011, correct?

A Correct.

Q Now did you -- forgetting what you may have said, did you ever move back to Lake Las Vegas?

A No. The last time I stepped foot in that house was either June or July of 2010 for a very brief conversation. Gabrielle asked me where my suitcase was and I said I wasn't staying. It was the last time I stepped foot in our home in Lake Las Vegas.

Q Even though you're professing in these emails love for her, did you ever celebrate her birthday with her after June of 2010?

A No. We didn't celebrate any holidays. There were no trips together.

Q Well, I'm going to go through every holiday. Did

she celebrate your birthday?

A I don't recall if she sent me a card or not, but there was no celebration.

Q Did she send you gifts?

A No.

Q Did you ever celebrate Valentine's Day?

A No.

Q Did you go to Christmas to be with her and her family after 2008?

A No.

Q Was Christmas an important holiday with her family?

A Extremely important.

Q Had you all gone to Brooklyn to the, I guess, ancestral home with her and her siblings and originally her parents --

A From --

Q -- prior to '08?

A Every year for Christmas through New Year's and sometimes Easter.

Q So was it a big deal that you didn't go for Christmas after '08?

A Yes.

Q Did you ever, after 20 -- I think '08, did you ever celebrate New Year's Eve with Gabby?

A I stopped celebrating New Year's Eve with Gabrielle well before 2008.

Q Did you ever take vacations of any type?

A The only vacation we ever took together, other than two two-day work functions in early 2005, '06, Gabrielle flew out to Australia in the 1990's and joined me for a -- a week long trip in Sydney.

Q So filing a complaint for divorce and she found out in July of 2010 -- after July of 2010, in spite of all the emails professing not wanting to hurt her and loving her, did you physically do anything to get back together with her in the -- in the normal sense of a relationship?

A Nothing.

Q And -- and she, in her emails to you, including the one I just showed you, recognized your distance from her, didn't she?

A Correct.

Q Okay. If you go to Exhibit 23, Bates stamp 12151.

A I'm sorry, one more time, Dan.

Q 12151.

A 121 -- okay.

Q Okay. If you go -- this is an email she sent you on May 4th, 2011, correct?

A Correct.

Q And this is in the packet of emails that Mr. Smith had shown you earlier this afternoon. The first paragraph, could you read to the Court starting with the saddest thing.

A The saddest thing about this is the way you've lied to me, although I guess that wasn't difficult for you considering everything that's gone on these past years and these past 10-plus months.

Q So do you think she knew that you weren't telling her the truth from this comment?

A I do.

Q And then if you go to the one, two, third paragraph, starting with please, Dennis, don't add insult to injury.

A Your parents don't even know you're there but you're still -- you still might see them before you leave. Please, Dennis, don't add insult to injury by not showing up for what would have been our last attempt at making this work. Not having the guts to tell me by phone at least and then letting me know you might actually be spending time with them when you should have been here; just how vindictive are you?

Q And then read the next sentence.

A Who walks away from their life for as long as you have? Better yet, who puts up with someone who does that? You have responsibilities to this house that you have simply walked away from. Over a month ago you said you needed two

weeks and then nothing, and you've been playing that game all along. I'm not sure why you're stalling. You say you love me, you don't want -- you say you love me, you don't want me to hate you, but look at what you're doing. I know I've said this to you before, but I now see exactly what you meant when you -- you came here on July 11th. You were always afraid of becoming the cold, selfish and unhappy person that your parents are. Well, guess what.

Q Okay. And then I want you to jump down to the bottom of the page. I want -- it's in the middle where she says amazing what you can find out when you look online, just like you told me to. Do you see that?

A I do.

Q What -- tell the Court what that's about.

A I told Gabrielle that I'm a Section 16 officer and every aspect of my compensation, my perks, my benefits, my stock options, any trades are required to be reported to the FCC and any human being with a computer can go online and that's public information.

Q And then if you go to the next page, 12152 -- do you need water or something? Okay.

A No, I'm good. Thank you.

Q Do you -- do you -- I don't want to read the whole thing, but did -- she accuses you of being a liar there; do

you see that?

A So which paragraph, Dan?

Q It's the first paragraph. Do you see that reference?

A Yes, I do.

Q And then is there a reference to Kent?

A There is.

Q And who's Kent?

A Kent Thiry, my CEO and Chairman of DaVita.

Q Why don't -- can you explain to -- can you read that to the Court?

A She says, or did Kent command you to go to Florida today and you once again decided that pleasing him was more important than taking control of your life and only doing -- and doing the only good damn thing your wife has ever asked you to do during all this time.

Q And by the way.

A And by the way, how did it go when you told Kent what's going on in your life?

Q And is some of that bolded?

A Yes.

Q And how did you feel when you saw that?

A I don't remember how I felt, Dan, after a while. Probably null and emotionally void. I -- I don't know.

Q Did that -- the fact she mentioned Kent, did that give you any pause regarding your relationship with Kent as it related to Gabby at that time in 2011?

A Sure. I thought it was a nice reminder that I know how important DaVita is to you and I know who your boss is, yes.

Q And what kind of money was at stake in 2011 for both you and Gabby if things went south?

A I have to look at the sheet, but when you look at the money that was generated for the estate, the bulk of the money happened between '10 and '15, so -- we can look at your chart, but it -- it was double-digit in the millions, so it was significant that -- that was at stake.

Q And then if you go down further in that next -- I guess two paragraphs down, are there a reference to counseling and counseling appointments?

A Yes.

Q Are there a reference to you make all kind of promises that you basically don't keep.

A Correct.

Q I don't want to go through every email, but is that the tone of the various emails contained in these exhibits?

A The -- the tone of her emails were all over the place. We read through some that didn't have the edge on

those and we're looking at one today that clearly she was angry and frustrated, I believe, and disappointed and those -- those were exactly the emotions that I was trying to do my best to make sure that she didn't get to.

Q Were there times that you did not speak to Gabby by phone and limited your communications to text?

A After 2010, in the June/July time frame, we went to almost exclusively text messaging and email.

Q And why is that?

A Just difficult to have a conversation with her. A, she was hurt; and B, she was angry; and C, I don't think I had the answers. So it was just easier to avoid a conversation. I think it goes back to what I said in the beginning, my inability to have tough conversations with her and make decisions as it related to our relationship.

Q If you go to Exhibit 22, Bates stamp 12358 --

A I'm sorry, one more time, please. 12 --

Q Exhibit 22, Bates stamp 12358.

A Okay.

Q This is an email dated August 10th, 2011 from Gabby to you.

A Yeah.

Q And you see that first paragraph?

A I do.

Q Why don't you read that to the Court.

A I just don't understand this, Dennis. In the time it takes you to text me or write an email you can pick up the phone and talk and every text, every email contains a deadline and promise that you will call me and then you don't. Where do you really expect this to go at this point? In the past 13 months I've grown to love myself a lot more than you may remember, so now I just sit back and watch you do this over and over, expecting it every day, and sure enough you just keep proving me right.

MR. SMITH: What number was that one, Mr. Marks?

MR. MARKS: 12358.

MR. SMITH: Thank you.

BY MR. MARKS:

Q Now during this time Gabby was living in the Lake Las Vegas home?

A Correct.

Q Were you monitoring her spending?

A Not at all. I -- I did not have access to her credit cards and the whole time we were married or a good part of the time we were married Gabrielle, unlike our joint checking account, had her own checking account that her paychecks were deposited into. So I had no access to her credit cards. They weren't joint credit cards other than one

or two that we may have held. And I didn't have access to her checking account.

Q Did you -- did you ever complain about her spending during this period?

A Never.

Q Did you prevent her from spending during this period?

A Never.

Q Did you monitor her spending during this period?

A Never.

Q And based on her financial disclosure form, what was she spending per month?

A She -- she claims that she spent between 15 and now $20,000 a month, and annualized it's anywhere from 180 to $240,000 a month -- a year.

Q Was she -- did she have access to a country club?

A She did.

Q Could she sign at the country club?

A She could.

Q Did she have access to a golf club and golf course?

A She did.

Q Could she sign and play golf?

A She did and there was a monthly bill that came every month to give her the opportunity to play. Whether she did or

not, I don't know.

Q And she was living in -- how big was the Lake Las Vegas house?

A Just under 3,000 square feet, approximately.

Q Was there any unique about it in terms of its location?

A It's right on one of the islands or fingers of Lake Las Vegas. It's got the largest backyard in terms of waterfront. It's got a boat dock. It's got a magnificent view of both Lake Miramonte -- or the village and the other side down to the health club. Remarkable backyard and pool. And it's -- it was a nice home.

Q And what was the purchase price?

A In 2003 I believe we paid 2.25 million for it.

Q Okay. Now in terms of Gabby's career during that time, was she working?

A Yes.

Q And do you know where she worked?

A When we first moved down here, I think she took a very short job at Sunrise Medical. I think that job only lasted about six months and then she went to work for Catholic Health Care.

Q And what was she doing at Catholic Health Care?

A I don't recall if she started as a certified legal

nurse consultant. That's where she spent the bulk of her time. I seem to remember she was either hired in claims or billing. I don't remember specifically, but she's been there for the last 11 years working 24 hours a week and I don't know how long she has had the legal nurse consultant title. But it's been --

Q In -- in her legal nurse consulting, did she interact with lawyers all day?

A All day long.

Q Was she handling medical malpractice claims against nurses of the hospital?

A She was handling and adjudicating which cases on -- on a patient issues, if I'm not mistaken, and what law firms that they were --

MR. SMITH: Foundation, Your Honor. How does he know this?

BY MR. MARKS:

Q Did you talk to her --

THE COURT: Sustained.

Q Did you talk to her about her job out at Dignity Health?

A I did.

Q And did she tell you what she did?

A She did.

Q And what did she tell you she did?

A She told me that as claims came in against the hospital that they would somehow make their way to her office. She and her boss would decide the seriousness of the claim, whether recommendations for taking a financial reserve were necessary, and ultimately which outside law firm that handled their med-mal cases the case would be awarded to.

Q And do you know why she didn't advance over the 10 years that she had that job?

A I --

MR. SMITH: Foundation.

MR. MARKS: There's enough foundation. He's talked to her about the job.

MR. SMITH: Why she --

THE COURT: Sustained.

MR. SMITH: -- didn't advance?

BY MR. MARKS:

Q Did you do anything over the 10 years to prevent Gabrielle's advancement --

A No.

Q -- in the medical field?

A No.

Q Do you have an opinion as to why she didn't advance?

A I --

MR. SMITH: Objection. Opinion evidence.

MR. MARKS: He can express his opinion, Your Honor.

THE COURT: What -- I didn't hear the objection.

MR. SMITH: The objection is that it calls for an opinion evidence from a layperson.

MR. MARKS: Opinion on why his wife didn't advance.

THE COURT: The objection is overruled.

THE WITNESS: I think --

BY MR. MARKS:

Q You can answer.

A -- Gabrielle liked working three days a week, some of that time at home. The -- her office was literally a couple of miles from the house, although she covered all of the campuses here. She had four days a week off to either take advantage of the sun, which she adored doing, and -- and caring for her cats, which was important to her. And she had a couple of friends in Lake Las Vegas, one in particular. I think she just enjoyed her lifestyle.

Q And did you object to that?

A No.

Q There was some mention of her job as an investigator with the North Carolina Board of Nursing from communications with her. Could you elaborate on what she was doing there?

A Yeah. The North Carolina Board of Nursing handled

all complaints that had to do with licensed personnel, presumably nurses. I don't know if it was LVN's or RN's or both, but anyone with a nursing credential.

The majority of her cases were nurses that were accused of drug diversion --

MR. SMITH: Again, foundation, Your Honor.

THE COURT: Sustained.

MR. SMITH: Conversations.

THE COURT: Sustained.

BY MR. MARKS:

Q How did you learn what she did?

A She told me.

Q Okay. What was she doing? Tell -- give the Court an overview of what she told you she was doing.

A She -- and -- and you should know that I also attended dinners with her boss and assistants in her office. She told me about her training when we got there with her protégé that was her mentor, that was assigned to train her, all of the programs that she went to to get certified on an annual or every 18 month program. So there was extensive conversation about what she did. She talked about her cases, she talked about what she was presenting to the board. But at the core of what she did, was investigate bad behavior, which could be drug diversion, patient abuse, falsification of -- of

medical records. Anything where licensed personnel was accused of doing something, wrongdoing. And her job was to investigate and make a determination to her boss -- her name was Donna -- whether that needed to go to the Board of Nursing. If -- if they decided it needed to, then Gabrielle would present to the board. They'd make a recommendation in terms of how to -- how to penalize this individual, revoke their license, make them take a program, make them take a course, submit to urine testing every so often, is just a couple of examples. And that's -- that's what Gabrielle did.

Q Did she get pleasure in doing that job?

A She thoroughly enjoyed that job in North Carolina.

Q Did your moves, your career moves, adversely affect Gabri -- Gabrielle's career as a nurse?

A I think quite the contrary. That as an executive that interviews people all day long, the diversity of her program, from recruiting, clinical nursing, sales and marketing, clinical oversight, penal responsibility of units in -- in -- in both Philadelphia and North Carolina, investigative background in North Carolina -- I'm sorry, in North Carolina. Working for Kaiser, one of the premier medical delivery systems in America, and then even Dignity. Every one of those aspects made her a better candidate, coupled with the event that she was a licensed nurse, had a

undergraduate degree and a -- a post-graduate degree as -- with MPH. I -- I think all of her experiences just made her an ideal candidate for a health care system, for a law firm, for a bunch of different venues that she could have pursued.

Q Did you ever encourage her to go to law school?

A I did, when we were living in Lake Las Vegas. And we knew Shelley Berkley, she was a good friend. Shelley had some relationships with a law school and encouraged Gabrielle. She asked me about the money. I said you should go to law school if that's what you want to do. I think she went so far as to get the LCAT (sic) or whatever the -- the -- the prerequisite is. And then the discussion literally fell on deaf ears. We never talked about it again.

Q Did Gabby know you love cars?

A Yes.

Q Could you explain your car history with Gabrielle during the marriage?

A Yes. When we were living in -- in Philadelphia back in 1991, we bought our first luxury car together, an Infiniti Q56, right after they had hit the market. When we moved to North Carolina, Gabrielle helped me pick out my fir -- helped me pick out my first Mercedes. I had a BMW 745 and I had a Porsche 911, which I did buy that on my own, but was embraced by Gabrielle when I pulled up in the driveway. When we moved

to Southern California I had a -- a -- another -- a BMW. I had two Mercedes. I had a brand new Porsche 911. When we moved to Lake Las Vegas Gabrielle went shopping with me to buy a BMW 645 convertible, a Porsche Cayenne, an Audi, a small SUV, and I may be missing something. But throughout the years, even back in Philadelphia when at that time I was probably making $75,000 a year as a national sales director, we've always had nice cars. I, in particular. I love cars and I've had multiple nice cars throughout our -- our history, starting in Philadelphia.

Q Now when you moved to Las Vegas, to Lake Las Vegas in the '03, '04 time period, had you already stopped having sex with Gabby?

A We had no physical relationship whatsoever. Not -- not making love, not -- not whatever other word you want to put. We -- we simply had no sex life whatsoever.

Q And what did you think the status of your marriage was at that time?

A I thought the status of our marriage was -- I -- I -- I'd call it we were roommates in Las Vegas, just sharing a house together and passing through.

Q And then after you moved to Lake Las Vegas, how much time did you spend back in Las Vegas before you met Nadya?

A I think for the first year prior to Nadya and the

DaVita acquisition, I was probably there two days a week and on weekends.

Q And did that change?

A Yes. (Coughing) Excuse me. - It changed late 2004 for two reasons. Number one, the acquisition of Gambro by DaVita. I was appointed to head the transition services for Gam -- on behalf of Gambro. That required a lot more time in Los Angeles with my DaVita counterparts. Probably three reasons.. Our relationship was for all intents and purposes dead; and third, I met Nadya and just -- that took me to Los Angeles a lot more.

Q And after the birth of your twins in '07, how did that affect your return to Lake Las Vegas?

A I would show up on a Friday afternoon, we would literally go to Metro Pizza or another pizza place. We'd go home, we'd watch a little TV, I'd go back to my office, I'd do a bunch of emails, I -- Saturday morning, on the rare occasions -- and Gabrielle did play golf but it was occasionally when good, close friends of ours were in town from Pennsylvania. More times than not I played by myself or -- or with a friend at the club. I'd go play golf in the morning.

Occasionally Gabrielle and I would meet for lunch at the clubhouse. I'd then go to 24 Hour Fitness and then I'd

spend a couple of hours at the El Dorado Casino. I enjoy playing kind of low stakes Blackjack. It was just good therapy. We'd come home, we'd decide whether we're eating in, eating out, or Gabrielle is going to cook something or we're going to put something on the grill. Saturday evening we'd watch Bill Meyers (sic) and we'd go to bed early. And Sunday it was off to the airport again.

Q Did you feel you had a good emotional relationship with her at that time?

A No.

Q Were you confiding in each other at that time?

A I don't recall, other than superficial stuff, how's work going, at that time that we were confiding in each other.

Q Then what happened -- did something happen regarding your career in 2009?

A I -- yes. I was -- I was offered and promoted to the job of chief op -- chief operating officer at DaVita. It was --

Q And how did that affect your life?

A It was the job of a lifetime. I was working for a publicly traded Fortune 400 company that had an incredible reputation, that was doing good stuff clinically and improving healthcare. And the fact that I had made it up from a sales representative years ago, I kind of cut through a lot of the

odds of not having a post-graduate degree, but I worked hard and -- and I was finally being recognized and rewarded for that hard work by being promoted to chief operating officer at DaVita.

Q How rare is it for someone with your educational background to be a chief operating officer in a healthcare company?

A I don't know if I can give you any industry statistics, but I can tell you relative to the leadership at DaVita today who's running our kidney care operation, who's running Healthcare Partners, who's running some of our subsidiaries. They -- I -- I would say 90 percent of our executive team, including Kent, my boss and most of our board members have advanced degrees.

Q And are they from ivy league schools?

A We have a program at DaVita that recruits specifically at I -- ivy league schools. We focus on Stanford, Kellogg's, Wharton, Harvard Business School, and occasionally UCLA. And the majority of people that are on our senior team have degrees from ivy league business schools.

Q In terms of stock options and your wealth, you obviously accumulated most of your wealth in this 2010 period, 2010 onward period. In corporate America, could you explain to the judge who's getting -- what type of executive is

getting the options and -- and how do you accumulate this kind of weath.

A Yeah. Number one, options are decided by the board of directors compensation committee, oftentimes with a recommendation from Kent. Most of the time in fact. The board wouldn't have that kind of data in terms of who to award to. They just have to approve it. And number two, if you look at any corporation, usually the C-level executives, the chief financial officer, or the chief operating officer, or the chief legal officer, or the chief compliance officer, or the chief strategy officer, the chief accounting officer, and the chief executive officer, and perhaps a president, they are the ones that are getting the majority of the options that are granted by the board.

Q So when you're talking about a Fortune 400 company, you're talking about under 10 people at every one of those (indiscernible); is that right?

A Somewhere between 10 to 12, depending on where the cutoff is.

Q So this -- so you're really -- you're talking about 4 to 5,000 people in America getting this kind of a --

A If you use the Fortune 400 company as a proxy, that's probably a good guesstimate. I'm sure there are exceptions.

Q Well, explain also how long it took to get the options and actually exercise and make the money from when they were first offered to you.

A Yeah. When I first came to DaVita in 2005 I was granted a very minuscule number of options and 5,000 restricted units. I remember that. I -- I didn't have any real options during the first couple of years, '5, '6, '7, '8. Two reasons. I had a low number of options granted to me. I was the new guy, untested, unproven. And B, the DaVita stock during those years was just trading. It was remarkably flat during this period.

Most of the options are granted on anywhere from a three to four year period. In the past some of them would -- would -- would -- not exercise -- would vest, you know, every three months, every six months, or if you got three year options, it would be a third, a third, a third at the end of each year. Over the last couple of years we've moved to basically four years of stock options where, you know -- and the board will decide what the vesting period is.

Q Can you explain to the judge what is the -- what does a strike price mean?

A Yeah. So when the board of directors and the compensation committee award you stock, on that day, whatever the stock closes at that day, when they sign the paper, you're

given the number of options that they specify with a given strike price. For example, if the board signed a document today, I think DaVita stock closed at $63 -- I may be off -- but that would known as the strike price. When I went to exercise my options, when the vesting period -- when it vested, you would be given the difference between the trading price of the stock the day you exercised and the strike price. So sticking with the example of $63 a share, if -- if -- if I -- if the stock the day I traded was at $80 a share, I would get $17 a share times the number of vested options that -- that were exercised -- that were allowable to sell at that point.

Q But you don't get $80 times because you have to subtract the strike.

A No. And -- and what most people don't know, it is reported as a FCC, Dennis Kogod sold a hundred thousand options at $80. The strike price isn't mentioned, to the best of my knowledge, in the FCC form. So anyone reading it would say, oh my goodness, he exercised a hundred thousand shares at $80. It's a hundred thousand shares, sticking with that case, of $17 a share, and then you're taxed at whatever your effective tax rates are on your net proceeds.

Q So in -- in ta -- in dealing with the example of last week, can you walk us through what happened.

A In 2015, the April/May time frame, we were in a company blackout. The stock was trading at a reasonably high price, somewhere around 80 to 85 dollars, an all-time high for DaVita. Given that we were privy to the fact that we had some Medicare claims coming our way from the government, subpoenas, as a Section 16 officer we were put into an extended blackout period.

Q And blackout means, explain.

A I -- you're prohibited by the FCC to trade. You have insider information that would put you at a -- an advantage to -- to take -- to take advantage of some data that you knew that -- that would benefit you personally. I -- I effectively was locked out from trading. Not a company policy, but an FCC. We -- we established a blackout and our general counsel said you now have information which is considered inside information, you're -- you're blocked out from trading.

So those options had expired in 2015, roughly. There was 250,000 share -- options, not shares -- that were granted at a strike price of roughly $43 and change, maybe 43.45. I don't recall the -- the cents. When the special blackout was lifted, the stock had already gone into a spiral and was trading in somewhere in the $60 range. It was my conclusion -- and -- and I had an expiration date of April and

May of 2016. I only had one year from the time they vested until they expired.

Q And if they expired, what would happen?

A You give them up. There is -- there is no value at all. You literally leave them on the table.

Q You get nothing.

A You get nothing. So given the blackout precluded from selling when the stock was high, the next earnings call that came reported a bad quarterly earnings and -- and had to alert our shareholders that there were government investigations regarding Medicare Advantage and Medicare rates. The stock went down.

So when the due date was coming up to -- to either exercise those shares -- I believe the stock was at the lowest point I had ever seen it, roughly $62 a share. So I had two options at that point. I could sell my shares at $62 a share, minus the strike price of 43, and get roughly $15 a share for the stock. And then -- so times 250,000, I don't know what the math is, let's just call it three million dollars at the time. And then would have been effectively taxed at 54 percent, leaving a net of 1.5 million dollars. It was my -- my -- my de -- my talking to Bob Galen and believing that the whole healthcare industry was depressed. We made the decision that the best thing for the estate was to buy those shares,

take them in to our UBS account. And in order to do that, we had to pay taxes on the stock, the options that we were converting to actual shares. So without boring everyone, we had 250,000 shares -- and I have the documentation, if you'd like to see it, in my pocket right off the FCC website. We -- we sold 250,000 shares. We sold enough of the 250 shares to cover the tax liability and in exchange we ended up with roughly 41,000 shares of DaVita stock, which at the time were worth roughly 2.7 million dollars after tax.

The good news is the stock has been up about $2 from the day that we traded that, so that alone is worth about a hundred thousand dollars on the upside. It's gone as high as 65 in the last couple days.

Number two, the value of it today versus what we could have sold the date that I was eligible is significantly higher. Now we own 40-some thousand additional shares of DaVita stock that as the market goes up, we can sell it. And it's my believe and all the ind -- industry an -- analysts that we're deeply, deeply discounted and the likelihood that stock is going to fall further is slim to none. That the expectation is over the next zero to 12 months, the stock will start to regain some of its value.

So it was just as good business decision, rather than taking it off the table at a very, very bad price, to buy

the shares back, not reach into our savings to pay the taxes, selling just enough for the options to cover the tax liability. At the end of the day it was without a doubt the best business decision to make.

Q And is that on your asset or marital balance sheet as part of the UBS account?

A Yes, yes. We provided the UBS account that they -- they have taken possession of the 40-plus thousand DaVita actual shares. It is now deposited in the UBS account.

Q So will Gabby get her share of that as --

A I don't --

Q -- part of the (indiscernible)?

A I don't think we've worked out the micro-economics, but a reasonable answer would be we hold about 110,000 shares, real shares of DaVita stock as part of the portfolio, that we would divide that up 50/50.

Q Okay. But the actions that you took, did you think it was benefitting the community as a whole?

A There was no question about it. It was a much better decision to pay the taxes and hold the shares than to sell them before the black -- before the expiration date. And I had a very limited window. The window of trading for me as a Section 16 literally opened up last Monday for a couple weeks until we close out our quarter at the end of March. I

would have been in a blackout from March till our earnings call in mid-April. So those stock -- those options would have expired. If I had not exercised or done something during that window, we would have lost them all. And given the options, I absolutely made the best choice on behalf of -- of the estate.

Q Now yesterday there was some questioning about what is going on at your company right now in terms of what you're personally doing and the difficulties you're facing. Can you explain that briefly to the Court?

A Yeah. I would describe it as two or three things. My relationship with Kent, my CEO, has deteriorated. Number two, in 2012 Kent bought a bad business called Healthcare Partners. It's had a significant drain on the stock over the last couple of years. Our shareholders and analysts are tired of us standing up each year or each quarter talking about it's going to get better at Healthcare Partners. In 2014 he asked me to step into Healthcare Partners from Kidney Care where I had been since I started with Gambro as it's chief operating officer. And it was a business that was just very difficult to fix.

There weren't any operating issues with the business. After we acquired it in September 2012, we literally were hit with five consecutive Medicare cuts and 95 percent of the patients we serve at Healthcare Partners are

Medicare Advantage. There is no way to -- to recoup 300 -- akin to 350 million dollars of profit, there is no way to recoup that by tweaking the operation. So I was given responsibility for a business that just was failing, and no matter how good and smart you were, you weren't going to turn it around.

I was also, as I had been for awhile, in charge of our international operations and every time we had proposed taking trip to one of their international markets, Kent would remind me, literally, that without Healthcare Partners performing better, there is no international, that the board was going to force us to sell off that portfolio. So we ended up making sacrifices, not to focus on international. That business has not performed well. That's why I will not get a bonus for 2015.

So I've been saddled with two virtually impossible assignments, and at the end of the day, similar to what I've described in the qui tam, you know, Kent, with all his wisdom, he's a great CEO, he's just not going to take the blame for this. The analysts and the --

MR. SMITH: Objection.

A -- shareholders want some --

MR. SMITH: His knowledge -- the objection is foundation.

Q Is this based on your --

THE COURT: Sustained.

Q Is this based on your communications with Kent?

A Yes.

Q Okay. For instance, give the Court an example. Normally low oil is low gasoline for us. How has that adversely affected your business?

A We haven't been paid in the Middle East since we started that project. We have sunk a hundred and 50 million dollars of capital in winning a bid in the Kingdom of Saudi Arabia, the first time they outsourced their healthcare system. We won. We put all the capital up front and we had to take an impairment on the asset and take a huge reserve right off on our receivables. We started that project February of 2014. We've been treating patients ever since then. We've not gotten a single dime from the -- from the government. There -- there -- in all effective purposes, they're -- they're bankrupt, they're broke.

Q Is that because of the oil?

A Oil going from a hundred dollars a barrel to 27 dollars -- dollars a barrel.

Q And what about their civil war in Yemen?

A Funding the war in Yemen --

MR. SMITH: Foundation. I mean, how --

Q Are -- do you travel?

THE COURT: Sustained.

Q Do you travel, do you talk to leaders of the kingdom?

A I talk to high-ranking people, including the Minister of Health repeatedly. As a matter of fact, as you were with me, he called during lunch today to wish me well on my surgery next week.

MR. SMITH: Still --

A I know about --

MR. SMITH: -- foundation. Move to strike.

THE COURT: Sustained.

MR. SMITH: This is hearsay.

MR. MARKS: Your Honor, I think I can lay the foundation.

THE COURT: Okay.

MR. MARKS: Okay.

BY MR. MARKS:

Q Do you -- do you tra -- you've traveled to the Middle East and discussed finances with the Ministry of Health and high government officials there?

A I was there four weeks ago to try to collect on behalf of the company.

Q Okay. And are you -- do you also follow the news

regarding oil prices?

A I do. a

Q All right. Do you also follow the news regarding Middle East conflict?

A I do.

Q Are you aware there's a civil war on the border of Saudi Arabia?

A I am not only aware, we have clinics in the southern part of Saudi Arabia that we have not been able to access teammates to because of the war with Yemen.

Q Okay. And from the discussions that you've had with the Minister of Finance -- or health minister, excuse me -- is DaVita getting paid or not getting paid?

MR. SMITH: Objections -- objection. Foundation. This would all come from statements by other, and it also asks him to opine as to the position of the Saudis in regard to payment of future contracts.

MR. MARKS: I'm not talking about --

MR. SMITH: How he would have foundation to do that, I have no idea.

MR. MARKS: I'm not talking about future. If he's not getting paid, it's not hearsay. He can explain that he's not getting paid.

THE COURT: The object --

MR. MARKS: I can say what were the conversations, are you getting paid or not.

THE COURT: Well, but it has to be --

MR. SMITH: Not -- he's not here as the person most knowledgeable of DaVita's transactions.

MR. MARKS: He's the head of international.

THE COURT: Well, you need to lay a foundation as to his knowledge, if he has knowledge, and not just generalized circumstances.

MR. MARKS: No --

BY MR. MARKS:

Q Are you the head of international --

A I am.

Q -- for DaVita?

A Yes. And I --

Q In that capacity, do you meet with high ranking officials in foreign countries?

A All the time.

Q Did you meet with high ranking officials in Saudi, Kingdom of Saudi Arabia?

A On my last trip I met with the Vice Minister of Health and the Vice Minister of Finance.

Q And from those conversations, is DaVita getting paid or not getting paid?

MR. SMITH: Objection. Foundation. Hearsay.

MR. MARKS: It's not hearsay.

THE COURT: Sustained.

MR. MARKS: Your Honor, it's whether they're getting paid.

BY MR. MARKS:

Q Do you have access to the records of DaVita to know whether DaVita is getting paid by the Saudi government?

MR. SMITH: Objection as to vague and ambiguous. Getting paid in the future or is now receiving payment on the contracts?

MR. MARKS: Now receiving payment from what's owed.

THE WITNESS: We have not been paid a single dollar from Saudi.

BY MR. MARKS:

Q Does that affect your compensation, bonus, et cetera?

A My compensation on international is based on operating income. When you're forced to take the financial reserves for non-payment, it has a profound and negative affect on operating income. So it had a profound effect. I'm not getting a bonus in 2015. And given that there's no sign of getting paid in '16, it will un -- undoubtedly have an effect on 2016 operating performance.

Q Do you have an employment contract that gives you any job security?

A No. I'm an at-will employee.

Q Do you have concerns about your continued employment at DaVita because of all these factors?

A I have very serious concerns about my ongoing ability at DaVita to stay in my current capacity.

Q And is that -- and what is that based on?

A It's based on some conversations I've had with Kent. It's based on some emails that he's sent me over the last couple of weeks laying the foundation for compensation conversations. Documenting his disappointment in healthcare partners. Documenting his disappointment on the international portfolio. Those are all great leading indicators of how my CEO is valuing my performance.

MR. MARKS: Your Honor, maybe this would be a good time to take the break.

THE COURT: That's fine. I do want a break.

MR. MARKS: Your Honor, for tomorrow -- hopefully this isn't on my time. Can you cut my time? I just have a housekeeping issue.

THE COURT: Yeah. We're -- my thought is we'd start at 8:30.

MR. MARKS: So Mr. Kogod canceled. He was opening a

clinic, a clinic in -- in Pahrump that was going to bring needed care out there. He's canceling his groundbreaking, which had been long-scheduled for months. He's not going to go to that. He has a phone call that he has to take. He could take it in the hall, but since I would be examining him, that's going to go till 9:15. Could we start at 9:15?

MR. SMITH: But --

THE COURT: He --

MR. SMITH: -- I would prefer to --

THE COURT: But what --

MR. SMITH: -- start at --

MR. MARKS: He can't get out --

THE COURT: -- time is --

MR. SMITH: -- 8:30 --

THE COURT: -- the call?

MR. SMITH: -- and we'll start with another witness and then we can break and Mr. Kogod --

MR. MARKS: Then he wouldn't be at his own trial for the 45 minutes, Judge.

MR. SMITH: It's -- it's up to Your Honor. I don't -- I just don't --

MR. MARKS: I mean --

MR. SMITH: -- want to miss any time.

MR. MARKS: -- he's canceled his groundbreaking that

was scheduled month --

THE COURT: No, and I -- I appreciate that.

MR. MARKS: And last Wednesday you said we're not going Thursday. I mean, in fairness, I made plans I canceled. But, you know, he -- he canceled a big event in Pahrump, he's not going, but he's got to take this phone call at 8:30 through 9:15.

THE COURT: Okay. Well -- oh, the phone call is at 8:30 or at nine?

THE WITNESS: No, it's at 8:15 to 8:45, but it will probably run 10 minutes late. So we -- we said nine to 9:15 to be safe. And I can take it --

MR. MARKS: We could start at nine.

THE WITNESS: -- right out in the hallway.

THE COURT: Okay. We'll start at --

MR. MARKS: How about start at nine?

THE COURT: We'll start at 9:00. Yeah, we'll -- we'll start at nine then.

MR. MARKS: And then the other --

THE COURT: That's fine. I -- I'm just -- I mean, from a schedule standpoint, we have the full day Thursday and Friday. I just want to make sure that each side gets their nine hours and -- and that we're finished by five so I can dismiss my staff --

MR. MARKS: I know.

THE COURT: -- each day --

MR. MARKS: I am --

THE COURT: -- so --

MR. MARKS: -- very aware of that.

THE COURT: Okay. I appreciate that.

MR. MARKS: But, Judge, in terms of a notice, I hate to do these scheduling things, but the -- we called our realtor, you know, based on the idea --

THE COURT: Right.

MR. MARKS: -- of yesterday, we found out we were only going this week. He cannot fly in, so we have to argue whether they can do updated appraisals and rental income, because we had a deal, I thought, under the appraisals for the (indiscernible). We're obviously taking the properties, but we got new appraisals literally I think February 8th or 9th. And our guy can't come in. I called him last Wednesday with the understanding that we were going to move -- they would go on Friday and he would go another day and Mr. Smith even agreed to that. When we called him yesterday, the minute you told us we're going, I talked to him after five yesterday, he's totally booked Friday and Thursday and said he just could not come in this week.

MR. SMITH: If it's any consolation, our expert

can't come either. Look, job -- our job here is to try to get good data for the Court to make decisions about the values of these things, and we provided supplemental reports that gave the latest value, and the only value I think even from the Court's own experience, and Mr. Marks' experience, mine, that's really viable, because these dates -- these things are now eight or nine months old. And i would note that the appraisal difference is about 270,000 --

MR. MARKS: They're six months old and it's a drive-by.

MR. SMITH: There's about 270 -- there's about 200 --

MR. MARKS: But they didn't reappraise it.

THE COURT: Don't interrupt. Don't interrupt.

MR. SMITH: Okay. Please, Mr. Marks. There are about 270,000 of difference. The -- the appraisals that were done by Mr. Marks were done in May, not six months ago. They're about eight or nine months old now. So we would -- we would request, Your Honor, if that's the case, if both appraisers cannot be here on that day, perhaps we can set up a day for just like a Skype appraisal -- or a Skype testimony. You could -- I got a feeling this decision is going to take you at least a few days, maybe longer, to process and -- and finish. So in that time you could -- the Court could be

working on the other issues and then we could just take that last bit of evidence in regard to those appraisals. And I think that's the most reasonable way to do it in light of the duty to make those decisions as of the date of the -- the --

MR. MARKS: It can never be of the date because you went -- we went to a discovery --

THE COURT: It's a moving target. Yeah.

MR. MARKS: -- expert disclosure deadline more akin to federal court or state court. We used to do this the night before and we'd get stuff, you know, walking into court.

THE COURT: Well, here --

MR. MARKS: We went to a 16.2 --

THE COURT: Listen --

MR. MARKS: -- management where you're always going to be a couple of months behind because the cutoff of experts was in November.

THE COURT: Here's -- here's what I'm going to do. I don't have a problem fundamentally -- and both parties have filed motions in limine that -- I'm vacating those hearings dates. I don't need those -- those hearing dates. We'll address those issues. I am inclined to go ahead and allow the Defendant -- given the fact that the -- neither appraiser can be here this week, I'll entertain how we proceed with that in terms of receiving that information, but I'll allow the

Defendant to update his appraisal. I -- I -- I will say, as it relates -- and having read the pretrial memos -- I am not inclined to get into this notion of -- of rental value in terms of lost -- lost income.

MR. MARKS: Your Honor, we still have the limine. I don't want to belabor it, but it's a drive-by. They did the one appraisal in July or June, then they just did a drive-by a couple of weeks ago. That probably wouldn't suffice to meet --

THE COURT: Well, it -- it may not.

MR. MARKS: -- the evidentiary --

THE COURT: And --

MR. MARKS: -- standard.

THE COURT: -- and again, that's where I'm going to --

MR. MARKS: So we'll argue that Friday?

THE COURT: Yeah. Well, we'll argue it at a future time. I --

MR. MARKS: That's fine.

THE COURT: -- I don't --

MR. SMITH: If I may. When you've already seen the homes --

THE COURT: You don't need to go into it again.

MR. SMITH: -- you don't need to go into it --

MR. MARKS: What if --

MR. SMITH: -- unless there's some material change in the homes, and I'm not --

THE COURT: Yeah.

MR. SMITH: -- we're not aware of it. Nothing has been disclosed. And also, the -- the reason for the new values are the update comp -- comps. And he'll -- his appraiser will do the exact same thing. My guess is we're going to --

THE COURT: The question is --

MR. SMITH: -- be so close --

THE COURT: -- we may not be that far off.

MR. SMITH: Yeah, we will -- we'll be so close that --

MR. MARKS: But, Judge --

MR. SMITH: -- we'll be coming back here and saying --

MR. MARKS: -- we think there --

MR. SMITH: -- okay, we've reached an agreement.

MR. MARKS: -- were changes. My client knows the area and he thinks there's a shopping center that's going to kill the view. There were changes. I don't think under the case law, even if he has to --

THE COURT: Well, I don't know.

MR. MARKS: -- (indiscernible) --

THE COURT: But --

MR. MARKS: -- you can just assume a drive-by appraisal (indiscernible) is very cavalier.

THE COURT: Listen.

MR. MARKS: Drive by --

THE COURT: Listen.

MR. MARKS: -- and add --

THE COURT: Listen, you --

MR. MARKS: -- 300,000.

THE COURT: -- you -- you both -- it's -- it's apparent to me from what you're telling me you both contemplated that this was going to occur and that --

MR. MARKS: I -- no.

THE COURT: -- there was going -- that -- that's the suggestion.

MR. MARKS: No, I thought the cutoff is the cutoff and that if you're a couple of months after -- the cutoff is November. You don't go by the date they did it. We had a discovery cutoff in November. We diligently did that before. He could have waited till I guess the last day, but we did it in the summer. You don't get to just update in February by saying you need the information as of February when it's four months after discovery cutoff.

THE COURT: Well, I'm going --

MR. SMITH: This is a not a situation -- first of all, as the Court had noted, we continued this trial several times, and I would submit to you, if we get into the evidence on that, none of those were requested by us, although all were agreed to because of delays that were caused by the Defendant.

Let me just say this. This is not -- first of all, we've -- we have disclosed this appraiser. We have done a report. This was just a supplement. None -- I think Mr. Marks will acknowledge, none of this thought this matter was completing on Friday. We thought that this was going to go out months from now. We're all scrambling around, and once we're done this particular issue, I want to deal with the housekeeping matter of presenting the depositions and tell you what we've decided to do on that and then get some guidance as (sic) the Court, if that's acceptable.

MR. MARKS: I had one other question then I can turn -- so I still want to make a record that a drive-by wouldn't be sufficient under Fiesta Palms case at some point, whether it's Friday or whenever, however we do it.

THE COURT: Well, that goes -- that's -- that ultimately goes to the weight of the appraisal. I -- I don't know --

MR. MARKS: No, it -- it --

THE COURT: I haven't seen anything.

MR. MARKS: Okay. Then we'll deal with it later. One last question then I'll turn it over to the Plaintiff's counsel. Are you contemplating oral closings on Friday?

THE COURT: It depends on if there's time. If there's time left. We will -- we will end at five o'clock, by no later than five o'clock --

MR. MARKS: Are you --

THE COURT: -- on Friday.

MR. MARKS: Are you contemplating briefs? Are you contemplating oral closings? Just where are -- what do you think?

THE COURT: Well, I -- I don't -- it -- again, if there's time available, then I would -- I would certainly expect or even offer oral closings. If -- if time has expired, I don't have a problem entertaining, if you'd like to submit written closings -- although I look at your pretrial memos as being fairly thorough and that --

MR. MARKS: But things --

THE COURT: -- for all intents and --

MR. MARKS: -- come up and --

THE COURT: It does. It does. But --

MR. MARKS: All right. Well, let me just --

THE COURT: -- I'm op -- I'm open to -- to -- to

written briefs.

MR. SMITH: But we'll --

THE COURT: It really depends on where we're at. If --

MR. MARKS: Right. Let's see where we're at.

THE COURT: -- if you finish with examination and -- and we have a couple of hours remaining, I don't have a problem if you want to present oral.

MR. MARKS: I doubt we're going to have a lot of --

MR. SMITH: Okay. We'll --

MR. MARKS: -- time on the end.

MR. SMITH: We'll -- either way is acceptable to us. If the Court has time and we can give a closing, great.

THE COURT: Okay.

MR. SMITH: If not, we'll do a written.

THE COURT: If not, okay.

MR. SMITH: So either way. In regard to -- in order to save time, because we're under somewhat strict --

THE COURT: Right.

MR. SMITH: -- restrictions -- and hopefully you'll give us our time this afternoon so we can kind of shape the -- the remainder of our -- our days --

THE COURT: Okay.

MR. SMITH: -- so we -- on the reading of the

depositions, I can find no case or law standing for the proposition that this dep -- the depositions for unavailable witnesses have to be read into the record. I just can't. Ms. Garim -- Ms. Varshney looked for -- there was no case that was referenced by Mr. Marks and he hasn't at least indicated to us if he has it. We'd be more than happy to look at it.

I believe that the proper procedure, at least described in Rule 32, is to submit the excerpts that are -- are requested to the Defendant. The Defendant will have the opportunity to review those experts (sic) and -- or excerpts and whatever -- excerpts. And also if there are objections --

THE COURT: Evidentiary objections.

MR. SMITH: -- to the questions that are contained, he can submit those objections or we could do those orally. But, Your Honor, we simply -- with -- the task is submit six other witnesses by deposition. I simply won't have the time to read them into the record. I -- it just -- with the time I'm allotted, nine hours for the entire trial. So I just --

THE COURT: Do you have the excerpts --

MR. SMITH: We do --

THE COURT: -- prepared?

MR. SMITH: We do have the experts (sic) and we can provide those to Mr. Marks and so that he'll have the opportunity to -- to weigh in on anything. And I think it's

pretty -- pretty easy in terms of determining, because the experts (sic) were pretty comprehensive. The depositions, most of it, were things that we would need.

And you'll be happy to know that there's a finite amount of the deposition. You only have to read what's in the deposition. You don't have to go on with question and question and question and question.

So I would -- I would think that it will be much easier for the Court to do that. It's much more difficult for us to read it into the record then have objections and we just don't have enough time. Unless the Court would consider adding a couple more days for just the reading of the depositions, I just don't think -- and I -- I think it's true with Mr. Marks. I don't think Mr. Marks believes he has enough time as well.

So although our burden is a little bit more difficult because we have all the witnesses, we've done the accounting, so it's -- it's just a more difficult, more time consuming presentation. But again, if we can just hand the depositions to the court with the experts (sic) -- excerpts, Mr. Marks can make his objections and then we -- we've got that done.

THE COURT: All right. Mr. Marks?

MR. MARKS: I'm not sure what he's saying. He's

going to take --

THE COURT: He has --

MR. MARKS: -- the excerpts --

THE COURT: -- certain excerpts --

MR. MARKS: -- which I haven't seen. I have to get them.

THE COURT: Right.

MR. SMITH: Yes.

THE COURT: Right.

MR. MARKS: And then the issue is if I had an objection, normally you're reading the depo in open court and I would object and you'd have to rule.

THE COURT: Right.

MR. MARKS: Because you -- you know you can't object to the deposition other than form and privilege.

THE COURT: Right. Right.

MR. MARKS: So anything that's irrelevant, anything that's cumulative, you're going to potentially see unless we go through potentially line-by-line objections.

THE COURT: Well, I -- I -- but I think what the offer is, the excerpts are submitted to you for your review. And again, I don't -- I don't necessarily expect that this aspect even may be completed by Friday.

MR. MARKS: Okay.

THE COURT: I would expect that the excerpts are provided to you, give you the opportunity --

MR. MARKS: So we have time.

THE COURT: -- to raise ob -- you have time to go through it and identify specific objections before I -- before I read anything. And then ultimately I need to rule on those specific objections. The --

MR. MARKS: How would you --

THE COURT: -- the hope and anticipation is that the objections are going to be relatively limited.

MR. MARKS: How would we --

THE COURT: I don't know.

MR. MARKS: -- preserve for appeal? Do we just have the deposition transcripts marked and say those were effectively read into the finder of fact?

THE COURT: Right. And considered by the Court. Essentially I would treat -- I would have those introduced as exhibits into the record with rulings on whatever is objected to. So what I would expect is if there's an objection as to a question, that objection, you'd have the right to -- to place that objection --

MR. MARKS: On the record.

THE COURT: Right. And -- and I would need to rule on that objection effectively in writing prior to reading the

answer, just as we would in --

MR. MARKS: Court.

THE COURT: -- in -- in live testimony in court.

MR. MARKS: Because it has to be preserved for an appellate process.

THE COURT: Right. Right. And if I sustain the objection, then I would not -- I would not read -- the -- the answer would not be part of the record and that should not be something that I -- that I would consider.

MR. MARKS: I want to cooperate, I just want to make sure we have the appellate --

THE COURT: The protocol.

MR. MARKS: -- record --

THE COURT: Understood.

MR. MARKS: -- the protocol. If he's saying we finish on Friday, then he has time to send it to me, I have time to make my objections. You're indicating, I guess, as an officer of the court, you're going to read every line. Because one of the --

THE COURT: I will.

MR. MARKS: -- things of reading in court is you're up there and it's assuming by osmosis you're hearing it.

THE COURT: Right.

MR. MARKS: But I thought there was a case where the

judge said I'm going to go back and read the record. A judge died, it was some -- it might have been the Smith-Hornwood case, and it got reversed because it said you need the formality of li -- of being in court and actually --

THE COURT: I don't know.

MR. MARKS: -- being on the record. You can't just take your work home --

THE COURT: Right.

MR. MARKS: -- and say I'm reading it and we don't know if you heard it.

THE COURT: Yeah.

MR. MARKS: And if some appellate attorney says that's not the proper procedure, I just don't think it's the proper procedure, you can just go back to your office to do it.

THE COURT: Well, I'm -- and I'm -- I'm not aware of --

MR. MARKS: I'll look --

THE COURT: -- anything of nature --

MR. MARKS: And I'll look --

THE COURT: -- but --

MR. MARKS: -- look --

THE COURT: -- if you -- if you find something --

MR. MARKS: -- (indiscernible).

MR. SMITH: And again, if there is a case, and I haven't --

MR. MARKS: I'll look for that.

MR. SMITH: -- found it, if there is a case on that point, we'll honor that, the law that was set forth by the Court --

MR. MARKS: I think the --

MR. SMITH: -- but I just don't recall that.

MR. MARKS: -- problem is where you don't if you're reading. I think the problem is, had --

THE COURT: I will read it.

MR. MARKS: -- the Supreme Court doesn't know --

MR. SMITH: I --

MR. MARKS: -- unless -- unless I guess you make a record that you're convening court to read it and you're reading it to yourself and you --

THE COURT: Listen, I --

MR. MARKS: -- make a record that I read it --

MR. SMITH: Let me -- let me --

THE COURT: I will go through every exhibit and I will read everything that's part of this record.

MR. SMITH: Let me --

MR. MARKS: No, I'm sure you will.

MR. SMITH: Let me state --

MR. MARKS: I think the Supreme Court --

MR. SMITH: -- for the record --

MR. MARKS: -- needs to know that you're reading it. Right.

MR. SMITH: Let me state for the record, I do not believe a hearing at which the Court acknowledges the reading at the time of the hearing is necessary. I think that would be a gross waste of judicial resources. The Rule 32 does not call for that. It calls for the submission --

THE COURT: Of the transcripts.

MR. SMITH: -- of the transcripts.

THE COURT: Right.

MR. SMITH: And I want to say I have full confidence, if there's anything I have experienced by this Court, you read everything.

THE COURT: I do. I will go through --

MR. MARKS: But under --

THE COURT: -- everything.

MR. MARKS: -- Rule 32, that applies to jury trials, it applies downtown. How could that mean that it's not read in front of the fact finder.

THE COURT: Well, listen, no, I think the point is, it's not foreign to me. I've seen that occur. I've been -- I've participated in that process before.

MR. MARKS: Yeah, I think we --

THE COURT: Where -- where --

MR. SMITH: With a jury present.

THE COURT: -- a deposition --

MR. SMITH: Yeah.

THE COURT: Right. Where a deposition is read. But --

MR. MARKS: Or even a non-jury trial.

THE COURT: I -- and the trier of fact, I welcome to short-circuit this and economize -- economize the time, the submission of the transcript, giving both sides the opportunity to lay any objections and then I have to rule on those. But that -- that is the procedure that I'm inclined to -- to -- to follow.

MR. SMITH: Okay. So we'll have all of that to Mr. Marks in the morning in terms of the excerpts. I don't have that stuff with me, but we'll have it all to Mr. Marks in the morning. And then we would expect that some time before the end of Friday he'll tell us what excerpts we haven't included that he would like to include.

MR. MARKS: I thought you said that we would have additional time.

THE COURT: Well, but that's for the objection, but I think what -- I think what --

MR. SMITH: Right.

THE COURT: -- Mr. Smith is saying is it's not like they're just dumping the entire transcript on you. He -- he has excerpts that he's -- he's going to provide to you. What he's saying is you may have --

MR. MARKS: Counter-excerpts.

THE COURT: -- excerpts that you want submitted.

MR. SMITH: Yeah, that's right.

THE COURT: And you would do the same thing and you would offer those to --

MR. SMITH: That's right.

THE COURT: -- to Mr. Smith. And then you'd -- on both -- I'll lay out a time line. I'm -- I'm not trying to pinch you in terms of how -- how soon you need to get through those deposition transcripts.

MR. MARKS: So if wanted you to --

THE COURT: So we can talk about if you want two weeks --

MR. MARKS: Okay.

THE COURT: -- to go through those --

MR. MARKS: That's fine.

THE COURT: -- excerpts --

MR. MARKS: Are you using --

THE COURT: -- on both sides --

MR. MARKS: Can I ask a question through the Court? Are you utilizing every deposition so I won't have to have my excerpts or are you only using some of them?

MR. SMITH: No, no, we're -- we're utilizing all -- every deposition --

(COUNSEL AND CLIENT CONFER BRIEFLY)

MR. MARKS: So you're not using the family. If I want, I should --

MR. SMITH: Well, they're your --

MR. MARKS: -- designate those.

MR. SMITH: -- depositions, so we --

MR. MARKS: Okay.

MR. SMITH: -- don't have the --

THE COURT: So you may want to look at those and --

MR. MARKS: That's fine.

THE COURT: -- if there are excerpts, do the same thing.

MR. MARKS: Okay.

THE COURT: Okay?

MR. SMITH: Okay.

THE COURT: All right.

MR. SMITH: Thank you.

THE COURT: See you tomorrow --

MR. SMITH: Take care.

THE COURT: -- at nine. You (indiscernible).

MR. SMITH: 9:15 then?

MR. MARKS: Nine.

MR. SMITH: Nine.

THE COURT: I'll be here at nine --

MR. SMITH: For -- okay.

THE COURT: -- but obviously we'll be sensitive to Mr. Kogod --

MR. MARKS: So --

THE COURT: -- and --

MR. KOGOD: I'll be as quick as I can.

THE COURT: Okay.

MR. SMITH: Thank you, Your Honor.

THE COURT: And we -- you can leave whatever you want. We have no other --

MR. SMITH: Oh, great. Okay.

THE COURT: -- proceedings, so --

MR. SMITH: Thank you.

THE COURT: This will be locked up. You can leave things here.

(PROCEEDINGS CONCLUDED AT 17:08:18)

****

ATTEST: I do hereby certify that I have truly and correctly transcribed the digital proceedings in the above-entitled case to the best of my ability.

/s/ Kimberly C. McCright
Kimberly C. McCright, CET
Certified Electronic