

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC

Appellants/Cross-Respondents,

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION,

Respondents/Cross-Appellants.

NO. 77678

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EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,

Appellants

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION

Respondents.

NO. 78176

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THE LAW OFFICE OF DANIEL  
S. SIMON,

Petitioner

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE TIERRA  
DANIELLE JONES, DISTRICT JUDGE,

Respondents,  
and

NO. 79821

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,

Real Parties in Interest.

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BRIEF AND OPENING BRIEF APPENDIX**

**VOLUME VIII OF XI**

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1 offices, they might just verbally tell me what the rate is, and  
2 then we agree to it, and then they send me a bill.

3 Q And then what happens?

4 A And then I get a bill, and then I pay the bill. I  
5 review it to make sure that it's okay, and then I pay it.

6 Q Knowing you as you know you, with your business  
7 background, would you have ever entered into or -- let me just  
8 strike that.

9 Knowing you as you know and the business that you've  
10 done in the past, would you have ever entered into a fee  
11 agreement where the terms were unknown?

12 A There is no way I would ever do anything like that.  
13 I like things a hundred percent crystal clear. There's  
14 absolutely no way that I would ever do that.

15 Q Did Danny ever tell you in person, by email, snail  
16 mail that we're just going to wait until the end to decide what  
17 a fair fee is?

18 A Never.

19 Q If Danny would have ever told you that, what would  
20 you have done in response?

21 A I wouldn't have accepted that.

22 Q Why is that?

23 A It's unheard of. How can you decide what's fair at  
24 the end? I mean, you have to know what the deal is up front.  
25 You know, we need to have an agreement right up front so

1 everybody is 100 percent clear so we're not stuck in this  
2 situation like we are right now.

3 Q Do you have an understanding as to how Brian conducts  
4 business?

5 A I do.

6 Q Knowing Brian as you know him, do you have an opinion  
7 whether or not he would ever enter into an agreement with a  
8 payment of a fee where it was to determine at the end what a  
9 fair fee would be?

10 MR. CHRISTIANSEN: Objection. Speculation.

11 MR. GREENE: I asked her if she had an opinion  
12 knowing Brian as she knew him.

13 THE COURT: Well, you haven't laid the foundation as  
14 to how she knows him as a businessman and what type of  
15 agreements he entered in to.

16 MR. GREENE: Sure. May I ask those questions, Judge?

17 THE COURT: Yeah.

18 BY MR. GREENE:

19 Q Have you had the opportunity in your past, Angela, to  
20 gain an understanding as to how Brian conducts his business?

21 A Yes. I've known Brian for 25 years, and we started  
22 Pediped together. He was actually the one that came over and  
23 took over my father's business after my father became ill. So  
24 we've been working together. We work together not only, you  
25 know, at home, but in our business as well. We see each other

1 every day. So we work together in a business capacity as well.

2 Q Have you had an opportunity, as you've watched Brian  
3 in his business transactions, seen him -- well, watched his  
4 negotiations with vendors?

5 A Yes. He's very tough.

6 Q Have you gained an understanding as to how he  
7 negotiates terms and payments for agreements that he enters  
8 into?

9 A Yes. They're very clear.

10 MR. GREENE: Is that a sufficient enough foundation,  
11 Your Honor?

12 THE COURT: Yeah. She can --

13 BY MR. GREENE:

14 Q And back to that original question, knowing Brian as  
15 you know him in his business dealings, would he have ever  
16 entered into an agreement for the payment of fees when the  
17 amount of the fees to be paid was to be determined at some  
18 later date based upon some fair amount?

19 A Absolutely not. It's unheard of.

20 Q Did you choose to be actively involved or whatever  
21 word would you describe in this flood litigation -- or how  
22 would you describe your involvement in the flood litigation?

23 A I knew what was going on, but I wasn't actively  
24 involved in the day-to-day. I mean, there's no way two of us  
25 could be as involved as my husband was in this case. I have a

1 family to run, a business to run. So I had to take care of a  
2 lot of things, but he would tell me a lot about the case. So I  
3 knew a lot about the case although I wasn't actively involved  
4 in doing all of the things that he did.

5 Q Well --

6 THE COURT: And, Mr. Greene, I'm sorry. I don't mean  
7 to cut you off, but I have a question in regards to the last  
8 line of questioning. I was just waiting for you to finish.

9 MR. GREENE: I'm sorry.

10 THE COURT: You said that you would have never  
11 entered into any sort of agreement where you were going to pay  
12 later and distribute the fee, and you said there was never a  
13 fee agreement, not even for the hourly fee. Is that what you  
14 testified to?

15 THE WITNESS: No.

16 THE COURT: You testified you understood that  
17 Mr. Simon was going to be paid 550 an hour, but there was never  
18 a written agreement for the 550.

19 THE WITNESS: Correct.

20 THE COURT: So at any point did you say to Danny  
21 Simon, hey, I've never done business like this before. I need  
22 you to write something down?

23 THE WITNESS: I've done business like that before  
24 with smaller attorneys.

25 THE COURT: Okay. I thought you testified you

1 hadn't. I'm sorry.

2 THE WITNESS: Yeah, no, I have with attorneys that  
3 are maybe one or two in their office. They don't send a  
4 written agreement over. I mean, usually the larger firms,  
5 because they want to run a check to make sure there are no  
6 conflicts of interest, so I'm used to signing an engagement  
7 letter with the larger firms. But the smaller attorneys, if  
8 they're one or two, no, I'm used to that. So usually it's a  
9 verbal, and then I get a fee or an invoice later, and then we  
10 pay the invoice.

11 THE COURT: Okay. Sorry, Mr. Greene. I'm sorry had  
12 to bring that up.

13 MR. GREENE: Please. Any time.

14 BY MR. GREENE:

15 Q So to follow up on what the Judge just asked, in any  
16 of those instances with those one or two lawyer firms where  
17 there's been an oral agreement for fees and an hourly rate was  
18 quoted and an invoice is sent based upon that hourly agreement  
19 and then it's paid, had you ever had one of those other lawyers  
20 pursuant to the oral agreement come back and ask to change the  
21 terms of the agreement?

22 A Never.

23 Q How many times do you think in the past in your  
24 business life, Angela, that you had dealt with that kind of a  
25 situation where it was that one or two lawyer boutique firm,



1 and there was simply an oral agreement for fees?

2 A I'd say at least 10. 10, 15.

3 Q Those were all prior to this incident?

4 A Yes.

5 Q Any since?

6 A At least 10 or 15.

7 Q Now, we saw a presentation where there were a lot of  
8 boxes brought into the Court. A lot of documents in this  
9 case -- is that your understanding?

10 A Yes.

11 Q Do you have an understanding as to what, if any,  
12 documents that you looked at throughout this litigation to keep  
13 yourself apprised?

14 A From time to time we had faxes to a shared Google doc  
15 file, and so from time to time Brian would ask me to, like,  
16 look at some things and help him reference it. I didn't want  
17 to do it, but I did it just to help him out. So from time to  
18 time, yes.

19 Q Do you have an estimation on the number of times that  
20 you actually went in and delved in to gain access to the  
21 documents that were being generated in this case?

22 A I probably went in a handful of times, but, you know,  
23 Brian would usually print things out for me, and then he would  
24 basically have it laid out, and he'd say, hey, can you go  
25 through these. Can you match these numbers up. Can you just

1 look at this. Because he's been looking at it too much, so  
2 just to get a fresh pair of eyeballs.

3 Q Okay. And that was a SharePoint that Danny's office  
4 kindly provided for the two of you?

5 A Yes.

6 Q Just other than what you just mentioned, is anything  
7 in addition that you personally did to stay actively involved  
8 in the case other than looking at the SharePoint and some of  
9 the documents that Brian would print out? Anything else that  
10 you could share with the Judge that you did to stay apprised?

11 A I looked at the bills because in our office the bills  
12 will come across my desk with a procedure on how invoices are  
13 paid. So Brian would sign off on the invoice. They would go  
14 get printed by the accountant, and then they would come across  
15 my desk for a final check. So in that regard, I was involved.  
16 You know, he would tell me about the case all the time,  
17 especially when he made discoveries or found new things, or we  
18 spoke to new people. So along the way I have heard a lot of  
19 new discoveries that were being made about the case.

20 Q You saw some spreadsheets earlier in this case as  
21 well. Do you have a recollection of looking at any of the  
22 spreadsheets that were generated? Activations, fees, whatnot,  
23 have you looked at those documents?

24 A Yes.

25 Q Let's talk about some of these activations for a

1 moment about some prior testimony that was offered. Okay? Did  
2 you hear Ms. Ferrel testify that she found over 90 activations  
3 in Great Britain?

4 A Yes.

5 Q Do you have an understanding whether or not that  
6 testimony is true?

7 A I do have an understanding.

8 Q And what is your testimony on that?

9 A It's not accurate. Even I know that. The  
10 activations, she's misunderstanding an email that was basically  
11 sent about 90 activations in the U.S. So they did not occur in  
12 the UK, and, in fact, there's only 11 identified activations in  
13 the UK, and, like, at the end of the case there were 20. So  
14 that's not accurate.

15 Q Do you have an opinion as to who found those  
16 activations?

17 A My husband did.

18 Q And how do you know that?

19 A Because he would tell me whenever --

20 MR. CHRISTIANSEN: Objection. Hearsay then, Your  
21 Honor. It's privileged. If he's telling her stuff, they can't  
22 assert it. She can say what she knows independently. That's  
23 the rule.

24 THE COURT: Does she have any independent knowledge  
25 of this without something Mr. Edgeworth told her?

1 MR. GREENE: That was going to be my next question,  
2 Judge.

3 THE COURT: Okay. Because she was about to -- she  
4 said, he said. So she was about to get into something he told  
5 her.

6 BY MR. GREENE:

7 Q So other than what your husband told you, do you have  
8 an independent knowledge as to who found these activations?

9 A He did.

10 Q And how do you know that?

11 A I saw him do all the work, and we discussed the  
12 activations every single time that --

13 MR. CHRISTIANSEN: Objection --

14 THE WITNESS: -- there was a new activation.

15 MR. CHRISTIANSEN: -- hearsay. Spousal privilege.  
16 They can't get into it.

17 BY MR. GREENE:

18 Q Other than in-court testimony that you heard from  
19 Ms. Ferrel and from Danny, did you ever hear them say that they  
20 found these activations in the UK?

21 A Never.

22 Q Did you hear them give credit to Brian for finding  
23 these activations?

24 A I'm sorry. I didn't hear you.

25 Q Did you ever hear them outside of this courtroom give

1 Brian credit for the work that he was doing in finding these  
2 activations in Great Britain, Los Angeles and, you know, other  
3 parts of this world?

4 A No.

5 Q Who is Harold Rogers?

6 A Harold Rogers is one of the largest installers of the  
7 VK457. He installed, I think, more than 50 percent of all of  
8 those heads around the world.

9 Q Did you ever have a chance to speak with him?

10 A No, I did not.

11 Q Were you aware how active Brian was --

12 A Yes.

13 Q -- in this flood litigation?

14 A Yes.

15 Q What did you observe?

16 A I observed him working all the time. He was  
17 basically consumed from January to November with this case,  
18 weekends, weeknights, time away from family. When we went to  
19 dinner, it would be talk all about sprinkler heads and torque  
20 and hinges, and that's basically the entire life that we lived  
21 for those months. So when I saw him working all the time, and  
22 we did a lot of things in the family without him during that  
23 time. I basically didn't have a husband during that time.

24 Q Let's shift gears for a moment and talk about some of  
25 the invoices in this case that Mr. Simon's office generated and

1 sent to you -- to you and Brian. Are you aware of -- you  
2 mentioned that it came across your desk. Are you aware of the  
3 content of the invoices that Danny Simon's office submitted to  
4 you for payment?

5 A Yes.

6 Q Do you have any concerns with the content of the  
7 original four invoices that were submitted from December of --  
8 or paid from 2016 until September of 2017?

9 A I was concerned because there was a lot of block  
10 billing in them and not a lot of detail. The invoices that I  
11 usually received from attorneys are very, very detailed. So  
12 for one line, you know, they might put five different  
13 descriptions of what it was for, even if it was a 15 minute.  
14 So this was a little bit different than what I was used to. So  
15 I was concerned.

16 Q Any other concerns that you had about the content of  
17 the invoices that were submitted and paid by you and Brian?

18 A It just seemed like because he didn't have a billing  
19 system maybe he might have over exaggerated, not on my -- not  
20 to my benefit.

21 Q What effect, Angela, do you remember that this flood  
22 litigation had on you and your family?

23 MR. CHRISTIANSEN: Objection. Relevance.

24 THE COURT: Mr. Greene.

25 MR. GREENE: It has relevance as she's going to be

1 answering shortly on every aspect, including their finances and  
2 including their ability to conduct other business affairs and  
3 that Danny Simon was well aware of it.

4 MR. CHRISTIANSEN: It still has absolutely no  
5 relevance as to what money of the \$1.9 million that's in the  
6 joint trust account is owed to Mr. Simon and owed to the  
7 Edgeworths. That's the issue.

8 MR. GREENE: Well, the thing is that three days of  
9 Brian Edgeworth being up -- or two days on the stand, and we  
10 certainly didn't limit it to how much Danny is owed or not owed  
11 pursuant to the work he did or didn't perform. It went far  
12 abreast of that. So this is her chance. She was injured in  
13 this case, Your Honor. This is not a huge diversion from a  
14 relevant issue of damages that they separate in this case.

15 MR. CHRISTIANSEN: Judge, this isn't a personal  
16 injury case. This is an adjudication of an attorney's lien --

17 MR. GREENE: True. It's.

18 MR. CHRISTIANSEN: -- and her mental anguish because  
19 she chose to not pay Mr. Simon and sue him instead isn't  
20 relevant.

21 MR. GREENE: Wow. He's right. It's not a personal  
22 injury case at a 40 percent fee. He's dead right about that.  
23 It is not.

24 THE COURT: Well, I mean, and I think that's  
25 [indiscernible], but we need to limit this hearing because I

1 think the reason that we are on Day 5 is because there have  
2 been no limits on this hearing, this three-day hearing that now  
3 we're in day 5.

4 The question was what effect did this have on her?

5 MR. GREENE: On the family. And it's a broad  
6 question.

7 THE COURT: It's a broad question. She can talk  
8 about the financial aspects of that because, as I previously  
9 explained, I'm not here to judge anyone. I'm here to get to  
10 the bottom of what is owed, what's been paid, what hasn't been  
11 paid and what people are owed. So she can talk about the  
12 financial effects of how this affected her family.

13 BY MR. GREENE:

14 Q What financial effects did this litigation have on  
15 you and your family?

16 A It was very stressful. It was a very stressful time  
17 for us.

18 THE COURT: And you said -- I'm sorry, Mr. Greene. I  
19 don't mean to cut you off either, but we've kind of moved on,  
20 and I'm sorry I never know when you guys are done with one  
21 section.

22 You said you had concerns that the billing was  
23 exaggerated. Are these concerns that you have now, or are  
24 these concerns that you had when you guys received -- because I  
25 thought Mr. Greene was talking about the four original bills.



1 Did you have concerns when you received those four original  
2 bills, or are these concerns you have after the January 2018  
3 bill?

4 THE WITNESS: I had concerns back then, Your Honor.

5 THE COURT: Did you express those to Mr. Simon?

6 THE WITNESS: No.

7 THE COURT: And I'm sorry, Mr. Greene.

8 MR. GREENE: We all know, Judge, this is your show.

9 THE COURT: Well, I am the trier of fact. So I think  
10 I can ask questions more than I can when we're in trial.

11 MR. GREENE: We're just living in your world. No  
12 worries.

13 BY MR. GREENE:

14 Q Let's talk about the legal bills some more. Were you  
15 concerned about them?

16 A Yes, I was.

17 Q How so?

18 A I was concerned about the amount of money that we  
19 were paying. So over the course from December until November,  
20 we had paid out more than \$500,000 in legal fees, which is a  
21 lot of money to pay in legal fees, and I had no idea where the  
22 end was going to be. So, you know, at that time when you're  
23 right in the thick of it, you have no idea where, you know, if  
24 there's an end in sight to these legal bills. So I was really  
25 concerned about that.

1           Q     To his credit, only 370,000ish was legal fees. Part  
2 was costs. So if we can just focus on that, knowing that that  
3 was the amount of the fees, what other concerns did you have  
4 about them?

5           A     Well, 370 -- \$330,000 over 10 months, you know, it's  
6 \$33,000 a month in legal fees, and it's a lot of money, and my  
7 greatest concern was just the financial stress that it was  
8 putting on the family at the time.

9           Q     When you were seated in the gallery, Angela, did you  
10 hear Danny testify words to the effect that the payment of his  
11 invoices for fees was optional?

12          A     I heard that, yes.

13          Q     Do you have an opinion as to whether or not that's  
14 true?

15          A     It's completely not true.

16          Q     Did Mr. Simon ever in person, by email, text, snail  
17 mail, ever tell you that the payment of his invoices was  
18 optional?

19          A     Never.

20          Q     If, if he had told you that, what would you have  
21 done?

22          A     Of course, I mean, we would have taken him up on  
23 that. Danny knew how much of a financial stress this was  
24 putting on our family, and, of course, of course we would have  
25 taken him upon that.

1           Q     You were copied on some emails, Angela. Have you had  
2 a chance to review the emails in this case? There are a lot of  
3 them.

4           MR. CHRISTIANSEN: John, are those the ones you sent  
5 over this last week?

6           MR. GREENE: Well, you know, there are some. The  
7 first ones I'm going to show are Bates Simon 3100.

8           MR. CHRISTIANSEN: Exhibit --

9           MR. GREENE: Yeah. That's your --

10          THE COURT: So they're in the Simon exhibits?

11          MR. GREENE: Simon EH 3100.

12          THE COURT: What is the exhibit?

13          MR. CHRISTIANSEN: That's the Bates stamp number.  
14 I'm asking what the exhibit number is.

15          THE COURT: Yeah. What's the exhibit number,  
16 Mr. Greene?

17          MR. GREENE: Oh. That's a super good question. I  
18 thought I was making it easy by pulling from theirs and I  
19 failed. Totally failed.

20          THE COURT: What's the Bates stamp? 3,000?

21          MR. GREENE: It's 3100, Judge. It starts at 3100.

22          I'm going to put it up on the Elmo here so we can all  
23 see it in a second.

24          MR. CHRISTIANSEN: Can they just tell me the exhibit  
25 before I consider if I object, Your Honor, because I don't

1 know --

2 THE COURT: Yeah. I've just got to get the exhibit  
3 number so I can follow you.

4 MS. FERREL, do you know the exhibit number? You've  
5 been pretty good at getting that.

6 MS. FERREL: This is in Exhibit 80.

7 THE COURT: 80.

8 MS. FERREL: This would be in Exhibit 80, yeah. So  
9 this would be on the CD.

10 THE COURT: Oh, okay. Okay. Then I'll wait for  
11 Mr. Greene to put it on the Elmo.

12 MR. GREENE: Some show and tell.

13 THE COURT: Yeah.

14 (Pause in the proceedings)

15 BY MR. GREENE:

16 Q Is that decent enough font, Angela, that you can read  
17 that?

18 A I can read this, yes.

19 Q I can probably make it bigger and maybe break the  
20 thing at the same time.

21 Do you recognize this email as one that you have  
22 reviewed?

23 A Yes.

24 Q This is from Brian to Daniel Simon, dated December  
25 15th, 2016. Would you agree?

1           A     Yes.

2           Q     Just after noon?

3           A     Correct.

4           Q     Focusing right here on the first question, do you  
5 have an understanding as to whether or not this is around the  
6 time that when the first invoice was paid?

7           A     Yes, it is.

8           Q     There's a question from your husband to Danny: Here  
9 are some things you may need to know before I leave. Do you  
10 know where you guys were going?

11          A     Vacation.

12          Q     Just preChristmas stuff?

13          A     Uh-huh.

14          Q     Okay. Do you see Item Number 1?

15          A     Yes.

16          Q     Your bill, Send check to your house or office?

17          A     Yes.

18          Q     How about Number 3? Do you see that?

19          A     Yes.

20          Q     What does that say?

21          A     I'm taking another high-interest loan, unsecured,  
22 only covered by the lawsuit proceeds, for 300,000 from Colin  
23 Kendrick, 2.5 percent interest.

24          Q     Now further.

25          A     This amount will be used by Edgeworth Family Trust to

1 pay the invoices for the bills from the vendors on the rebuild  
2 that are due, including American Grating and lawyer.

3 Q Did you have involvement, Angela, in the taking out  
4 of the loans from your mom and from Colin to pay the invoices  
5 in this case?

6 A Yes.

7 Q You have personal knowledge of that?

8 A Yes.

9 Q Down below --

10 MR. GREENE: Let me just do a zooming thing, Judge,  
11 to see if I can get it a little bit bigger without breaking it.  
12 BY MR. GREENE:

13 Q Right here, read that.

14 A I do not know if you need to notify the lawyers again  
15 that I have done this and will need to do it again as their  
16 client's negligence is costing me a substantial amount of money  
17 and has put my other companies in financial jeopardy to the  
18 point where I am forced to take out ridiculous loans to pay  
19 expenses that they are responsible for.

20 Q Let me just go to a couple more pages on that. One  
21 more page.

22 MR. CHRISTIANSEN: Your Honor, before Mr. Greene  
23 moves on, can we get an understanding for when Mrs. Edgeworth  
24 became aware of these emails? She's not copied on them. So  
25 I'm just not understanding if she knew about them back then or

1 in preparation for now?

2 THE COURT: Okay. Mr. Greene, can you clarify that  
3 with her.

4 MR. GREENE: Sure.

5 BY MR. GREENE:

6 Q When did you gain an understanding as to the content  
7 of these?

8 A I knew that something like this existed, and we just  
9 had to find the emails. So but I just saw it not too long ago,  
10 recently.

11 THE COURT: The email?

12 THE WITNESS: Yes.

13 THE COURT: Well, when you say you knew something  
14 like this existed, so does that -- are you saying that you knew  
15 that this was happening or --

16 THE WITNESS: Well, I knew that we had an agreement  
17 to pay the bills and pay the invoices on an hourly basis.  
18 That's what I mean.

19 THE COURT: Okay.

20 THE WITNESS: Yeah.

21 THE COURT: Okay. But, I mean, in regards to did you  
22 know that your husband some time -- in 2016 did you know that  
23 he had a discussion with Danny Simon about where to send the  
24 check?

25 THE WITNESS: No, I didn't know that.

1 THE COURT: Okay. So you just found that out. Did  
2 you know about him telling Danny Simon I've got to take out  
3 another loan? These are the terms --

4 THE WITNESS: Yes.

5 THE COURT: -- super high interest? Did you know  
6 about that?

7 THE WITNESS: Yes, I did.

8 THE COURT: Okay. But you found out about -- you saw  
9 this email in its entirety recently?

10 THE WITNESS: Yes.

11 THE COURT: In preparation for this hearing?

12 THE WITNESS: Yes.

13 THE COURT: Okay.

14 BY MR. GREENE:

15 Q Did you sign the checks?

16 A Yes, I did.

17 Q Sent the checks?

18 A Yes.

19 MR. GREENE: This is Bates stamp, and just two pages  
20 down, Judge. This is 3102.

21 BY MR. GREENE:

22 Q This is Mr. Simon's response, Re Address. Do you see  
23 that down below? On the bottom, Angela?

24 A Yes. So anything regarding the case should be sent  
25 to 810 South Casino Center Boulevard, Las Vegas, 89101.



1           Q     But if you needed that information to send the check  
2 to Danny Simon for the payment of that first invoice --

3           A     Yes.

4           Q     -- without Mr. Simon providing the clarification, you  
5 as the bookkeeper, how would you have known where to send the  
6 check?

7           A     Correct.

8           Q     Anything on here that you can see where it says that  
9 the payment of fees was optional?

10          A     No.

11          Q     You were, again, sitting in the gallery when  
12 Mr. Simon was testifying, were you not?

13          A     Yes.

14          Q     Did you hear all of it?

15          A     Yes.

16          Q     Did you hear Danny testify that your husband wanted a  
17 fourth invoice in the amount of in essence \$255,000 in fees and  
18 costs so he could then be able to testify at his deposition  
19 that he had paid all of the invoices in full?

20          A     Yes.

21          Q     Do you have an opinion as to whether or not that's  
22 true?

23                 MR. CHRISTIANSEN:  Objection to the extent it calls  
24 for marital communications.

25                 THE COURT:  Mr. Greene, can you establish how she

1 would know that.

2 BY MR. GREENE:

3 Q Did plaintiffs have a little plan, as Mr. Simon  
4 testified, to inflate your damages against the Lange and the  
5 Viking defendants?

6 A No. We wanted to pay the bills, and we had to know  
7 what the bills are and, you know, we don't want to bounce any  
8 payrolls. I mean, we need to know what we owe, and my -- we  
9 pay our bills very promptly. So as a general rule, we like to  
10 pay our bills promptly, and we don't like to owe people money.

11 Q Do you have an understanding of Brian's business  
12 practices as to whether or not he seeks out the opportunity to  
13 spend money and pay bills on his own?

14 A I'm not sure I understand your question.

15 Q Just another bad question in a long line of many that  
16 I've asked.

17 Do you have an understanding as to Brian's business  
18 practices as to how he pays bills?

19 A Yes.

20 Q And the circumstances in which he pays bills?

21 A Yes.

22 Q Do you have an understanding as to whether or not,  
23 with your knowledge of Brian's business practices, whether he  
24 has a custom or practice asking vendors to simply send him an  
25 invoice so he can pay it?

1           A     Yes, all the time.

2           Q     Would Brian, in your understanding of him, if he had  
3     been presented with an invoice, what is he going to do with it?

4           A     Pay it.

5           Q     You've heard, have you not in the gallery, from  
6     attorneys of Mr. Simon, that Brian doesn't pay bills? Have you  
7     heard that?

8           A     Yes.

9           Q     Do you have an opinion on whether or not that's true?

10          A     It's not true.

11          Q     And how do you know that?

12          A     Because we pay our bills.

13          Q     What impact, Angela, was the payment of invoices for  
14     fees and mediation of the house? Those kind of [inaudible].  
15     What effect was that having financially on your family?

16          A     It had a very strong effect at the time because we  
17     had just several things going on at the time.

18          Q     Like what?

19          A     We planned everything. So we had planned out the  
20     entire year's expenditures. So we had the volleyball build  
21     going on at the same time, and then the house damage occurred,  
22     and then we were at basically the tail end of finishing our  
23     house, and we had, you know, money set aside to finish it up  
24     and decorate, and then all of a sudden, you know, we had the  
25     repairs to do, and then we had all of these legal bills that

1 kept mounting.

2 Q In September of 2017, did you have \$255-plus thousand  
3 just sitting aside in a piggy bank, a slush fund to be able to  
4 simply pay an invoice that wasn't due?

5 A No.

6 Q What were the finances like back then in September  
7 of 2017?

8 A It was very tight.

9 Q Knowing Brian as you know him, knowing your finances  
10 as you know them, would Brian in his business practices simply  
11 offer to spend \$255,000 if it wasn't expected to be paid?

12 A No.

13 Q Would you explain to the Judge -- and again that  
14 Cliff Notes fashion -- your understanding as to what financial  
15 resources were used to pay Danny's fees, invoices for fees and  
16 costs.

17 A Yeah. We took out loans.

18 Q Why didn't you go to U.S. Bank, Bank of Nevada, Bank  
19 of on every corner do that?

20 A We tried with Wells Fargo, our bank, and they  
21 wouldn't loan us money.

22 Q Why not?

23 A Because when we told them what it was for, they said  
24 no. For litigation, they said no.

25 Q What about selling some property? Did you think

1 about that?

2 A It didn't make sense to sell property. So from just  
3 a business perspective, we decided to take out loans.

4 Q Usually a general rule of don't loan money to family  
5 members, but one of the lenders was your mom. Why was she on  
6 the list of potential sources of revenue?

7 A My mom has money that she doesn't use, and so I asked  
8 her. I'd never borrowed money from her before, and so in a  
9 time of need I asked her, and she said, yes.

10 Q Who's Colin?

11 A Colin is a friend of ours.

12 Q Is he a hard money lender?

13 A No.

14 Q How did he make his way to the list of individuals  
15 who would be available to loan money?

16 A Again, he was close enough a friend that we could ask  
17 that to and felt comfortable, and so we asked that, and he said  
18 yes.

19 Q Was Danny aware of these --

20 A Yes.

21 Q -- resources that were being used?

22 A Yes.

23 Q As a business person like you are, what financial  
24 benefit, if any, were you and your family getting from having  
25 to pay high interest on the loans that were used to pay fees

1 and costs?

2 A None. Absolutely none. We had to pay the interest.

3 Q Did you hear Danny testify, where you are, the other  
4 day, that you benefited from the interest?

5 A I did.

6 Q Do you have an opinion on that?

7 A We did not benefit at all from the interest payments.  
8 We had to pay them.

9 Q Do you know how much?

10 A We had to pay more than \$1.1 million back, which  
11 after we received the settlement, we paid right away.

12 Q So Mr. Simon says you don't pay your bills. Did you  
13 hear that testimony?

14 A Yes.

15 Q You read that in the pleadings?

16 A Yes.

17 Q So you had principal and interest on these loans that  
18 were used to pay these fees?

19 A Yes.

20 Q And costs; correct?

21 A [No audible response.]

22 Q When did you get the undisputed funds following the  
23 Viking settlement?

24 A January 21st.

25 Q Of?

1           A     2018.

2           Q     What day did you pay your mother and Colin for the  
3 principal and interest that you had borrowed and had accrued?

4           A     The next day. I mean, to stop the interest rate from  
5 accruing more, we paid them the very next day.

6           Q     Anything outstanding there? Meaning any money still  
7 owed to the lenders?

8           A     No.

9           Q     Did you also hear Danny testify under oath in that  
10 chair that Brian wanted to pay all of Danny's invoices as part  
11 of his little strategic plan, quote, "little strategic plan,"  
12 to give credibility to his damages and justify his loans that  
13 he was taking out and earning all this interest on? Did you  
14 hear that?

15          A     Yes.

16          Q     Did the plaintiffs have a strategic little plan to  
17 ramp up your damages to justify loans that you were taking out?

18          A     Absolutely not.

19          Q     Did you want damages?

20          A     We wanted no part of this.

21          Q     Again, did you earn any interest on these loans?

22          A     No.

23          Q     At any time prior to -- let's just shift gears a  
24 little bit if we can. At any time prior to November 17 of  
25 2017, did Danny ever suggest to you, plaintiffs, that, hey, we

1 should enter into a different kind of fee agreement, hybrid,  
2 contingency, anything of the like?

3 A No, never.

4 THE COURT: And did you say, Did Danny ever suggest  
5 that, Mr. Greene?

6 MR. GREENE: Yes.

7 THE COURT: Is that what you said?

8 MR. GREENE: Yes.

9 THE COURT: Okay.

10 BY MR. GREENE:

11 Q As a plaintiff in the litigation, the flood  
12 litigation, if in July, August of 2017, if Danny had come  
13 forward with a written proposal for a hybrid-type-fee  
14 agreement, what would have been your response?

15 A We would've considered it, and it would have taken  
16 some of the financial burden off of ourselves, but it would  
17 have to be something that made sense. So, you know, after we  
18 got all of our costs back, all of our losses, and there was  
19 some sort of upside for, you know, both parties to kind of  
20 pursue the case to its fullest, then we would've considered it.  
21 Yes.

22 Q Did it ever happen?

23 A No.

24 Q Even though you were a plaintiff -- well, let me just  
25 back up a little bit. What ownership interest do you have in



1 the underlying plaintiffs that were in the flood litigation?  
2 Edgeworth Family Trust and so on, et cetera, American Grating.

3 A 50 percent.

4 Q Okay. Is that a partnership? LLC? Do you know?

5 A LLC.

6 Q The Edgeworth Family Trust is a trust?

7 A Yes.

8 Q Are you a trustee?

9 A Yes, I am.

10 Q Do you share those responsibilities with anyone else?

11 A Just Brian.

12 Q When the case against Viking settled on November  
13 15th of 2017, how did you feel?

14 A I was relieved. I was happy that it was over.

15 Q It's over. What did you think was going to happen  
16 next?

17 A I thought we --

18 Q What did you expect was going to happen next?

19 A I thought we would sign documents, and it would be  
20 over, and we could put it behind us.

21 Q What effect did it have on Brian to finally get this  
22 thing settled?

23 A He was relieved as well.

24 Q Let's go forward a couple of days from the settlement  
25 with Viking. I'm going to focus for a few minutes --

1           MR. GREENE: I'm going to spend some time on this,  
2 Judge, on the --

3           THE COURT: Well, do you guys want to break for lunch  
4 now? Because I was going to go wait like 10. So we'll break  
5 for lunch now, and then we'll come back, and you can -- so you  
6 don't have to break that up, Mr. Greene.

7           MR. GREENE: Yes, Judge.

8           THE COURT: Okay. So we're going to break for lunch  
9 now. It's 12:20. We'll be back from lunch at 1:45.

10          MR. CHRISTIANSEN: Yes, Your Honor.

11          THE COURT: And then we'll come back, and then,  
12 Mr. Greene, you can resume.

13          ATTORNEYS: Thank you, Your Honor.

14          THE COURT: Okay. Ms. Edgeworth, you're still going  
15 to remain under oath. You're not allowed to talk to anybody  
16 about your testimony over the lunch break.

17          Okay. Thank you.

18          [Proceedings recessed 12:22 p.m. to 1:51 p.m.]

19          THE COURT: -- in A767242 and A738444, Edgeworth  
20 Family Trust versus Lange Plumbing; Edgeworth Family Trust  
21 versus Daniel Simon.

22          Mrs. Edgeworth, if you could just approach back up to  
23 the witness stand, and I'd just like to remind you that you are  
24 still under oath. You don't have to be sworn in again. So you  
25 can have a seat, ma'am. Thank you.

1           And, Mr. Greene, whenever you are ready.

2           MR. GREENE: Thank you.

3 BY MR. GREENE:

4           Q     Angela, let me just go back and cover something with  
5 you quickly if we can. Earlier you testified about your hope  
6 or expectation that 5- to \$10,000 would hopefully get this  
7 matter put in the rearview mirror or words to that effect. Do  
8 you remember testifying to that?

9           A     Yes.

10          Q     You had hoped that sending a few letters might get  
11 the job done basically is kind of what you were saying;  
12 correct?

13          A     Yes.

14          Q     Now, by the time that those few letters were to be  
15 written, what's your understanding as to what the status of  
16 this whole matter was?

17          A     It wasn't resolved.

18          Q     And when Danny was going to get involved, and the  
19 letter-writing campaign had ended, do you have any expectation  
20 as to what would happen next?

21          A     Yes. I knew we were going to file a lawsuit.

22          Q     Okay. Let's get back to kind of where we left off.  
23 Before we --

24               MR. GREENE: Judge, let me just make sure this is --

25               THE COURT: Okay. I was going to say if not, we'll

1 get Brian to help you, Mr. Greene because I couldn't begin to  
2 help you.

3 MR. GREENE: It's actually working. It's a miracle,  
4 a Christmas miracle.

5 BY MR. GREENE:

6 Q Angela, when we left off at lunch, we had moved up to  
7 November 17th of 2017. So let's focus on that date for the  
8 next few minutes. Okay?

9 A Yes.

10 Q Were you in a meeting with Brian and Danny in Danny's  
11 office on November 17th of 2017?

12 A Yes.

13 Q What was your understanding, Angela, as to why you  
14 were going to meet with Danny at his office?

15 MR. CHRISTIANSEN: Objection to the extent it calls  
16 for communications with her spouse.

17 BY MR. GREENE:

18 Q Do you have an independent understanding as to what  
19 that meeting was about?

20 A Yes.

21 Q And what was your understanding?

22 A My understanding that we were going to talk about the  
23 settlement agreement and next steps and strategy.

24 Q Strategy of?

25 A The settlement. To finish up and wrap up the

1 settlement agreement.

2 Q Okay. What time of the day was this meeting  
3 scheduled for?

4 A I believe it was 9:00 a.m.

5 Q Okay. Let's walk ourselves back then. You're  
6 arriving there. What were the circumstances that actually  
7 brought you there? Did you and Brian go together?

8 A No. I arrived separately. My girlfriend dropped me  
9 off at a donut shop downtown, and my husband picked me up, and  
10 then we went over to Danny's office together.

11 Q Sort of as a festive mood?

12 A Yes.

13 Q What happened next?

14 A I got to his office, and I went in and brought some  
15 donuts for them, and I needed to use the rest room. So I  
16 proceeded to use the rest room, and then I walked into the  
17 room. And when I walked into the room, my husband gave me a  
18 little bit of a glance, which I was wondering what that was  
19 about, and then I proceeded to sit down.

20 I sat right here. If this is Danny's desk, I sat  
21 right here. My husband sat right here, and then this is  
22 Danny's desk. He leaned up against the desk, and --

23 THE COURT: Who is he?

24 THE WITNESS: Danny.

25 THE COURT: Okay.

1 THE WITNESS: Uh-huh. And then he started off by  
2 saying that well, you know, usually in these cases I receive a  
3 contingency fee, and that was how he started the conversation,  
4 and then I just looked -- we were just looking at him, and he  
5 said I wouldn't be being fair to myself, and I would be  
6 cheating myself if I didn't get more money out of this case is  
7 essentially what he was saying. So then he went on to tell us  
8 that he normally receives a 40 percent contingency fee, and in  
9 this case that would amount to \$2.4 million, but as, you know,  
10 basically as a favor or a discount he was asking for the number  
11 that he threw out was \$1.2 million.

12 So then I argued back, and I said, well, we paid you  
13 hourly this entire time. I couldn't understand what this  
14 conversation was about, and he said that, no, normally this  
15 case, you know, because the result was so great, he felt he  
16 deserved more. And I said, well, we paid you hourly, and he  
17 said no normally sometimes I might receive an hourly and a  
18 contingency fee. And my head was just spinning.

19 BY MR. GREENE:

20 Q What was your response to that comment by Mr. Simon  
21 that in some of his cases he gets a contingency fee and an  
22 hourly fee?

23 A I believed him. I thought that was the case. I  
24 didn't know any better. He's telling me. This is my attorney.  
25 He's telling me that. So I believed him, and but I was still

1 arguing that we paid you hourly this entire time and that how  
2 could you expect more at this point when the settlement is  
3 done. You know, the settlement came out. It was \$6 million, a  
4 large sum of money, and he said, Well, I expect you to do  
5 what's fair to me.

6 And I said, Well, what if we had lost? What if we  
7 had gotten zero? Would you have given me all my money back  
8 that we paid you in fees?

9 And he said, No, that's not the way this works. You  
10 don't understand. And he also said that you can ask any  
11 attorney this, and any attorney would agree with him that this  
12 was customary.

13 This was normal, and then he wanted us to sign  
14 documents right then and there regarding the contingency fee,  
15 which he alluded to were behind him on the desk if we were  
16 ready to sign, if we could come to an agreement, and at some  
17 point I looked at him, and I said, Well, we have to discuss  
18 this. We'll think about this, and we'll get back to you.

19 And he also went on to say that, you know, there was  
20 still things left on the case, the settlement that were not  
21 done yet, and he would feel uncomfortable signing if we didn't  
22 come to this agreement.

23 Q What --

24 THE COURT: Signing what.

25 THE WITNESS: Signing his contingency fee document.

1 He wouldn't feel comfortable signing the settlement agreement  
2 if we didn't come to an agreement before the settlement case.  
3 So he made it sound that him completing the settlement  
4 agreement was contingent upon us agreeing to his contingency  
5 agreement. He also said that -- he threatened basically not to  
6 go to court for us anymore and that he wouldn't feel  
7 comfortable doing that if we didn't sign the contingency  
8 agreement.

9 THE COURT: What did he say when he threatened to not  
10 go to court for you?

11 THE WITNESS: He said, Basically, you know, there's  
12 still a lot of things that needed to be done, and I might not  
13 feel comfortable representing you in that case if, you know,  
14 you don't treat me fairly basically is what he was saying.

15 BY MR. GREENE:

16 Q Did he say anything else that comes to mind as you  
17 sit here?

18 A That was essentially what he told me that day, and --

19 Q Let's back up for just a minute. You mentioned the  
20 orientation: Attorney desk, client chairs, and Danny sitting  
21 in the front. How far away from you was he?

22 A Probably 2 feet. At least the chairs were about 2 or  
23 3 feet from his desk, and he was standing in front of his desk  
24 looking kind of down at us while we were seated.

25 THE COURT: So he's standing in front of his desk?



1 He's not behind his desk?

2 THE WITNESS: He's not behind his desk. He's in  
3 front of his desk.

4 THE COURT: Okay.

5 THE WITNESS: And he had his feet crossed leaning  
6 against his desk.

7 BY MR. GREENE:

8 Q You had been friends with the Simon family for how  
9 many years before this November 17, 2017, meeting?

10 A 11 years.

11 Q How many opportunities in that 11 years had you had  
12 an opportunity to interact with Danny prior to this  
13 November 17, 2017, meeting?

14 A Many.

15 Q What was his demeanor during that meeting from the  
16 moment that it began?

17 A It was a little condescending and kind of saying, you  
18 know, he did such a great job on the case that he felt that he  
19 deserved more, and I felt threatened. He held all the cards.  
20 You know, at that point we didn't -- I didn't know if there was  
21 a settlement agreement in hand, or whether it was still in the  
22 negotiating phase. So I really felt like the entire settlement  
23 agreement was hinged upon whether he could basically make or  
24 break the deal at that point.

25 THE COURT: What did you think the status was of the

1 settlement negotiations at that time?

2 THE WITNESS: At that time, I thought that the  
3 settlement agreement was they put an offer out there, but the  
4 way that Danny presented it to me was that his signature was  
5 required in order for the settlement to be consummated, that  
6 part of the agreement was contingent upon him signing documents  
7 as well. So I knew that there was an offer, but I did not know  
8 if there was an actual agreement that they presented to us. I  
9 know there was a verbal offer, but I didn't know if it was a  
10 done deal. So I really felt like he could have sabotaged the  
11 deal or said something that wasn't, you know, in our favor to,  
12 you know, make the deal not happen. So I was really concerned  
13 about that.

14 BY MR. GREENE:

15 Q In the 11ish years that you had interacted with Danny  
16 prior to this meeting, had you ever seen him like that?

17 A Never.

18 Q How was it different?

19 A I didn't recognize the Danny in front of me at that  
20 time.

21 Q How long did this meeting last?

22 A I want to say it lasted about 30 minutes because we  
23 just went back and forth. We were sitting there talking about  
24 the fee, his contingency agreement, and how he wanted us to  
25 sign, and it just was a lot of back and forth, and I just -- I

1 couldn't believe I was hearing what I was hearing. I was  
2 sitting there completely in disbelief of what was going on.

3 Q While you were there in that meeting with Danny, what  
4 was Brian saying?

5 A He had his own questions he was interjecting.

6 Q Like what?

7 A I can't --

8 MR. CHRISTIANSEN: Objection. Hearsay.

9 THE WITNESS: -- think of them right now. I can't  
10 think of them right now anyhow. I mean, I remember what I  
11 said.

12 BY MR. GREENE:

13 Q Okay. Did Danny present anything at that meeting for  
14 you to sign?

15 A No. He alluded to the fact that it was behind him on  
16 the desk because he wanted us to agree first, and then he  
17 wanted us to sign the documents right then and there, like he  
18 was anxious for us to sign the documents that day so that he  
19 could -- he felt that, you know, how could we not sign the  
20 documents. What he was asking was really fair. So we should  
21 sign them right then and there. Then he could proceed with the  
22 settlement of the case, and that's when I said I need some  
23 time. We need to discuss this. We need to think about it, and  
24 we'll get back to you, and then I asked him for the documents,  
25 and he wouldn't give them to me. He said well, we need to come

1 to an agreement first.

2 Q You testified that he said talk to anybody. What did  
3 you interpret that to mean?

4 A I needed to find an attorney.

5 Q Talk to anybody about the proposal that I have.  
6 They'll say it's fair. What were the words that he used?

7 A He said talk to any attorney because they will tell  
8 you exactly what I've told you, that this is how things work.

9 Q Okay. While you were there for that half an hour  
10 with Danny and Brian in Danny's office, did Danny ever bring up  
11 on his own the status of the Viking or the Lange settlements or  
12 prospective settlement?

13 A No. He didn't. I kept bringing it up, and Brian  
14 kept bringing it up that what was the status. Where were we?  
15 You know, is there a settlement in hand? And I basically  
16 pleaded with him at that meeting. I said, Please don't stop  
17 working on this case. I said, Please proceed as if we don't  
18 have a settlement in hand because I knew we had an evidentiary  
19 hearing coming up, and so I didn't want him to stop doing all  
20 those things because he had said, Well, I'm going to cancel  
21 this. We don't need to do this because we have the settlement.

22 But then I didn't know if we actually had the  
23 settlement. So I said, I reiterated many times during that  
24 meeting, I said, Please don't stop working on this case. You  
25 should continue as if we don't have a settlement because I

1 wasn't sure if it was still like the details had to be  
2 negotiated or, you know, what was going to happen.

3 Q So you --

4 THE COURT: I'm sorry, Mr. Greene.

5 You said that he said, I will -- he was going to  
6 cancel something. What was he going to cancel?

7 THE WITNESS: There was something coming up with an  
8 evidentiary hearing, and there were -- I don't know exactly  
9 what it was, but there were either -- I don't know, but there  
10 was something coming up with an evidentiary hearing that was  
11 really critical, really important, and he said that, well, we  
12 don't need to do this, and we don't need to do that, and I  
13 said, well, we should do that because we don't -- we still  
14 don't have the settlement in hand.

15 BY MR. GREENE:

16 Q Would you as the client, would Brian as the client  
17 and Danny as the attorney, when you asked him to keep working  
18 on the Viking settlement and consummate it, what assurances did  
19 Danny, your attorney, give you that he would do that?

20 A None. And, in fact, he made it sound like he  
21 couldn't do those things if we didn't sign the agreement that  
22 he had prepared for us that day.

23 Q As the client, how did that make you feel?

24 A I was terrified. I mean, this was like a year of our  
25 life, and I thought it could go down the drain right then and

1 there, and I was really, really scared. I was shaken after the  
2 meeting. I was taken aback. I had no idea what was going on.

3 Q Had you ever had one of your lawyers, the other ones  
4 that we discussed earlier in this hearing ever come on to you  
5 as a client like that before?

6 A No.

7 Q And use that kind of demeanor with you before?

8 A Never.

9 Q And make those kind of threats before?

10 A Never.

11 Q How did that make you feel?

12 A It didn't feel like there was a friend sitting across  
13 from me at the table at that point, and I felt threatened. I  
14 felt scared. I felt worried, and I had the feeling that we  
15 were being blackmailed at that point.

16 Q When you and Brian wouldn't sign some sort of  
17 agreement in the midst of that November 17, 2017, meeting, what  
18 was Danny's reaction?

19 A He seemed perturbed, and he wasn't happy that we  
20 didn't sign, that we were going to leave. I think he was in  
21 disbelief that we didn't sign it right then and there.

22 Q Did he give you the names of any attorneys that  
23 perhaps you and Brian could seek out to vouch for what he had  
24 told you?

25 A No.

1 Q Do you recall?

2 A [No audible response.]

3 Q What did you decide to do after you walked out of  
4 Danny's office following that November 17, 2017, meeting?

5 A I knew we had to see counsel to figure out what my  
6 rights were as a client.

7 Q Did you do that?

8 A Yes.

9 Q We'll go into that a little bit more, and we're  
10 almost done. Okay?

11 So what happened after this November 17, 2017,  
12 meeting? We're going to kind of work our way up to  
13 November 27th. Did you have any additional meetings with  
14 Danny?

15 A No. We exchanged emails, Danny and I.

16 Q Do you know whether -- there's been testimony you  
17 heard that the Simon family went to Peru around the  
18 Thanksgiving holiday. Do you have an understanding as to when  
19 that happened?

20 A I do. It was over the Thanksgiving weekend or week.

21 Q I think a date might have been mentioned that it was  
22 just shortly after this November 17th meeting.

23 A I believe it was the 17th to the 25th.

24 Q Okay. Do you know, have any personal knowledge  
25 whether or not, while the time that Danny was in Peru with his

1 family, whether or not he was working on consummating the  
2 Viking settlement?

3 A I do not.

4 Q Was the Viking settlement agreement ever sent to you  
5 or Brian that you know of from the date of that November 17th  
6 meeting through November 27th, for example, of 2017?

7 A No. I had asked for it many times.

8 Q Okay. We'll get into that, some email correspondence  
9 again in just a moment. Do you know if Danny and Brian  
10 communicated at all while the Simons were in Peru?

11 A Yes. I was in the room when Danny called from Machu  
12 Picchu.

13 Q And what was said that you overheard?

14 MR. CHRISTIANSEN: Objection. Hearsay.

15 MR. GREENE: What Danny said is hearsay?

16 MR. CHRISTIANSEN: Well, unless she's sitting on the  
17 phone with him she can't hear, and she can't talk about what  
18 her husband said because that is hearsay.

19 THE COURT: Were you able to hear what Mr. Simon was  
20 saying?

21 THE WITNESS: No.

22 THE COURT: Okay.

23 MR. CHRISTIANSEN: Objection. Hearsay.

24 THE WITNESS: I could only hear my husband.

25 THE COURT: Then that objection is sustained.



1 MR. GREENE: Thank you, Your Honor.

2 BY MR. GREENE:

3 Q There was also testimony that Brian needed to go do  
4 business in China sometime just after or around the  
5 Thanksgiving break as well. Did you hear that?

6 A Yes.

7 Q And he was gone as well?

8 A Yes.

9 Q Do you know if Brian and Danny communicated regarding  
10 the Viking settlement while Brian was in China?

11 A There was no communication.

12 Q Okay. How about you? While your husband was in  
13 China doing business, did you and Danny Simon have any  
14 communications about anything?

15 A Yes, we did.

16 Q How did you communicate?

17 A By email.

18 Q Let's take a look at some of those.

19 MR. GREENE: And this is once again where I'm going  
20 to fumble, and now she's going to have to come to our rescue.  
21 I know the Bates numbers. Simon EH 1669. It's an email from  
22 Danny to Brian and Angela dated the 27th of November beginning  
23 at 2:26 p.m.

24 MS. FERREL: 1669 is going to be in Exhibit 80.

25 MR. GREENE: And all of these are 80?

1 MS. FERREL: Well, not all of them. There are  
2 certain ones that are not, but that specific one is.

3 MR. GREENE: There's one or two that were out of  
4 order, Ashley. There's one that also starts with -- it's  
5 Number 421.

6 MS. FERREL: That one --

7 MR. CHRISTIANSEN: What's the date on the first one,  
8 John?

9 MR. GREENE: Everything starts on the 27th of  
10 November.

11 MR. CHRISTIANSEN: Okay. Thank you.

12 MR. GREENE: Just kind of works its way --

13 THE COURT: Okay.

14 MR. GREENE: -- to more recent.

15 MS. FERREL: So the 421 one is Exhibit 44?

16 MR. GREENE: 44.

17 THE COURT: That's 421?

18 MS. FERREL: Yes.

19 MR. GREENE: 44 is the 421. And then 80 --

20 THE COURT: Okay.

21 MR. GREENE: -- begins those.

22 THE COURT: Okay. So you're going to start with 80,  
23 Mr. Greene?

24 MR. GREENE: Yes, Your Honor.

25 THE COURT: And you said 44 is the other one?

1 MR. GREENE: Yes. Correct.

2 [Pause in the proceedings]

3 BY MR. GREENE:

4 Q Take a look at this email on your screen.

5 A Yes.

6 Q Angela, do you recognize this?

7 A I do.

8 Q What is this?

9 A It's Danny's email in response to Brian requesting  
10 something in writing.

11 BY MR. GREENE:

12 Q I'll represent to you that this is where the retainer  
13 agreement is contained, where the letter is contained and we've  
14 spent a lot of time on that with your husband's testimony --  
15 and when a settlement breakdown is attached.

16 MR. GREENE: I have a version of it, Your Honor, I  
17 can pull up, but that's undisputed that that's what was  
18 attached to this particular email from --

19 THE COURT: And I can see the attachments listed on  
20 that, Mr. Greene.

21 MR. GREENE: Okay. Gotcha.

22 BY MR. GREENE:

23 Q When you saw this email from Danny regarding these  
24 documents attached, what was your response?

25 A I read the documents.

1           Q     What did you think about those documents that you  
2 read?

3           A     I was really upset. I was very outraged. There were  
4 a lot of things in there that I believe weren't true in the  
5 documents.

6           Q     Meaning the letter which --

7           A     The letter.

8           Q     What was --

9           A     The letter --

10          Q     -- concerning to you?

11          A     Pardon me?

12          Q     What was concerning to you?

13          A     In the letter he had written things such as you knew  
14 that this was not an hourly case from the beginning, which was  
15 false. He claimed that he lost money on the case, which I  
16 found incredible because we paid him an enormous amount of  
17 money. He had also in the letter mentioned about not being  
18 comfortable about continuing to work on our case if we didn't  
19 come to an agreement. There were a few things that were pretty  
20 upsetting.

21                 And then in the actual retainer agreement itself, he  
22 had asked for 1.5 million which was different than the  
23 1.2 million that I understood from the November 17th meeting.

24          Q     As the client --

25          A     Yes.

1           Q     -- getting this, these three documents from your  
2 lawyer, how did that make you feel in light of that  
3 relationship?

4           A     It was pretty upsetting. I mean, I just -- I didn't  
5 understand what was going on. I was completely flabbergasted  
6 and lost.

7           Q     Did you expect that from your attorneys?

8           A     Absolutely not.

9           Q     Did you respond to this email, Angela?

10          A     I did.

11          Q     This is same exhibit, 80, Bates stamp 1667 is the  
12 next email, next in line, same date. Looking at the one that  
13 says -- it's weird how these emails are set up. Such a  
14 technologically challenged human, but they don't just go from  
15 top to bottom. Is that your understanding as well, Angela?

16          A     Yes.

17          Q     So looking at this little dot here, this says from  
18 you?

19          A     Yes.

20          Q     To Danny?

21          A     Yes.

22          Q     3:20 p.m.?

23          A     Yes.

24               MR. GREENE: Your Honor, I don't think it's in  
25 dispute that the prior email that Danny sent was at 2:26 p.m.

1 So this is --

2 BY MR. GREENE:

3 Q Is this your first response to that --

4 THE COURT: And this is 3:20; correct?

5 THE WITNESS: Yes.

6 THE COURT: Okay. Because I thought you said 2:20.

7 MR. GREENE: Yeah, the one that --

8 THE COURT: Danny sent was at 2:26.

9 MR. GREENE: Yes.

10 THE COURT: But this is at 3:20?

11 MR. GREENE: Yes. I'm sorry. Yes. I'm sorry.

12 THE COURT: So right after. Okay.

13 BY MR. GREENE:

14 Q Do you know whether or not you had sent an email to  
15 Danny in response to that earlier email that was earlier than  
16 this one that we're looking at here?

17 A No. This should be the first one.

18 Q What did you convey to Danny at that time?

19 A I conveyed to Danny that Brian was out of town, and  
20 we were trying to process what was going on, and I said, you  
21 know, kind of just said, Well, we'll try to meet when he's  
22 back. In my mind I didn't know what was going on, and I  
23 reiterated to him that I would need to have an attorney look at  
24 this agreement. And then I finally said, In the meantime  
25 please send us the Viking agreement immediately so we can

1 review it, because I was very, very concerned about the status  
2 of the settlement agreement.

3 Q So it looks like about half an hour later if you go  
4 up one more subject line, that appears to be Danny's response  
5 to you. Is that your understanding as well?

6 A Yes.

7 Q And what was your understanding about his advice to  
8 you then?

9 I haven't seen the Viking agreement. He said that;  
10 correct?

11 A Correct.

12 Q And did he advise you in anything else of  
13 significance in his reply in relation to your concerns?

14 A No.

15 Q As a client.

16 A No. I was looking for some reassurance, but, no.

17 Q Okay.

18 THE COURT: And when you sent --

19 Just before you move on, Mr. Greene.

20 When you sent the email that you sent at 3:20, you  
21 say, We would like to have our attorney look at this agreement  
22 before we sign. Who are you referring to?

23 THE WITNESS: I wasn't. I was referring to my -- I  
24 mean, I was referring to my girlfriend Lisa Carteen, who has  
25 been my attorney for more than 20 years. So when I said that,

1 I just wanted him to know that I wasn't going to sign anything  
2 unless I had an attorney read it. So she's been my longtime  
3 friend and attorney.

4 THE COURT: Okay.

5 BY MR. GREENE:

6 Q Let me show you the next exhibit. This is Bates  
7 Number 1664, same of Exhibit 80. Do you recognize this email,  
8 Angela?

9 A I do.

10 Q Do you remember receiving this?

11 A Yes.

12 Q Do you remember sending this?

13 A I do.

14 Q What's your understanding as to the order? Would it  
15 be your understanding of it down here at the bottom of the  
16 exhibit would be an email from Danny?

17 A Yes. But there's an email below it that was before  
18 that.

19 Q Right here?

20 A At the very bottom it says 4:14.

21 Q 4:14. This is an email that you sent to Danny?

22 A Yes.

23 Q What were you asking for?

24 A I said, did you agree to the settlement? Because we  
25 wanted him to. We conveyed in the November 17th meeting that



1 we were fine with the settlement agreement as it was and just  
2 wanted to know did he redo it? Did he have it? What was the  
3 status of it? And that I was concerned. I said, Why have they  
4 not sent it yet, and when is it coming? Please clarify.

5 Q So then what was his reply?

6 A His reply was,

7 It appears you have a lot of questions  
8 about the process, which is one reason I  
9 wanted to meet with you. If you'd like to  
10 come to the office or call me tomorrow, I'll  
11 be happy to explain everything in detail. My  
12 letter also explains the status of the  
13 settlement and what needs to be done. Due to  
14 the holiday, they probably weren't able to  
15 start on it. I'll reach out to the lawyers  
16 tomorrow and get a status. I'm also happy to  
17 speak to your attorney as well. Let me know.  
18 Thanks.

19 And after I read that, I was not about to walk in by  
20 myself into Danny's office and sit down with him and have him  
21 bully me into signing some documents that I didn't want to  
22 sign.

23 Q Let's back up for a second. This 4:14 p.m. email  
24 that you sent to Danny, did you agree to the settlement? What  
25 settlement were you referring to?

1           A     The Viking settlement agreement.

2           Q     In Danny's reply to you, 45ish minutes later, did he  
3 provide you any attorney advice as to the status of the Viking  
4 settlement?

5           A     No.

6           Q     What was the tagline? What was he only talking  
7 about? To you, as a client, what did you understand it to be?

8           A     The fee.

9           Q     Next up. The top, a larger email. Was this your  
10 reply?

11          A     Yes, it was.

12          Q     What concerns did you have as a client?

13          A     Well, I think I was in full panic mode at that point,  
14 and so I said I do have a lot of questions about the process  
15 because I was confused. I said, I had no idea we were on  
16 anything but an hourly contract with you until our last  
17 meeting.

18               And then I told him that Brian was still away, and I  
19 said I wanted to get a complete understanding of what has  
20 transpired so I can consult my attorney because I was scared.  
21 I do not believe I have to get her involved at this time. I  
22 was hoping that he would just give me some information about  
23 the settlement agreement.

24               And then I said, Please let me know what the terms of  
25 the settlement are to your knowledge at this point and if

1 there -- because they're not detailed in your letter. I mean,  
2 it was just this thing overhanging us that we had just no idea  
3 whether, you know, he had nixed the deal or what was the status  
4 of it, and I said, Please send over whatever documentation you  
5 have, or tell us what they verbally committed to. Otherwise,  
6 you know, I'll review the letter, meaning the settlement  
7 agreement, and get back to you in a couple of days. And then  
8 in the meantime I trust we're still progressing with Lange, et  
9 al., any other immediate concerns that should be addressed  
10 because I was concerned that he wasn't going to represent us  
11 anymore on all the issues that were in play.

12 And then I reiterated, as I mentioned in our last  
13 meeting, the November 17th meeting, that we should still be  
14 progressing as originally planned. I would hate to see a delay  
15 for any reason, and that was in response to Danny saying that  
16 we didn't have to do this and this and that. And I said, Until  
17 we see an agreement, there is no agreement. So please let me  
18 know if there are any upcoming delays.

19 And I think everyone has been busy over the holidays  
20 and not had time to process everything, and then I -- again, I  
21 was just trying to confirm, you know, you have not yet agreed  
22 to the settlement. Is that correct? Have you seen it? Is it  
23 there? You know, what's the status of the settlement?

24 Q Do you recall getting a reply email from Mr. Simon --

25 A No.

1 Q -- in reply to this at least on the evening of  
2 November 27, 2017 --

3 A No.

4 Q -- 5:32 p.m.?

5 A I didn't get a reply.

6 Q Not that evening?

7 A No.

8 Q Let's look at another email.

9 MR. GREENE: This is Exhibit 44, Your Honor.

10 THE COURT: Okay.

11 MR. GREENE: Bates stamp 421.

12 BY MR. GREENE:

13 Q Do you recognize this email, Angela?

14 A Yes, I do.

15 Q It looks like there's one to -- from Danny, and  
16 there's one to Danny. Is that your understanding?

17 A Yes.

18 Q At least the ones we're focusing on from November  
19 29th.

20 A Yes.

21 Q In looking at this Wednesday, 29th email, is it your  
22 understanding that this is one that you sent to Danny?

23 A Yes.

24 Q In the morning. Why was this email sent, Angela?

25 A I hadn't heard from Danny in more than a day, and I

1 was panicked, scared. I had no idea what was going on, and so  
2 I sent another email, and I said, Danny, Brian is en route and  
3 gets back late tonight. You know, he'll get back to you  
4 shortly in time and sit down and talk. I'd prefer if you and  
5 Brian work this out -- as I did not want to be involved. When  
6 I came to your office, I thought it was to talk about next  
7 steps in the case. I had no idea we were going to talk about  
8 the fees. So I prefer to be excluded from that narrative until  
9 you two reach a resolution.

10 I said, this has been stressful and awkward. Please  
11 feel free to call me today if you'd like to discuss anything,  
12 but I have little knowledge about the case and process and  
13 prefer the two of you figure this out and move on, move  
14 forward. But that was my polite way of saying just please try  
15 to work this out.

16 Q And then he replied, of course, it looks like at  
17 10:36 a.m. that morning?

18 A Yes. He said,

19 In light of the recent emails from you  
20 this week and that your signature is required  
21 for all documentation as well as the fact  
22 that you are a principal of the parties in  
23 the lawsuit, it'll be necessary for both of  
24 you to be present at any meeting we have.  
25 Therefore, please advise what time is good

1                   for both of you to come to my office and meet  
2                   when he returns.

3                   UNIDENTIFIED SPEAKER: Thanks.

4                   THE WITNESS: Thanks.

5 BY MR. GREENE:

6           Q     Any other communications that you and Danny had via  
7 email while Brian was still in China?

8           A     Well, I felt like he wasn't answering my emails. I  
9 would ask him a direct question, and he wouldn't answer me --

10           MR. CHRISTIANSEN: Judge, objection. Move to strike  
11 as nonresponsive. The question was, Were there any other  
12 emails?

13           THE COURT: And, ma'am, the question was were there  
14 any other emails exchanged between you and Mr. Simon while your  
15 husband was away in China?

16           THE WITNESS: No, that was it, Your Honor.

17           THE COURT: Just the ones that Mr. Greene is showing  
18 you?

19           THE WITNESS: That's it, yes.

20 BY MR. GREENE:

21           Q     And as a client, again, and Danny Simon the attorney  
22 in this relationship, what did you feel that your  
23 representation from him was like, and what was the impact upon  
24 you upon receiving or not receiving email communications from  
25 your attorney?

1           A     I was really concerned, and I wasn't sure if he was  
2 an advocate for me anymore.

3           Q     The Viking case settled. What terms were acceptable  
4 to you for settlement with Viking and when? And as to the what  
5 terms were first, and then we'll go to the when second.

6           A     We were agreeable to the agreement as it was, as is.

7           Q     \$6 million?

8           A     Yes.

9           Q     Confidentiality?

10          A     Yes.

11          Q     It just didn't matter?

12          A     At that point we just wanted to put it behind us.

13          Q     Wanted it done. Was Danny made aware of this?

14          A     Yes.

15          Q     Angela, why did you and Brian hire Vannah and Vannah?

16          A     I never thought in a million years that I'd have to  
17 hire an attorney to protect me from my attorney, and that's why  
18 we had to hire Vannah and Vannah, to basically help us through  
19 this process because now we found ourselves in this  
20 predicament.

21          Q     Angela, did you ever tell Danny to stop working on  
22 your cases against Viking and Lange?

23          A     Never. In fact, at the meeting I reiterated don't  
24 stop working on the case, and by email I also told him please  
25 don't stop working on the case.

1 Q Did you ever stop listening to the advice of Danny  
2 Simon?

3 A No.

4 Q Following and listening, are those distinct different  
5 words to you?

6 A Yes.

7 Q When you've received advice from attorneys in your  
8 past business life and present business life, do you always  
9 follow the advice that the attorneys give?

10 A No.

11 Q You have a business background?

12 A Yes.

13 Q Smart, feel you can make decisions on your own too?

14 A Absolutely.

15 Q Did you ever send anything to Danny, any form of  
16 communication that said you are no longer my lawyer?

17 A No.

18 Q There was a thing that we call the superbill that was  
19 presented to everyone on January 24th of 2018, that was  
20 included in Danny's motion to adjudicate his attorney's lien.  
21 Prior to the time that that bill saw the light of day, had you  
22 ever seen any of those billing entries before?

23 A No.

24 Q Had Danny, your lawyer, ever communicated to you  
25 prior to November 17 of 2017, that he had additional time that



1 he was going to be billing you that he expected to be paid?

2 A Never.

3 Q Let me back that up. Did he ever tell you at any  
4 time that -- up until even the 27th of November, when the  
5 letter came and the retainer agreement came, that he had  
6 additional time that he was going to bill?

7 A Never.

8 MR. GREENE: Court's indulgence for a moment, Your  
9 Honor.

10 THE COURT: Go ahead.

11 BY MR. GREENE:

12 Q I want to ask you, you knew that Danny still was  
13 working on your case to wrap things up; correct?

14 A Correct.

15 Q Okay. And you probably had an understanding, did you  
16 not, that there was going to be additional time that was going  
17 to be billed that you would be obligated to pay as a plaintiff.  
18 Is that fair to say?

19 A Yes.

20 Q Did you have the opportunity to review the superbill  
21 that was given to all of us on January 24th of 2018?

22 A Yes.

23 Q With your background and expertise in reviewing legal  
24 bills or at least business practices, did you form opinions on  
25 the nature and content of the superbill?

1 A Yes.

2 Q And what are those opinions?

3 A I was upset. I was upset that he went back, and he  
4 found more billing. I found that it was unethical what he did.  
5 I was upset because he had written one line item for 135 hours  
6 for emails. That was \$70,000. I knew that the bill came two  
7 and a half months after our meeting and that it most certainly  
8 wouldn't be in my favor at all, and that was probably used to  
9 justify the higher amount to get him to justify the high amount  
10 that he was due. So I felt that it was egregious.

11 Q You were here in court when Danny testified that he  
12 presented a bill at the mediation on November 10th for  
13 \$72,000, were you not?

14 A Yes.

15 Q Did you hear his explanation that it was for costs?

16 A Yes.

17 MR. CHRISTIANSEN: Objection, Your Honor.  
18 Misstatement of the testimony. That was never said.

19 MR. GREENE: I'm pretty sure it was, but it's in the  
20 transcript, Your Honor. We'll point that out.

21 THE COURT: I will rely on the transcript of what was  
22 said.

23 MR. GREENE: Okay.

24 BY MR. GREENE:

25 Q Were you here when Brian testified that it was his

1 understanding that that invoice for \$72,000 was actually for  
2 fees?

3 A Yes.

4 Q Do you have an opinion of whether or not -- well, let  
5 me back up. Do you know what the costs are that have been  
6 incurred in this case and paid to Danny Simon's office from  
7 September 28 forward?

8 A Yes.

9 Q And what's that amount?

10 A \$68,000 and change.

11 MR. GREENE: Your Honor, we've already agreed to  
12 submit all of our exhibits into evidence. We have a check that  
13 was written and signed by Mr. Simon and Mr. Vannah. It does  
14 have a Bates number. Once again I am just high maintenance,  
15 and I don't know exactly which defense exhibit this comes from.

16 THE COURT: Okay.

17 MR. GREENE: But it's the actual check for \$68,000.

18 MS. FERREL: What's the Bates number, John?

19 MR. GREENE: It's 454.

20 MR. CHRISTIANSEN: What's the date on it, John?

21 MR. GREENE: It's the March 1st --

22 MR. CHRISTIANSEN: Thank you.

23 MR. GREENE: -- of 2018.

24 THE COURT: Okay.

25 MS. FERREL: It's Exhibit 55.

1 THE COURT: 55.

2 MR. GREENE: Thank you.

3 BY MR. GREENE:

4 Q As a plaintiff in the flood litigation, is this your  
5 understanding as the costs that were paid to Mr. Simon's office  
6 following the payment of his fourth invoice?

7 A Yes.

8 Q And this represented payment and costs in full?

9 A Correct.

10 Q I'm not a math major. Is that \$72,000?

11 A No.

12 Q So the \$72,000 bill, as a plaintiff in the flood  
13 litigation that was handed to your husband at the mediation,  
14 could that have been for costs?

15 MR. CHRISTIANSEN: Objection --

16 THE WITNESS: No.

17 MR. CHRISTIANSEN: -- speculation.

18 MR. GREENE: It's a plaintiff in the litigation. She  
19 knows what the costs are. It's simple deductive reasoning.

20 THE COURT: Well, did she see the bill that was given  
21 to them in mediation?

22 [No audible response]

23 THE COURT: So how does she know what the bill is  
24 for?

25 MR. GREENE: Because she has read every single piece

1 of paper in this litigation, and she -- as it relates to this  
2 motion to adjudicate the lien. This was attached to the motion  
3 to adjudicate the lien.

4 THE COURT: Right.

5 MR. GREENE: It was part of the whole process. Do I  
6 need to ask a foundational question as to whether --

7 THE COURT: No. I mean, I know she can testify to  
8 what the check was for, but you keep referring to this bill  
9 that was given during the mediation. Was she there to get that  
10 bill?

11 MR. GREENE: She was not there at the mediation.

12 THE COURT: Okay. So how does she know what the bill  
13 says? Can you lay some foundation that she has seen that and  
14 she can somehow testify to what the bill said the charges were  
15 for.

16 MR. VANNAH: Danny testified to it.

17 MR. GREENE: Danny testified.

18 THE COURT: Right. But Danny has seen the bill.

19 MR. GREENE: And testified it was costs. Brian  
20 testified that it was for fees.

21 THE COURT: Because they've both seen the bill, but I  
22 don't know how she could clear that up if she has never seen  
23 the bill. I mean, you've got to lay some foundation that she  
24 had some sort of knowledge of it. Danny, I'm assuming, is the  
25 person that produced the bill. So of course he's seen it.

1 It's my understanding that he gave it to Mr. Edgeworth at the  
2 mediation. So he's seen it. But how does she know?

3 MR. GREENE: Because of what she's read.

4 THE COURT: Right. But, I mean, she read about it,  
5 but I could read about what it says. I mean, she has to have  
6 some sort of knowledge as to what was contained in this bill if  
7 she's going to testify to what it said.

8 [Pause in the proceedings]

9 BY MR. GREENE:

10 Q On the superbill, Angela, do you have an opinion  
11 whether it's accurate?

12 A I don't believe it's accurate.

13 Q And how do you form that opinion?

14 A Well, there were things on it such as the 24-hour  
15 billing for Ashley Ferrel. There were phone bills. After  
16 looking at the phone bills, there were phone bills that were  
17 billed for, three times the same phone call, things like that  
18 that made me question the accuracy.

19 Q Did you see in the superbill, Angela, that there were  
20 some billing entries going back to the Starbucks meeting from  
21 May of 2016, going all the way forward through the last date of  
22 the invoice, that we've all called the fourth invoice?

23 A Yes.

24 Q As the client in this attorney-client relationship,  
25 how do you feel about having your attorney go back and rebill

1 time that's already been billed and paid?

2 A I was outraged and very upset.

3 Q Why so?

4 A Because that's never happened to me ever.

5 Q Angela, do you have an opinion to share with Judge  
6 Jones as to how much you believe that plaintiffs owe Danny  
7 Simon --

8 A Yes.

9 Q -- for the work that he's -- that he performed in  
10 this matter in addition to what's already been paid?

11 A Yes.

12 Q Would you please share that with the Judge.

13 MR. CHRISTIANSEN: Objection. Foundation. She's not  
14 an expert.

15 MR. VANNAH: She's the client.

16 MR. GREENE: She's the client. She's reviewed all  
17 the invoices for heaven sakes.

18 THE COURT: She's reviewed all the invoices in this  
19 case. She can testify to what she thinks she owes him.

20 THE WITNESS: I believe we owe him the \$72,000  
21 invoice that was presented, and I believe that we owe him the  
22 amount of time of work that was done from the end of that  
23 invoice to the conclusion of the settlement agreement.

24 BY MR. GREENE:

25 Q Do you have an estimation as to what that additional

1 amount would be, talking about the 72,000? Do you have an  
2 opinion as to what that additional time from the 10th of  
3 November of 2017, through the time that, for the most part,  
4 everything had wrapped up by early December 2017?

5 A I think being generous, it would be double that if  
6 you're just going by a month, but --

7 THE COURT: Double what?

8 THE WITNESS: Double that bill.

9 THE COURT: The 72,000?

10 THE WITNESS: Yes.

11 BY MR. GREENE:

12 Q So 144-?

13 A Correct.

14 THE COURT: And are you basing this on the \$550 an  
15 hour, or how are you coming to this figure?

16 THE WITNESS: I'm just using averages, and I know  
17 that there was work done during that period, and I know it  
18 ramped up towards the end. So I'm just extrapolating from that  
19 bill.

20 THE COURT: Okay. So about how many hours do you  
21 think that there are?

22 THE WITNESS: I don't know how many hours exactly  
23 there were.

24 THE COURT: Okay. So how are you arriving at a  
25 figure of \$144,000? Are you -- and does that figure include --



1 are you calculating it at \$550 an hour, or what is the rate  
2 for --

3 THE WITNESS: \$550 an hour. So just based on the  
4 \$72,000 of that period, and there was about the same amount of  
5 time after that from November 10th till the conclusion of the  
6 settlement.

7 THE COURT: But that's just what you believe?

8 THE WITNESS: That's just what I believe, Your Honor.

9 THE COURT: Okay.

10 BY MR. GREENE:

11 Q When we were last here for what seemed like forever,  
12 we talked about some phone bills and phone records that Danny  
13 Simon's law office produced. Do you remember us talking about  
14 that at length?

15 A Yes, I do.

16 Q Have you had a chance to review the phone records  
17 that Danny Simon's office produced?

18 A Yes.

19 Q Did you have the opportunity to review your own phone  
20 bills and phone records pertaining to the same timeline that  
21 pertain to the records from Danny Simon?

22 A Yes.

23 Q Are you able to perform any analysis comparing the  
24 number of calls, time spent on those calls versus the time  
25 billed?

1 MR. CHRISTIANSEN: Objection, Your Honor. They  
2 haven't produced her phone bills, and so this analysis is trial  
3 by ambush. If they want to do an analysis, they owed me her  
4 phone bills when I gave them Mr. Simon's phone bills.

5 MR. GREENE: You never asked for them ever.

6 THE COURT: Right. But, I mean, the issue came up  
7 when Ms. Ferrel testified that she started talking about what  
8 was in her phone records, and Mr. Vannah jumped up out of his  
9 seat and demanded that we get the phone records. And, I mean,  
10 we all didn't have them until we got them. So she can't now do  
11 some sort of comparison from her own phone records if you guys  
12 haven't handed those over because Ms. Ferrel was required to  
13 hand over her phone records after she testified to them.

14 BY MR. GREENE:

15 Q In reviewing Danny's phone records and Ashley's phone  
16 records and comparing them to the times on the invoices that  
17 you were billed for, did you determine if there were any  
18 discrepancies?

19 A Yes. They were overstated.

20 Q To what extent were Danny Simon's charges where his  
21 bill said X number of minutes for a phone call versus what you  
22 as the client were billed, what discrepancy percentage did you  
23 find?

24 A For Danny it was 166 percent, and for Ashley it was  
25 218 percent.

1 THE COURT: And just so you can translate that for  
2 me, I mean, what does that mean? Does that mean that you took  
3 Danny Simon's phone records, the ones that were provided, put  
4 them together --

5 Is this the January bill, or is this the previous  
6 bills?

7 THE WITNESS: This is the superbill.

8 THE COURT: They're in the superbill. So you put  
9 them together, and how do you arrive at 166 percent?

10 THE WITNESS: So when you look at all the phone bills  
11 and the minutes that were billed, and this includes the one  
12 minute calls that are usually just you don't reach somebody or  
13 you get a voice mail, when you add all of those up on his phone  
14 records and then you add up all the time that was billed for  
15 the phone records, so, for example, if there was 10 minutes on  
16 the one bill, it would have been 28 minutes on the, you know,  
17 the billed phone bill. So it was -- for Ashley, I'm sorry, it  
18 was 218 percent more over and above what the actual phone  
19 records were.

20 THE COURT: Okay.

21 [Pause in the proceedings]

22 THE WITNESS: 21-point 8, Your Honor. I think I did  
23 that math wrong.

24 MR. GREENE: [Indiscernible] return your example.  
25 That's fine. If you want to share it, that's fine. Whatever.

1 BY MR. GREENE:

2 Q Let's move on to another topic. Okay. Do you  
3 remember Mr. Christiansen examining your husband on the Coach  
4 Ruben email issue?

5 A I do.

6 [Pause in the proceedings]

7 BY MR. GREENE:

8 Q Who is he?

9 A I'm sorry?

10 Q Who is Coach Ruben?

11 A Oh, Coach Ruben is the director of Vegas Aces  
12 Volleyball, our nonprofit.

13 Q Did you become aware that an email was sent by Danny  
14 to Coach Ruben?

15 A Yes.

16 Q Did you hear Mr. Christiansen say that you and Brian  
17 and Coach Ruben, being the board, are just self-examining,  
18 self-investigating?

19 A Yes.

20 Q Is that true?

21 A No.

22 Q How so?

23 A This is a nonprofit, and we take allegations of any  
24 impropriety very seriously, and so it's important that we  
25 protect the club; we protect the girls; the athletes that play

1 at the club, and we protect the reputation of the club. So we  
2 decided to do the USAV checks after that because Danny had  
3 basically disparaged us to Coach Ruben, who is a friend of  
4 ours. So I can imagine what he was saying to other people that  
5 we didn't know, and so we wanted to protect our reputation and  
6 protect the integrity of the volleyball facility, the  
7 nonprofit.

8 Q Do you plan on being involved in that nonprofit  
9 forever?

10 A Not necessarily.

11 Q Do you plan on that nonprofit organization outlasting  
12 you?

13 A Yes.

14 Q Did you have any, any idea or any indication that a  
15 corporate culture needed to be established?

16 A Yes.

17 Q Did it have anything to do or not with you and Brian  
18 and Ruben deciding that this type of allegation warranted an  
19 investigation?

20 A Absolutely. If it was me or anybody, we would  
21 require the same thing.

22 MR. GREENE: I'm just going to a couple of topics  
23 that shouldn't take too long that deal with bill pay, just  
24 about five minutes on this, Judge. I'm getting close.

25 THE COURT: Okay.

1 MR. GREENE: Scout's honor.

2 BY MR. GREENE:

3 Q Danny has stated in a court filing in his motion to  
4 adjudicate and in his reply that you and Brian don't pay your  
5 bills. Have you read that?

6 A Yes.

7 Q You indicated there was an outstanding obligation to  
8 Lange in the amount of \$22,000ish. Do you remember that  
9 discussion?

10 A Yes. But in the motion, it was for 24,000.

11 Q 24,000. What's your understanding as to the truth or  
12 falsity of that allegation made by Danny that you didn't pay --  
13 plaintiffs didn't pay your obligations to either Lange or  
14 United Restorations in this flood litigation?

15 A It's completely false, and I think it was Danny's  
16 attempt to disparage us and make it seem like we don't pay our  
17 bills.

18 MR. CHRISTIANSEN: Judge, objection to what's  
19 speculation. She can't say what somebody's attempt is or  
20 intent is. Rank speculation. Move to strike.

21 THE COURT: We'll strike that comment. I'll keep the  
22 comment that she says it was false.

23 BY MR. GREENE:

24 Q Okay. Why do you know it was false?

25 A Because the amount owed was actually to Lange, which

1 was \$22,000, and all those dealings were frozen and that that  
2 money was paid out, and Danny signed the check for that check  
3 to go to Lange after the settlement was done. So there was  
4 \$100,000 owed to us; 22,000 owed to Lange.

5 The United Restorations matter was a completely  
6 separate matter, and the reason that that bill wasn't paid was  
7 because they didn't present the mold certificate at the time,  
8 and what happened was that they, United Restorations, didn't  
9 pay the mold certificate company. So we had to negotiate that  
10 on our own and pay United Restorations a certain amount,  
11 19,000, and then paid the mold company \$5,000 to finally get  
12 the mold certificate released which wasn't presented to us  
13 until May of 2018.

14 Q So the deal with United Restorations, they're  
15 cleaning up water damage; right?

16 A Correct.

17 Q Water causes mold; right?

18 A [No audible response.]

19 Q So they were to remediate; correct?

20 A Yes.

21 Q Until you can get occupancy in your home, what did  
22 you need first?

23 A The mold certificate.

24 Q And they hadn't given you that, had they?

25 A Correct.

1 Q And that was part of the deal?

2 A Yes.

3 Q Once it was given to you?

4 A We paid. Well, we paid before that, and then we got  
5 the certificate actually.

6 Q After Danny invited you on November 17th of 2017,  
7 and in a letter of November 27th of 2017, to speak with  
8 attorneys --

9 A Yes.

10 Q -- what did you do?

11 A I reached out.

12 Q To?

13 A Lisa Carteen and Chief Justice Miriam Shearing.

14 Q Sometimes when we tell stories we give the varnished  
15 opinion, kind of the one that smells the best, taste the  
16 best --

17 MR. CHRISTIANSEN: Objection. Is this a question,  
18 Judge, or an argument?

19 BY MR. GREENE:

20 Q -- what facts did you tell Lisa about this conflict  
21 with Danny?

22 MR. CHRISTIANSEN: I just want to make sure he  
23 understands he's now waiving the privilege by getting into  
24 this, the privilege they've asserted.

25 BY MR. GREENE:



1           Q     You said you spoke with her as a friend, and she  
2 happens to be an attorney. Did you retain Lisa?

3           A     No.

4           Q     Speak with her in what capacity?

5           A     As a friend.

6           THE COURT: [Indiscernible.]

7 BY MR. GREENE:

8           Q     So what did you tell her about what had happened  
9 between you and Brian and Danny with this dispute?

10          A     I said we had an hourly-fee agreement with our  
11 attorney to represent us in the Viking and Lange case, and then  
12 when the settlement came down, he decided to change the deal  
13 and ask for a contingency fee.

14          Q     Did the counsel that you received from your friend  
15 Lisa have any bearing on your decisions on how to proceed going  
16 forward?

17          A     Yes.

18          Q     How so?

19          A     We're here.

20          Q     Did you speak with anyone else about, who has a legal  
21 background, about the dispute with Danny?

22          A     Yes. I spoke to Chief Justice Miriam Shearing.

23          Q     Did you retain her as an attorney?

24          A     No. I spoke to her as a friend.

25          Q     And what facts did you tell Justice Shearing about

1 this dispute with Danny?

2 A The same as I told Lisa.

3 Q Did she provide any response?

4 MR. CHRISTIANSEN: Objection. Hearsay.

5 MR. GREENE: Hang on.

6 THE WITNESS: Yes.

7 BY MR. GREENE:

8 Q Did the advice that you received from Miriam Shearing  
9 have any bearing on how you proceeded from that time forward?

10 A Yes.

11 THE COURT: And what time -- when did you talk to  
12 Justice Shearing?

13 THE WITNESS: February of 2018.

14 THE COURT: And the advice you got from her  
15 determined how you proceeded after that?

16 THE WITNESS: It was a long time between November  
17 the 19th until now. So, I mean, the case was still ongoing.  
18 We're here. It's 9 months later or 10 months later. So, yes.

19 THE COURT: Okay. I am so confused. When did you  
20 talk to Justice Shearing?

21 THE WITNESS: February 20th, 2018.

22 THE COURT: So you talked to her in February of 2018?

23 THE WITNESS: Yes.

24 THE COURT: And did you just testify that the advice  
25 she gave you determined how you proceeded after that?

1 THE WITNESS: Yes. I feel her advice, you know --

2 THE COURT: Determined it --

3 THE WITNESS: -- gave me confidence in what we were  
4 doing and that we were right, in the right.

5 THE COURT: After February?

6 THE WITNESS: Correct.

7 THE COURT: Okay.

8 BY MR. GREENE:

9 Q What did she say?

10 MR. CHRISTIANSEN: Objection. Hearsay.

11 MR. GREENE: Its effect on the hearer, Your Honor.  
12 It's a nonhearsay purpose. I'm not offering it for the truth  
13 of the matter asserted.

14 THE COURT: I'll let it in for the effect on the  
15 listener.

16 THE WITNESS: I've known Chief Justice for five or  
17 six years. I approached her as a friend, and I told her what  
18 happened, and she was outraged for me. She said that she  
19 couldn't believe that that happened, and she suggested I report  
20 him to the bar as the first step and then said that this was a  
21 case that was destined for the Supreme Court because it should  
22 set precedence for any other case that happens like this in the  
23 future, and she said she felt sorry that I was in this  
24 situation, and in her entire career she's never heard of  
25 anything like this happening, ever.

1 MR. GREENE: Your Honor, that's all I have.  
2 THE COURT: Okay. Thank you.  
3 Mr. Christiansen, do you need a short break before  
4 you start or --  
5 MR. CHRISTIANSEN: If you don't mind, Judge.  
6 THE COURT: Yeah.  
7 MR. CHRISTIANSEN: Maybe we could use a rest room  
8 break real quick.  
9 THE COURT: We're only to do, like, 10 minutes.  
10 Yeah, we'll take a rest room break. We're only going to take  
11 like 10 minutes because I want you to be able to wrap it up  
12 today.  
13 MR. CHRISTIANSEN: I'm going to be not so long as I  
14 was with her husband, Your Honor.  
15 THE COURT: Okay. We don't have two days. So we'll  
16 be back --  
17 [Proceedings recessed 2:54 p.m. to 3:04 p.m.]  
18 THE COURT: -- Edgeworth Family Trust versus Daniel  
19 Simon.  
20 Mrs. Edgeworth, if you could approach the witness  
21 stand. And, ma'am, I'd just like to remind you you're still  
22 under oath. You may be seated.  
23 THE WITNESS: Yes, Your Honor.  
24 THE COURT: Mr. Christiansen, whenever you're ready.  
25 MR. CHRISTIANSEN: Sure.

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CROSS-EXAMINATION

BY MR. CHRISTIANSEN:

Q Good afternoon, Mrs. Edgeworth.

A Good afternoon.

Q Mrs. Edgeworth, I'm going to ask you some follow-up questions to those that were posed to you this morning and then after the lunch break by Mr. Greene and the topic sort of that he covered with you. Okay?

A Yes.

Q This is cross-examination. So my questions are going to call for yes-or-no answers and I'd just appreciate it if you'd answer that way. All right?

A Okay.

Q All right. Ms. Edgeworth, I'm going to jump around a bit because we started from -- or I'm sorry, we ended today, and one of the last topics was this proposition that you all, you -- I'll just stick with you -- you pay your bills?

A Yes.

Q You pay them when you get them?

A Yes.

Q You don't wait for a court order to pay them?

A No.

Q All right. So let's look at what's been entered.

[Pause in the proceedings --]

BY MR. CHRISTIANSEN:

1 Q -- page Bates stamp 80.

2 MR. CHRISTIANSEN: John, have you seen this before?

3 MR. GREENE: Yeah.

4 MR. CHRISTIANSEN: Yeah. You showed it to her --

5 BY MR. CHRISTIANSEN:

6 Q -- April 18th, 2017, correspondence where your  
7 husband says, We don't have a contract, and I'll pay him what  
8 the Court tells me to. Right? Those are my highlights and  
9 underlines. Correct?

10 A Correct.

11 Q Because your husband owed money at this time to this  
12 contractor; correct?

13 A I don't know. I don't know this case --

14 Q Well, wait a second.

15 A -- and I don't know the --

16 Q Wait a second.

17 A -- the outstanding --

18 Q Wait a second. You just told Mr. Greene that when  
19 you get a bill you pay it; right?

20 A Yes.

21 Q And you just told me you don't wait for a court  
22 order. You get a bill, and you pay it; right?

23 A Correct.

24 Q That email from your husband says, I'm not paying it  
25 because they don't have a contract, and I'll give them what the

1 court orders me; right?

2 A Yes, Mr. Christiansen, but I --

3 Q Okay. That's all I asked you.

4 A -- don't understand what this is about.

5 Q You don't understand?

6 THE WITNESS: It's okay, ma'am.

7 BY MR. CHRISTIANSEN:

8 Q You don't understand what that's about?

9 A No, Mr. Christiansen. I don't.

10 Q Right. And that's a bit indicative, ma'am, of sort  
11 of the historical of your, Mrs. Edgeworth, historical approach  
12 to this case. Sometimes you know everything about the case,  
13 and at other times you don't know anything about the case.  
14 Fair?

15 MR. GREENE: Objection. Is he just going to belittle  
16 her, or is he going to ask a question?

17 MR. CHRISTIANSEN: That was a question.

18 MR. GREENE: Show some respect.

19 THE COURT: Mr. Christiansen, can you rephrase the  
20 question.

21 MR. CHRISTIANSEN: Sure.

22 BY MR. CHRISTIANSEN:

23 Q Ma'am, at different moments throughout -- and let's  
24 just use the last one -- I show you an exhibit about a matter  
25 you just testified to with Mr. Greene, and when Mr. Greene

1 asked you questions, you know everything. You knew all the  
2 answers to his questions; right?

3 A Yes.

4 Q Yet I show you an exhibit, and now you don't know the  
5 answer; correct?

6 A I --

7 Q That's what we just did back and forth?

8 A I don't know what this email is about,  
9 Mr. Christiansen.

10 Q Okay. You told the Court today to start with that  
11 you knew in June of 2016 that Danny Simon was going to bill you  
12 550 an hour?

13 A Yes.

14 Q You never talked to Danny in June of 2016, did you?

15 A No.

16 Q Danny Simon never told you that, did he?

17 A No.

18 Q In fact, ma'am, up until November the 17th, in Danny  
19 Simon's office, you never had a conversation with Danny Simon  
20 about how he was going to bill this case; correct?

21 A No.

22 Q That's not correct or that is correct?

23 A It is correct.

24 Q Okay. That's okay. Cross is a little bit dicey  
25 sometimes.



1           So from the moment Danny agreed -- you got to listen  
2 to your husband, Mr. Edgeworth, testify -- I think it's been a  
3 few weeks now -- over the course of a series of days. Do you  
4 remember that testimony?

5           A     Yes.

6           Q     And Mr. Edgeworth and you are 50-50 owners -- I may  
7 be using the incorrect word -- and both the plaintiffs that  
8 Danny represented in the underlying litigation against Lange  
9 and Viking; correct?

10          A     Yes.

11          Q     You agree with everything your husband testified to?

12          A     Yes.

13          Q     All right. And you --

14          A     I've heard it. I don't know -- I don't know what you  
15 are referring to specifically, Mr. Christiansen.

16          Q     Well, I'll give you an easy example. You just told  
17 the Court you think or you -- I think you said your best guess  
18 is that you may owe Danny another \$144,000. Remember that?

19          A     Yes.

20          Q     And you remember me questioning your husband;  
21 correct?

22          A     Yes.

23          Q     You remember your husband conceding to me that he had  
24 nothing, no information whatsoever to indicate any of the bills  
25 presented, superbill or otherwise, were false. Do you remember

1 that?

2 A Yes.

3 Q Now, you further remember your husband presenting to  
4 the Court that spreadsheet he had created; correct?

5 A The activation spreadsheet? Is that what you're  
6 referring to?

7 Q No. No, ma'am. The spreadsheet he created to  
8 criticize the bills, to come in and say he'd been overbilled.  
9 Do you remember that?

10 A I do not.

11 Q I've got it. You probably I'll refresh your  
12 recollection if I remind you. This is the spreadsheet that Her  
13 Honor caught your husband in a mistake. Do you remember that?

14 A No.

15 Q You don't?

16 A Could you explain it to me.

17 Q Sure. Were you here when the Judge questioned  
18 Mr. Edgeworth about these entries that he put in the  
19 spreadsheet that he proffered as proof that he had been  
20 overbilled?

21 A I was here, yes.

22 Q Do you remember your husband admitting that he -- to  
23 the Judge, she caught him -- that he made a mistake?

24 A I do not remember that.

25 Q Do you remember, if we look down here to August

1 20th of the year 2017 and August 21st, your husband  
2 testified that he thought he had been billed twice for the same  
3 batch of emails. Do you remember that?

4 A I don't remember that specific comment.

5 Q Well, you were here?

6 A Yes.

7 Q Okay. I was asking him questions about what these  
8 boxes meant. Do you remember?

9 A No.

10 Q Okay. Do you remember Mr. Edgeworth testifying that  
11 he thought he'd been double billed for those two sets of emails  
12 on consecutive dates in August?

13 A I don't remember that specific testimony.

14 Q And the emails aren't a secret, Mrs. Edgeworth;  
15 right? Everybody's got them, fair?

16 A I'm sorry. Could you say that again.

17 Q The emails aren't a secret. In other words,  
18 Mr. Greene gave me your emails. They kind of come out a little  
19 bit different than if I print them off Mr. Simon's. Yours say  
20 Gmail. Mr. Simon's says Simon Law, but you all physically  
21 possess all of the emails that went back and forth between you  
22 and Danny; right?

23 A Yes.

24 Q All right. And so it would have been super easy,  
25 would it not, for Mr. Edgeworth to look at these dates, August

1 20th and August 21st, and say, hey, I did or didn't send X  
2 emails on those dates; right? That would have been simple?

3 A Sure.

4 Q And rather than do that -- because remember I had to  
5 show him that on one day he'd sent 10, and on another day he'd  
6 sent 12, and they were totally separate emails, not double  
7 billed. Do you remember that?

8 A No, I'm sorry I don't, Mr. Christiansen.

9 Q Okay. And he could have gone and done that; right?

10 A Yes.

11 Q And it's a little bit like your -- and I want to make  
12 sure I get it right -- like the percentage of overbilling you  
13 accused Mr. Simon and Ms. Ferrel of; right? Because what you  
14 did --

15 And you didn't bring any work product. You don't  
16 have a spreadsheet to show me about that, do you?

17 A I do.

18 Q You do?

19 A Mr. John Greene has it.

20 Q Okay. And what you did is went and compared total  
21 amount of time on a phone call to total amount of time billed;  
22 correct?

23 A Correct.

24 Q And, ma'am, you know, don't you, somebody that's --  
25 are you Harvard educated as well, or is that just Brian?

1           A     That's just Brian.

2           Q     Okay. But you have a background in business. It  
3 sounds like you've been super successful in your own right in  
4 your career.

5           A     Yes.

6           Q     Dozens of lawyers?

7           A     Fair.

8           Q     Bills all the time?

9           A     Yes.

10          Q     You know lawyers bill in the incremental amounts;  
11 correct?

12          A     I do.

13          Q     So if I do something for two minutes as a lawyer, and  
14 I bill .1, that's actually six minutes; right? It's a 10th of  
15 an hour.

16          A     Yes. But sometimes you don't -- if, for example, if  
17 you made back-to-back phone calls, I wouldn't expect to be  
18 billed six minutes, six minutes and six minutes for each one  
19 minute call. My attorneys don't do that.

20          Q     Okay. Ma'am, I simply asked you a question, a very  
21 simple question. Lawyers bill in increments; right?

22          A     Yes.

23          Q     And so when you try to tell Her Honor that these  
24 telephone calls are inflated by the percentages you assigned to  
25 Mr. Simon and Ms. Ferrel, that does not take into account at

1 all the incremental billing of lawyers, true?

2 A True.

3 Q All right. So that figure by its very nature is  
4 inflated, true?

5 A I would think it would go up and down, Your Honor.  
6 Up and down. It should be pretty fair. It shouldn't always be  
7 against my favor.

8 Q I gotcha. And, Mrs. Edgeworth, do you remember --  
9 I'll get back. I'm sorry. I skipped a little bit. In June  
10 of 2016, you knew Danny was billing you at 550 an hour, not  
11 from Danny but from your husband, fair?

12 A Yes.

13 Q Remember your husband said that was June the 10th.  
14 Do you remember that?

15 A Around that date.

16 Q Did you know Danny was working for free from May the  
17 27th to June the 10th?

18 A I did not know that.

19 Q Brian didn't tell you that, fair?

20 A I did not know that.

21 Q All right. And in fairness to you, ma'am, I think  
22 you said you had not been involved, I think you told Mr. Greene  
23 this morning, in every aspect of the case. Is that a fair  
24 statement?

25 A Fair.

1 Q Okay. And in fairness to you, you only know to a  
2 certain degree what you've been told by your husband, true?

3 A Well, I've seen documents, yes, but the other stuff,  
4 you are right; I know what Brian has told me.

5 Q Right. And you weren't privy to the phone call that  
6 occurred on June the 10th; is that fair?

7 A Fair.

8 Q You weren't billed for any phone call on June  
9 the 10th by Mr. Simon in 2016; is that fair?

10 A I don't know. I'd have to look at the bill to see if  
11 there was a charge for that on the invoice.

12 Q Okay. So if you weren't billed for it, either  
13 Mr. Simon underbilled you, or it didn't happen?

14 A I don't know.

15 Q One of the two. Okay. I gotcha. You don't know.  
16 I'm with you.

17 Do you know what the register of actions looks like?

18 A I do not.

19 Q I showed it to your husband a little bit. It's just  
20 sort of all of the filings that happened in you all's case.

21 MR. CHRISTIANSEN: This is Exhibit 63, John. I'm  
22 sorry.

23 BY MR. CHRISTIANSEN:

24 Q It's just the register of everything that was done in  
25 the underlying case. Have you ever looked at that,

1 Mrs. Edgeworth?

2 A I didn't see it. Could you put it back up again,  
3 please.

4 Q Sure. There you go. Have you ever looked at --

5 A Can I see the whole thing, please.

6 I may have seen this a long time ago, but I don't  
7 recall.

8 Q Anything in this register of actions, any of the  
9 filings, any of the motion work, any of the courtroom work, was  
10 any of it done by you or Brian?

11 A I don't know what's in that document,  
12 Mr. Christiansen.

13 Q All right.

14 A I don't understand your question.

15 Q Okay. I'll move on, Ms. Edgeworth.

16 Ms. Edgeworth, when you get billed by lawyers, they  
17 bill you every month; right?

18 A No.

19 Q So you can go six months at a time without billing?

20 A Yes, they do.

21 Q Wow. And that was your agreement with Mr. Simon,  
22 that he would go six months at a time without billing. Is that  
23 what you're telling the Judge?

24 A No.

25 Q You don't know what the agreement was; correct?



1           A     I know the agreement was hourly.

2           Q     You don't know what the interim payment schedule was  
3 for; correct?

4           A     I know there wasn't much work done for the first six  
5 months.

6           Q     Ma'am, it's an easy question --

7                 MR. GREENE: I am --

8 BY MR. CHRISTIANSEN:

9           Q     -- do you know when he was supposed -- how often you  
10 were supposed to get billed and pay Mr. Simon? Yes or no.

11          A     No.

12          Q     All right. That's a term you're just unfamiliar  
13 with; correct?

14          A     Which term? I'm sorry.

15          Q     The incremental timing of the bills and paying them.

16          A     I'm not familiar with that term, no.

17          Q     Do you remember having your deposition taken?

18          A     I do.

19          Q     In the underlying matter, the Lange lawsuit?

20          A     I do.

21          Q     Mr. Simon went with you to your deposition?

22          A     Yes.

23          Q     And in your deposition, do you remember your husband  
24 answering questions relative to the portion of his deposition  
25 he cites in all of his affidavits in the complaint where he

1 claims, that his testimony was that all the bills as of his  
2 depo in September for the case had been submitted, and there  
3 were no other bills?

4 A I do.

5 Q All right. And do you remember me having to show  
6 Brian, Mr. Edgeworth -- I apologize, your husband, that he'd  
7 sort of forgotten to cite the second part, the latter part of  
8 the deposition where he testified that the bills were still  
9 accruing?

10 A I'll take your word that he did, but I don't remember  
11 it specifically.

12 Q You do recall that that's nowhere in any of his  
13 affidavits or the complaint Edgeworth versus Simon; correct?

14 A I don't know.

15 Q All right. Well, Judge has all that, and we'll let  
16 her see it, and I ask you it that way because your  
17 deposition -- I'll show you --

18 MR. CHRISTIANSEN: John, it's Exhibit 86, Mr. Greene.

19 BY MR. CHRISTIANSEN:

20 Q -- is Monday, September the 18th, 2017. Do you  
21 remember going for your deposition, Mrs. Edgeworth?

22 A Yes.

23 Q Do you remember the oath you took?

24 A Yes.

25 Q The same oath you took here in court?

1           A     Yes.

2           Q     And do you remember being asked questions in your  
3 deposition relative to attorney's fees?

4           A     Yes.

5           Q     And your deposition is -- let me think -- 14 or 15  
6 months after you came to this understanding that Mr. Simon was  
7 billing you at 550 an hour; right?

8           A     Okay.

9           Q     True?

10          A     Yes.

11          Q     And yet when you're asked, Mrs. Edgeworth, how much  
12 you paid your attorneys' fees and costs to date, you don't  
13 know?

14          A     I don't know the full amount. That's -- I didn't  
15 know the full amount. I know the hourly rate.

16          Q     Let's just read.

17                 Can you tell me how much you paid in attorneys' fees  
18 and costs to date?

19                 Answer, I don't know. That would be a question for  
20 my husband.

21                 Question, Okay. All right.

22                 Answer, I don't think I want to know.

23                 Did I get that right?

24          A     That's a joke.

25          Q     I just mean did I read it correctly?

1           A     Yes, you did.

2           Q     Okay. And this is some 14 or 15 months after you had  
3 this firm understanding between you and your husband about what  
4 your husband told you Mr. Simon agreed to be paid; correct?

5           A     I mean the rate, Mr. Christiansen. I didn't know the  
6 exact amount that we paid Danny to that date.

7           Q     Well, ma'am, you told Mr. Greene this morning that  
8 you were the person that reviewed the bills. You had an  
9 internal procedure where Mr. Edgeworth would check off on a  
10 bill, and you would check off on a bill, and an accountant or  
11 maybe a bookkeeper or somebody would actually sign the bill?

12          A     Yes.

13          Q     All right. So by September you had submitted three  
14 or four invoices; right? Over 18 months.

15          A     I couldn't tell you right now at that particular time  
16 how much we had paid. I don't remember the exact dates of all  
17 the payments. So I couldn't tell you the exact amount that we  
18 had paid at that time.

19          Q     But today in preparation for the hearing, you knew  
20 back in June of 2016, based on not conversations with my  
21 client, Danny Simon, that you were going to pay Danny Simon 550  
22 an hour?

23          A     Yes.

24          Q     All right. So if Mr. Greene and you agree how much  
25 I'm going to get paid, does that bind me?

1           A     I'm sorry. Could you repeat that.

2           Q     If you and Mr. Greene agree to what my rate is, but  
3 you don't tell me about it, am I bound to that?

4           A     I don't understand your question.

5           Q     I think probably the Judge does.

6                     This is further in your deposition.

7                     MR. CHRISTIANSEN: Page 48, Mr. Greene. I'm sorry.

8 BY MR. CHRISTIANSEN:

9           Q     Why did you need to borrow the money? Question.

10                     Answer, The ongoing lawsuit and repairs.

11                     Question, So was this money used to pay the  
12 attorneys' fees?

13                     Answer, Correct.

14                     Question, Okay. Because you guys have been paying  
15 the attorneys' fees as you've gone?

16                     Answer, Correct.

17                     Question, Okay. So on a monthly basis, you'll pay  
18 those fees?

19                     Answer, I don't know. I don't know. You'd have to  
20 ask my husband that.

21                     Did I get that all right?

22           A     Yes.

23           Q     So in September of '18 -- '17, I'm sorry, your  
24 deposition testimony accurately reflects how familiar you were  
25 with the agreement with Danny Simon; correct?

1           A     Yes.

2           Q     And can we agree that that's drastically different  
3 than your testimony this morning as to how familiar you were  
4 with the financial arrangement with Danny Simon?

5           A     No.

6           Q     No. Okay. Remember when I objected at one point  
7 this morning and said can we get some context when  
8 Mrs. Edgeworth learned about the things she's testifying to,  
9 and I think you told the Judge in preparation of this hearing  
10 you learned a lot of things?

11          A     Yes.

12          Q     And that's because in all fairness to you, you were  
13 taking care of your family. I think you have a couple of a  
14 couple of daughters that are active young ladies, and you're a  
15 busy woman yourself.

16          A     Yes.

17          Q     And most of what you knew about the Edgeworth versus  
18 Viking and Lange lawsuit came from Brian?

19          A     Yes.

20          Q     Like a simple example. Remember Mr. Greene showed  
21 you that check for 68 grand?

22                               [Pause in the proceedings]

23 BY MR. CHRISTIANSEN:

24          Q     Do you remember the check that got paid in March for  
25 68,000 and change?

1 THE COURT: Exhibit 55, Mr. Christiansen?

2 MR. CHRISTIANSEN: I think that's right, Your Honor.

3 THE WITNESS: Is that for the costs?

4 MR. CHRISTIANSEN: Yes, ma'am.

5 THE WITNESS: Yes.

6 BY MR. CHRISTIANSEN:

7 Q And those costs were paid in March, fair?

8 A Yes.

9 Q I'm sorry. I didn't -- my fault. Bad question. It  
10 didn't finish. March of 2018?

11 A Yes.

12 Q All right. That's about two months after you sued  
13 Mr. Simon; correct?

14 A Yes.

15 Q Now, I'll show you. Let me see if I can blow it up  
16 for you, Ms. Edgeworth. \$68,844, and that's signed -- I think  
17 that's Mr. Vannah's signature.

18 MR. VANNAH: It is.

19 MR. CHRISTIANSEN: I'm not sure.

20 MR. VANNAH: I will stipulate that's my signature.

21 THE COURT: [Indiscernible] simple saying Robert  
22 Vannah.

23 BY MR. CHRISTIANSEN:

24 Q That's Mr. Vannah's signature and Mr. Simon's on that  
25 joint trust account that was created to deposit the \$6 million

1 Viking settlement?

2 A Yes.

3 Q Is that right?

4 A Yes.

5 Q Okay. And you suggested to the Court that you are  
6 guessing that this is the amount that Danny had in attorneys'  
7 fees that he gave, and 72,000 is the amount Danny had in  
8 attorneys' fees he gave to Brian at the mediation,  
9 Mr. Edgeworth at the mediation?

10 MR. GREENE: Object. That mischaracterizes. She  
11 never said guessing. That's Mr. Christiansen's  
12 [indiscernible].

13 MR. CHRISTIANSEN: Actually, I think it was the Judge  
14 that pinned that down.

15 I'll rephrase.

16 BY MR. CHRISTIANSEN:

17 Q You never saw whatever bill or invoice or whatever it  
18 was that your husband received at the November mediation, fair?

19 A No. But I believe it was there because I believe my  
20 husband, yes, but no, I didn't see it.

21 Q Okay. I'm not -- I recognize that you believe your  
22 husband. All right?

23 And the amount that Danny was owed in costs is just a  
24 few grand less than that bill your husband got in November;  
25 right?



1 A You're referring to this check?

2 Q Yes, ma'am.

3 A Yes.

4 Q And did you know immediately before this check was  
5 cut that Mr. Simon's office had found a counting error in the  
6 costs that had been put into your case file, and they talked to  
7 your lawyers, and that was backed out of it, and from the 72  
8 grand and costs, this was actually the total? Did you know  
9 that?

10 A I did.

11 Q Okay. So the 72 grand that Brian saw was, more  
12 likely than attorneys' fees bills, it was a cost bill; right?

13 A No.

14 Q Just magically 72 grand was both; right?

15 A It's possible.

16 Q Okay. The truth is you just don't know?

17 A I'm sorry?

18 Q The truth is you just don't know?

19 A I don't know.

20 Q And that was true also of you in your deposition.  
21 You didn't know lots of things about the lawsuit, fair?

22 A I feel like I know lots of things about the lawsuit.

23 Q Did you know what an interrogatory was in your  
24 deposition?

25 A No.

1           Q     Did you know what your cost itemization of losses  
2 were in your deposition?

3           A     I had seen the sheet before, but I couldn't rattle  
4 them off to you.

5           Q     Okay. And those are questions better asked your  
6 husband I think is the short version of what you sort of  
7 testified to?

8           A     That's correct.

9           Q     Fair?

10          A     Fair.

11          Q     Brian is the -- Mr. Edgeworth. I apologize. I  
12 keep -- everybody started using first names in this case. And  
13 it's making me nuts.

14                 Mr. Edgeworth is the genesis of much, if not -- well,  
15 much of the information you have you had going through this  
16 case until that meeting at Danny's office November 17th?

17          A     Fair.

18          Q     Is that a fair statement -- all right.

19                 The meeting, you didn't testify today that Mr. Simon  
20 was dropping F-bombs; correct? Using the F-word, a curse word  
21 at that meeting, you didn't testify to that, did you?

22          A     My husband told me, and I --

23          Q     No, that's -- my question is you did not testify to  
24 that; correct?

25          A     Today, no, but I know about that.

1 Q You didn't hear it; correct?

2 A I heard it from my husband because I was not in the  
3 room at the time.

4 Q All right. And you believe your husband; right?

5 A I do.

6 Q All right. Have you seen the emails where your  
7 husband is using F-bombs all over the place?

8 A He uses them frequently.

9 Q Okay. And nobody is getting offended by the F-word,  
10 right, between Mr. Simon and your husband; right?

11 A No.

12 Q I mean, you --

13 A It just seemed out of place at the moment.

14 Q How would you know if you didn't hear it?

15 A I'm sorry?

16 Q How would you know it was out of place if you didn't  
17 hear it, ma'am?

18 A Because we went there to talk about the case. It  
19 didn't seem to be the appropriate place to drop F-bombs.

20 Q Ma'am, you didn't hear it. How did you know whether  
21 it was appropriate or not?

22 A My husband told me about after.

23 Q Okay. Do you remember your husband testifying about  
24 this meeting in Danny's office?

25 A Yes.

1 Q Do you remember him not, and I want to be clear, not  
2 testifying consistent with the physical aspect of how this  
3 meeting took place that you gave, the version you gave this  
4 morning?

5 A I do not remember that.

6 Q Brian Edgeworth another never testified, told this  
7 Judge that Danny leaned against a desk between you and some  
8 chair, between his desk and some chairs and sort of leered over  
9 you as you described this morning?

10 A I remember it like it was yesterday.

11 Q Ma'am, that's not my question. You sat here for a  
12 week and your husband testifying, and isn't it true  
13 Mr. Edgeworth did not recite that same version?

14 A I don't recall.

15 Q Okay. Well, do you remember Mr. Edgeworth telling me  
16 that he felt threatened?

17 A Yes.

18 Q And, you know, if we were to compare sizes, Mr. Simon  
19 is probably closer to you then to Brian's size; right?

20 A Fair.

21 Q And so Danny Simon wasn't physically threatening  
22 anybody, was he?

23 A Physically, no.

24 Q All right. And the words, I wrote it down. You had  
25 lots of words for that meeting. Let me get to them.

1 Terrified -- I'm just going to go through them with you. Okay?

2 Terrified, fair?

3 A Fair.

4 Q Shocked?

5 A Yes.

6 Q Shaken?

7 A Yes.

8 Q Taken aback?

9 A Yes.

10 Q Threatened?

11 A Yes.

12 Q Worried?

13 A Yes.

14 Q Blackmailed?

15 A Yes.

16 Q You thought he was trying to convert your money?

17 Take your money? Right?

18 A Yes.

19 Q You actually sued him, and that was one of the claims  
20 is that he was converting your money; right?

21 A I wasn't worried about conversion at the time because  
22 I was worried about the settlement deal not happening.

23 Q Flabbergasted is another word?

24 A Yes.

25 Q And can we agree that nowhere in the email

1 communications between November the 17th and when Mr. Simon is  
2 notified on November the 30th that the Vannah firm is involved  
3 do you use any of those words in any of your emails?

4 A That's how I felt inside.

5 Q No, ma'am, just listen to my question. It's a very  
6 particular question.

7 Can we agree all of those words, none of them make  
8 their way into any email you typed?

9 A I was being polite.

10 Q Is that a yes? They're not in your emails; correct?

11 A Correct.

12 Q In fact, in your emails, and we'll go through them,  
13 but in your emails are these promises that you're going to sit  
14 down and meet with Danny; right?

15 A [No audible response.]

16 Q Right?

17 A Yes.

18 Q And at the time you put that in the email, you knew  
19 you weren't going to; correct?

20 A I didn't know that for sure, but I was stalling.

21 Q Ma'am, that's not what you told the Judge this  
22 morning. You told the Judge you made a determination after you  
23 had talked to your friend on the 17th or 18th of November --

24 I forgot that lady's name, the out-of-state lawyer.

25 A Lisa Carteen.

1 Q Carteen. T with a T, Carteen?

2 A Uh-huh.

3 Q -- Ms. Carteen that you were in no way going to sit  
4 in Danny's office without a lawyer; right?

5 A No. I said I wasn't going to go there by myself and  
6 sit in front of Danny Simon and get bullied into signing  
7 something.

8 Q Okay. Bullied. That's another term you used; right?

9 A [No audible response.]

10 Q Do you remember Brian -- Mr. Edgeworth's testimony  
11 that he was never shown a document on that day, the 17th, that  
12 he was to sign? Do you remember that?

13 A Yes.

14 Q Okay. Do you remember your testimony?

15 A [No audible response.]

16 Q Yes?

17 A Yes.

18 Q Tell me what the document Mr. Simon presented to you  
19 to sign looked like.

20 A I didn't see the document. He alluded to the  
21 document behind him on the desk, like this, that he was -- he  
22 had it if we were ready to sign it, and so I didn't see the  
23 actual document.

24 Q So in the opening --

25 You were here for the opening?

1           A     Yes.

2           Q     -- when your lawyer stood up and said that there was  
3 a document that Mr. Simon put in front of you, tried to force  
4 you to sign, that that factually was a little bit off?

5           A     I didn't hear that, but, yes, that would be factually  
6 off. There wasn't a document presented to us there, no.

7           Q     It's a little bit like -- do you know what the word  
8 outset means, ma'am?

9           A     Yes.

10          Q     Outset means the beginning; correct?

11          A     Correct.

12          Q     You saw all of Brian's affidavits; correct?

13          A     Yes. Which ones? I don't know which ones you're  
14 referring to.

15          Q     2/2, 2/12 and 3/15. He signed three affidavits in  
16 support of the -- this litigation for attorneys' fees. You've  
17 seen them all?

18          A     I've seen them at some point.

19          Q     Now, you know that in each one of them he said, At  
20 the outset of the arrangement with Mr. Simon, Danny agreed to  
21 550 an hour; correct?

22          A     Correct.

23          Q     Were you here last week when your husband couldn't  
24 understand what the word outset meant?

25          A     He thought outset meant --



1 Q Ma'am, just answer my question.

2 A -- the very first day.

3 Q Did you -- were you here when he didn't understand,  
4 to my questions, what the word outset meant?

5 A Yes.

6 Q Okay. Outset, you know means the first day; right?

7 A I would interpret it to mean the beginning, which  
8 meant at the beginning of the case. So the outset to me would  
9 be at the beginning of the case, so sometime at the beginning  
10 of the case. The outset doesn't necessarily mean the very  
11 first day.

12 Q Okay. Isn't that kind of like revisiting history  
13 when your husband says, I retained Danny on the 27th of May,  
14 and from the outset, he agreed to 550 an hour? That's what all  
15 of those affidavits said?

16 A The outset means the beginning, and that was the  
17 beginning.

18 Q Ma'am, isn't it true that it's not until I confront  
19 your husband with the email from Danny Simon that says, Let's  
20 cross that bridge when we come to it, relative to what he's  
21 going to get paid that Mr. Edgeworth and you then have to  
22 change your story for the outset to become June 10th as  
23 opposed to May 27th?

24 A No.

25 Q Prior to me confronting Mr. Edgeworth with the email

1 that said, We'll cross that bridge when we come to it, had he  
2 ever in writing said June 10th is the day Danny Simon told  
3 him 550 an hour?

4 A I don't know.

5 Q Okay. The words you used, ma'am, and I won't go back  
6 through them all, when you talked to Ms. Carteen --

7 Did I get that right?

8 A Yes.

9 Q -- were those the words you use to her when  
10 describing Mr. Simon?

11 A I'm sorry. Which -- what do you mean?

12 Q Terrified? Blackmailed? Extorted?

13 A I used blackmailed, yes.

14 Q You used those words to her?

15 A And I used extortion, yes.

16 Q Similarly, when you talked to Justice Shearing in  
17 February of 2018, were those the words you used?

18 A I don't think they were that strong. I just told her  
19 what happened. Lisa is more of a closer friend of mine. So I  
20 was a little bit more open with her.

21 Q And you were talking to Lisa as your friend, not your  
22 lawyer; right?

23 A Correct.

24 Q Okay. And if I get the gist of what you were saying  
25 is that you were of the belief that if you didn't sign the

1 document you'd never seen -- because you told me you never saw  
2 the document on the 17th -- Mr. Simon would blow up the  
3 \$6 million settlement?

4 A I didn't know. That was a possibility at that time  
5 when I was sitting there, yes.

6 Q All right. And so if it's a possibility, and from  
7 that possibility you feel extorted, blackmailed, terrified,  
8 spooked, all the words, isn't that -- can we agree that's a  
9 little bit like when you and your husband as the board of the  
10 volleyball team make you as individuals do those new  
11 applications? It's a bit histrionic; right?

12 A No.

13 Q It's a bit of self-imposed drama; isn't it?

14 A No, it's not.

15 Q I mean, it's not contained in any correspondence  
16 between you and a longtime friend that, hey, man, you're  
17 spooking me, Mr. Simon?

18 A I wrote that I was stressed --

19 Q And it was awkward.

20 A -- and it was awkward, and that is pretty -- for me,  
21 that's pretty powerful.

22 Q Okay. Did you use any of the words --

23 A I was being polite.

24 Q -- you used today, ma'am?

25 A Excuse me?

1 Q Did you use any of the words you used today for Her  
2 Honor -- terrified, extorted, blackmailed -- in any of your  
3 emails?

4 A No.

5 Q All right. And this is your friend; right?

6 A Yes.

7 Q A guy who was working for free for at least part of  
8 the -- even to believe Brian, for at least two weeks he was  
9 working for free as a favor?

10 A For two weeks, yes.

11 Q Right. He was working for free.

12 A He certainly wasn't working for free later.

13 Q And you told the Judge this morning that you agreed,  
14 kind of a gratuitous mention of my name, and said you agreed  
15 with me that no good deed goes unpunished. Remember that?

16 A I agree with you 100 percent on that,  
17 Mr. Christiansen.

18 Q Right. And you guys had a \$500,000 property claim;  
19 correct?

20 A Correct.

21 Q You got 4 million already; correct?

22 A Correct.

23 Q And you don't want to pay your lawyer as much as you  
24 paid interest to your mom and your husband's best friend;  
25 right?

1           A     I want to pay Danny what we owed him.

2           Q     And let's just sort of back up.  When you go talk to  
3     that --

4                     Ruben, is that the coach?  The charities coach Ruben,  
5     he's an employee of the Aces, the Volleyball Aces.  I've  
6     forgotten the name of it.

7           A     Yes.

8           Q     And so he works for the board?

9           A     I'm sorry.  He works for the?

10          Q     The board?

11          A     Board yes.

12          Q     He works for you and your husband; correct?

13          A     Yes.

14          Q     And when you went to him and told him, you used those  
15     same words, that you'd been blackmailed or you felt like you  
16     were being blackmailed by Danny Simon; correct?

17          A     I didn't speak to coach Ruben about those things, no.

18          Q     Do you know if coach Ruben ever called Mr. Simon and  
19     said, hey, let's get to the bottom of this?  What's the big  
20     deal?

21          A     I'm sorry.  Can you repeat that?

22          Q     Do you know one way or the other, did coach Ruben  
23     call Mr. Simon?

24          A     I don't know.

25          Q     All right.  Back to your November 17th meeting,

1 I've been in the same office with Mr. Simon off and on for 25  
2 years. Are you really telling the Judge -- and I want to make  
3 sure I'm understanding just the physics of it. I mean, I'm not  
4 trying to get closer to you. I'm just going to use -- this is  
5 the front of Mr. Simon's desk. He's between you and his two  
6 client chairs that are right here leaning against the desk?

7 A Yes.

8 Q Ma'am, that's about 4 inches; right?

9 A The chair.

10 Q There is nothing underneath Danny's desk; right.  
11 There's like a big gap; correct?

12 A That's how I remember it.

13 Q And those chairs are about 4 inches from the front of  
14 that desk; right?

15 A Not at that time they weren't.

16 Q Okay. When you told your husband -- let me start  
17 back at the beginning a little bit -- that Mr. Simon was a  
18 lawyer husband of your friend Elena, you told -- and I wrote it  
19 down -- you told Mr. Greene that you knew that Danny was a  
20 personal injury attorney?

21 A Yes.

22 Q You knew that he took cases on a percentage fee  
23 arrangement?

24 A I didn't know his arrangement, but I would assume  
25 that he did.

1 Q You knew he didn't bill clients; correct?

2 A I didn't know that for sure, no.

3 Q Okay. Has Mr. Simon ever told you -- I don't want to  
4 know what your husband told you -- has Mr. Simon ever told you  
5 he has any other billable clients?

6 A No.

7 Q Mr. Simon ever indicated that you would get an hourly  
8 bill every month with you?

9 A I'm sorry. Say that again.

10 Q Did Mr. Simon ever tell you what periodic time he  
11 would bill you?

12 A No.

13 Q Did Mr. Simon ever tell you how much Ashley would  
14 bill for?

15 A I saw it in the invoices.

16 Q So the answer is no.

17 A No.

18 Q All right. Did Mr. Simon ever tell you what costs he  
19 would front as opposed to you all paying?

20 A No.

21 Q Did Mr. Simon -- I mean, these are all, like, pretty  
22 important terms in an arrangement; right?

23 A [No audible response.]

24 Q Yes?

25 A Sure. Yes.

1           Q     I mean, those are terms in your experience lawyers  
2 work out with clients; right?

3           A     Sure.

4           Q     And you didn't work any of those out with Danny  
5 Simon; correct?

6           A     My husband was handling those.

7           Q     So the answer is, yes, you didn't work any of those  
8 out with Mr. Simon; correct?

9           A     Correct.

10          Q     All right. And you talked about -- you told the  
11 Judge that you felt as if the initial four invoices were  
12 exaggerated. That was your word; correct?

13          A     I felt that they were unclear and that they were,  
14 yes, I did.

15          Q     Well, ma'am, your word was --

16          A     Yes.

17          Q     -- exaggerated; right?

18          A     Yes.

19               MR. CHRISTIANSEN: Let me see those pictures, Ash.

20 BY MR. CHRISTIANSEN:

21          Q     Rather than bring all the boxes back in, I just took  
22 a picture so Mr. Vannah wouldn't get irritated with me.

23               MR. VANNAH: I'm still irritated, but --

24               MR. CHRISTIANSEN: Story of my life, Judge.

25               THE COURT: Okay.



1 MR. VANNAH: Probably irrationally irritated.

2 MR. CHRISTIANSEN: We'll use this as Exhibit 92, I  
3 think is next in line.

4 Is that right, Ms. Clerk?

5 THE CLERK: Yes.

6 THE COURT: How do you say 92 in New York?

7 THE CLERK: It's 92.

8 BY MR. CHRISTIANSEN:

9 Q Ma'am, in those four invoices, can we agree that you  
10 were not billed for reviewing all the documents that went in  
11 these boxes?

12 A No.

13 Q You think the amount of hours contained in those four  
14 invoices includes bills for all these boxes and the paper that  
15 are included. There are 160-some thousand pages worth of  
16 documents?

17 A I don't believe all those documents were reviewed.

18 Q Okay. So you were or you weren't billed for them?  
19 I'm asking you?

20 A I was billed for all the work that they did, yes.

21 Q Okay. Well, no, you weren't, ma'am, and you know you  
22 weren't. Exhibit 93 are the emails. You know in those first  
23 four invoices you're not billed for all those emails; right?  
24 You know that?

25 A No.

1 Q What do you mean no?

2 A [No audible response.]

3 Q How is it you don't know that you're not billed for  
4 all the emails? You got the emails; right?

5 A Yes.

6 Q And you got the invoices; right?

7 A Yes.

8 Q You're telling the Judge with a straight face that  
9 there are time entries equivalent to the number of emails in  
10 Exhibit 93 contained in your bills?

11 A Mr. Christiansen, the bills --

12 Q Yes or no, ma'am --

13 A -- or so --

14 Q Is that what you're telling? You have to answer --

15 A There were big --

16 Q You don't get to just look at the Judge and start  
17 talking. You have to answer my questions.

18 A I'm sorry. Please say it again.

19 Q Sure. You're telling the Court, yes or no, that in  
20 the first four invoices there are time entries for which you  
21 paid Mr. Simon for his time for all the emails your husband  
22 caused to be sent back and forth which are depicted in Exhibit  
23 93?

24 A Yes.

25 Q Well, you disagree with your husband then; right?

1           A     I'm sorry?

2           Q     You disagree with Mr. Edgeworth then; correct?

3           A     I don't know what you're referring to,

4     Mr. Christiansen.

5           Q     Well, you heard him testify, didn't you?

6           A     About? I don't know.

7           Q     Emails. Yes?

8           A     Yes.

9           Q     And you heard him say he knew all the bills for

10   emails weren't included in those first four invoices; correct?

11          A     I don't know that, Mr. Christiansen.

12          Q     That's not what I asked you, ma'am. I asked you did

13   you hear your husband say, Yes, I Brian know that I didn't get

14   billed for all the emails? Did you hear him say that?

15          A     I don't -- I don't recall that.

16          Q     Well, we'll let the Judge look at the transcript.

17                Were you familiar, ma'am, with the calculation of

18   damages in your case? The underlying case.

19          A     Yes.

20          Q     You knew that was something that your husband and

21   Mr. Simon worked on together; correct?

22          A     Yes. Brian put it together.

23          Q     He did those spreadsheets. You saw me show him that

24   three weeks ago?

25          A     Yes.

1 Q All right. And the calculation included line items  
2 like John Olivas's \$1.5 million for stigma damage to the house?

3 A Yes.

4 Q You heard your husband say that was a line item that  
5 Mr. Simon was solely responsible for; correct?

6 A Correct.

7 Q Do you agree with that?

8 A Yes.

9 Q And do you agree with \$4 million for a \$500,000  
10 property claim is being made whole?

11 A Yes.

12 Q Okay. So you've been made whole; correct?

13 A Yes.

14 Q All right. And once you were made whole or about the  
15 same time you or made whole, you sued Mr. Simon rather than pay  
16 him; correct?

17 A No.

18 Q When were you made whole? When did you get the  
19 check? Tell me the date. You knew it earlier?

20 A January 21st.

21 Q You sued Mr. Simon what date? January 4th?

22 A Yes.

23 Q So before you even had your money, you sued  
24 Mr. Simon? Yes?

25 A Yes.

1 Q You accused him of converting your money; correct?  
2 A Yes.  
3 Q Before you even had the money; correct?  
4 A Yes.  
5 Q Before the money was in a bank account; right?  
6 A Yes.  
7 Q Okay. In that lawsuit, you sought to get from him  
8 personally and individually, from him and his wife, Elena, your  
9 friend? You wanted punitive damages; right?  
10 A Yes. I didn't ask --  
11 Q Yes?  
12 A -- to be in this position?  
13 Q Just yes? Just yes?  
14 A Yes.  
15 Q Okay.  
16 MR. GREENE: Your Honor, object. Again --  
17 MR. CHRISTIANSEN: Most certainly did.  
18 MR. GREENE: Elena wasn't sued.  
19 MR. CHRISTIANSEN: Well, it's the family --  
20 THE COURT: Well, I mean, it's Daniel Simon as an  
21 individual and the law office of Danny Simon, isn't it?  
22 MR. GREENE: Yes, but we didn't name his wife as a  
23 defendant.  
24 BY MR. CHRISTIANSEN:  
25 Q Is Elena married to Danny?

1           A     Yes.

2           Q     Okay.  So if you're trying to get punitive damages  
3 from a husband individually, you're trying to get the family's  
4 money; right?

5                   MR. GREENE:  Same objection.

6                   THE COURT:  And, Mr. Christiansen, the lawsuit is  
7 against Danny Simon as an individual and the law office of  
8 Danny Simon.  So that's who they sued.

9 BY MR. CHRISTIANSEN:

10          Q     You made an intentional choice to sue him as an  
11 individual as opposed to just his law office, fair?

12          A     Fair.

13          Q     That is an effort to get his individual money;  
14 correct?  His personal money as opposed to like some insurance  
15 for his law practice?

16          A     Fair.

17          Q     And you wanted money to punish him for stealing your  
18 money, converting it; correct?

19          A     Yes.

20          Q     And he hadn't even cashed the check yet; correct?

21          A     No.

22          Q     All right.  He couldn't cash a check because  
23 Mr. Vannah and him had to make an agreement.  Mr. Vannah I  
24 figured out how to do it I think at a bank, right, how to do  
25 like a joint --

1           MR. VANNAH: Yeah. We opened a trust account for,  
2 both he and I alone, so that neither one of our trust accounts  
3 got it, but it went into a trust account by the Bar rules.

4           THE COURT: Okay.

5           MR. VANNAH: If that helps.

6           MR. CHRISTIANSEN: It does. Thank you, Mr. Vannah.

7           MR. VANNAH: Sure.

8 BY MR. CHRISTIANSEN:

9           Q     That's what happened; right? That's where the money  
10 got deposited?

11          A     Yes.

12          THE COURT: And just so I'm clear about that, is the  
13 whole \$6 million in that trust account?

14          MR. VANNAH: Yeah. I can help with that.

15          MR. CHRISTIANSEN: Me too, but go ahead, Bob.

16          THE COURT: Okay.

17          MR. VANNAH: So there's \$6 million that went into the  
18 trust account.

19          THE COURT: Okay.

20          MR. VANNAH: Mr. Simon said this is how much I think  
21 I'm owed. We took the largest number that he could possibly  
22 get, and then we gave the clients the remainder.

23          THE COURT: So the six --

24          MR. VANNAH: In other words, he chose a number  
25 that -- in other words we both agreed that, look, here's the

1 deal. Odds you can't take and keep the client's money, which  
2 is about 4 million. So I asked Mr. Simon to come up with a  
3 number that would be the largest number that he would be asking  
4 for. That money is still in the trust account.

5 THE COURT: Okay.

6 MR. VANNAH: And the remainder of the money went to  
7 the Edgeworths.

8 THE COURT: Okay. So there's about 2.4 million or  
9 something along those lines in the trust account?

10 MR. VANNAH: Yeah. There's like 2.4 million minus  
11 the 400,000 that was already paid. So there's a couple million  
12 dollars in the account.

13 THE COURT: Okay.

14 MR. GREENE: It's 1.9 and change, Your Honor.

15 THE COURT: Okay. Mr. --

16 MR. CHRISTIANSEN: Well, that's true. Mr. Greene was  
17 correct.

18 THE COURT: Yeah, just so I was sure about what  
19 happened with that. And then the rest of the money was  
20 dispersed because I heard her testifying about paying back the  
21 in-laws and all this stuff. So they paid that back out of  
22 their portion, and the disputed portion is in the trust  
23 account?

24 MR. VANNAH: Right. So they took that money, paid  
25 back the in-laws on everything so they wouldn't keep the



1 interest running.

2 THE COURT: Right.

3 MR. VANNAH: And then the money that we're  
4 disputing --

5 THE COURT: Is in the trust account?

6 MR. VANNAH: -- is held in trust, as the Bar  
7 requires.

8 THE COURT: Okay.

9 MR. CHRISTENSEN: And, Your Honor, just to follow up  
10 on that, the amount that's being held in trust is the amount  
11 that was claimed on the attorney lien.

12 THE COURT: Okay.

13 MR. VANNAH: That's correct.

14 MR. CHRISTENSEN: And also any interest that accrues  
15 on the money held in the trust inures to the benefit of the  
16 clients.

17 THE COURT: Right. I was aware of that. Yes. It  
18 would go to the Edgeworths; right?

19 MR. VANNAH: Exactly.

20 MR. CHRISTENSEN: That's correct.

21 MR. VANNAH: Yeah, that's what we all agree to. Yes.  
22 That's accurate.

23 BY MR. CHRISTIANSEN:

24 Q Ms. Edgeworth, in time, timingwise, when was the  
25 first time you ever looked at one of your husband's

1 spreadsheets for the calculation of damages?

2 A I don't know exactly the time. It was a long  
3 duration of the case, but, you know, some time during the case.

4 Q Okay. Is it fair to say you never looked at any of  
5 the damages calculations until after the November 17th  
6 meeting at Danny Simon's office?

7 A No.

8 Q You looked at them before then?

9 A Yes.

10 Q Did you see on them, and I can show you, and I'm  
11 trying to kind of move it along, where your husband leaves  
12 blank spaces that he still owes money for attorneys' fees in  
13 October and November?

14 A Yes.

15 Q All right. And so that's leading up to when you guys  
16 hire Mr. Vannah, and I'll show you just by way of ease.

17 MR. CHRISTIANSEN: This is 90, Jim.

18 BY MR. CHRISTIANSEN:

19 Q -- Mr. Vannah's fee agreement, which is signed by  
20 yourself, ma'am? Or is that Brian's signature? I'm sorry.

21 A That's Brian.

22 Q And it's dated the 29th of November, 2017?

23 A Yes.

24 Q And this is before the Viking -- just in time, this  
25 is before the Viking settlement agreement is executed by you

1 and your husband; correct?

2 A Yes, the day before.

3 Q And the Viking settlement agreement says that you're  
4 being advised on that agreement by Vannah & Vannah; correct?

5 A Correct.

6 Q And you signed it after you hired Vannah & Vannah;  
7 correct?

8 A Correct.

9 Q And you hired Vannah & Vannah on the 29th, the same  
10 day that you're sending Mr. Simon by my count two or three  
11 emails saying we're going to sit down as soon as Brian gets  
12 back; correct?

13 A Yes.

14 Q All right. So you knew you weren't going to sit down  
15 with Danny when Brian got back, when you sent those emails;  
16 right?

17 A No.

18 Q You were just leading Danny along till you got a new  
19 lawyer that you could listen to and disregard his advice;  
20 correct?

21 A We hired Vannah & Vannah to protect us from Danny,  
22 and we wanted Danny to finish the settlement agreement.

23 Q And you stopped listening to Danny in terms of  
24 following his advice; correct?

25 A No.

1           Q     You chose to settle the Lange case for 100 grand  
2 minus the 22 you still owed Lange; right?

3           A     Yes.

4           Q     That wasn't Danny's advice, was it?

5           A     No.

6           Q     So you stopped listening to Danny's advice and  
7 started listening to Mr. Vannah's advice; right?

8           A     No. Brian and I made that decision together.

9           Q     Okay. I'm not disputing that. But the decision was  
10 to disregard Mr. Simon's advice and to follow or heed the  
11 advice of Vannah and Vannah?

12          A     They had different pieces of advice. We weren't  
13 following anybody. We were deciding for ourselves.

14          Q     And the decision you made was inconsistent with the  
15 advice Mr. Simon was giving you; correct?

16          A     Yes. Correct.

17          Q     And that decision was made on the 7th. That consent  
18 to settle was dated the 7th, and that's two days after Mr.--  
19 I'm sorry. It's Mr. Edgeworth that sends the email to Danny  
20 saying, Just call John. Just call Mr. Greene. Right?

21          A     Yes.

22          Q     And you heard your husband testify that he never  
23 spoke to Danny Simon once I think he said he lost it and told  
24 Danny to put something in writing; correct?

25          A     Yes.

1           Q     And you understood, did you not, ma'am, that the  
2 attorneys' fees were a line item of damages against Lange, the  
3 plumber?

4           A     Yes, if you say so.

5           Q     Well, I just want to know did you understand that  
6 during the case?

7           A     I understood -- can you please rephrase that  
8 question.

9           Q     Sure. You understood, did you not, during the  
10 litigation of *Edgeworth versus Viking* that attorneys' fees were  
11 a line item of damages against the Lange defendant?

12          A     Yes.

13          Q     Similarly, you understood that the loan and the  
14 interest rates, and they went for about 2 to 3 percent interest  
15 a month, were line items of damages in Lange or the Viking  
16 case; correct?

17          A     Yes.

18          Q     And you told the Judge about the hardship that you  
19 went through, and it was trying times and financially  
20 difficult, and one of the emails where you're having this tough  
21 time is you're taking off on vacation the day the inquiry is  
22 where should we send the bill; right?

23          A     Yes.

24          Q     Okay. You all are very sophisticated business folks,  
25 true?

1           A     Yes.

2           Q     You knew that by borrowing money from your mom and  
3 your husband's buddy at these usury rates, or 25, 30 percent  
4 interest a year, that you could increase your property damage  
5 in your property damage claim against Lange and Viking;  
6 correct?

7           A     No.

8           Q     You didn't know that?

9           A     That's not why we did it if that's what you're --

10          Q     I asked you did you know it?

11          A     Yes.

12          Q     All right.

13          A     But with not necessarily that we would get it back,  
14 Mr. Christiansen.

15          Q     Okay. Ma'am, just listen to my question. You knew  
16 you were trying to increase your damage calculation against  
17 Lange and Viking; correct?

18          A     Yes.

19          Q     All right. Because it's not as if you couldn't have  
20 gotten the money other places; true?

21          A     No, that's not true.

22          Q     Your husband could've sold his Bitcoin?

23          A     There were a lot of business ramifications for  
24 that --

25          Q     Ma'am, that's not what --

1           A     -- that's not something we wanted to do.

2           Q     I recognize, ma'am, that you made a business choice,  
3 smart people choice to borrow money. My question to you is  
4 that wasn't your only option, fair? You had other options.  
5 That just was the smartest one in Brian's prudent  
6 decision-making, as he described it for me?

7           A     Sure.

8           Q     All right. You borrowed money from your mom?

9           A     Sure.

10          Q     Your mom's not going to sue you if you didn't pay her  
11 back, was she?

12          A     No.

13          Q     All right. Colin wasn't going to sue Brian if he  
14 didn't pay him back, was he?

15          A     I can't answer for Colin.

16          Q     So all this risk that we've been hearing about for  
17 weeks on end that you guys bore all this risk, and it was so  
18 stressful, you're not stressed that your mom is going to do  
19 something bad to you, are you?

20          A     No, I'm not stressed about my mom.

21          Q     Okay. All right. Do you remember ever writing -- do  
22 you remember in Mr. Vannah's consent to settle document, the  
23 one dated December 7th where you all agree that you'd been  
24 made more than whole?

25          A     Yes.

1 Q Okay. And that you agreed back then, and I think  
2 told me you agree to that now?

3 A Yes.

4 Q And that's whole with the 4 million you've already  
5 taken, put in your own bank account, paid back your relatives  
6 and friends and done the rest with whatever folks do with their  
7 money?

8 A Yes.

9 Q Okay. And earlier you said in response to  
10 Mr. Greene's questions that you got the check I think January  
11 21st, and the very next day paid everybody back to the tune  
12 of I think 1.1 million bucks?

13 A Yes.

14 Q So you had 1.1 million bucks already sitting in your  
15 bank accounts?

16 A No. We took the proceeds from the money that we  
17 received from the trust and paid them back.

18 Q So you're telling the Judge you got a cashier's check  
19 or some type of check that your bank negotiated for you in 24  
20 hours, and you wrote checks out to other people?

21 A I don't know the exact circumstances --

22 Q Yeah, you do. You knew --

23 A -- but, yes.

24 Q -- them this morning. You knew, and you said under  
25 oath you had a check on Day 1. On day 2, you paid everybody



1 back. True?

2 A We received the money on the 21st, and we paid them  
3 back on the 22nd. Yes.

4 Q And where are the checks?

5 MR. GREENE: Want to see it, Pete?

6 THE WITNESS: Mr. Greene has them.

7 MR. CHRISTIANSEN: They haven't been produced.

8 BY MR. CHRISTIANSEN:

9 Q Are you telling the Court that the checks can clear  
10 in one day, or are you telling the Court that you had  
11 1.1 million bucks sitting in your --

12 A I don't think the checks cleared that day because  
13 they needed to be mailed, and so they weren't cleared the same  
14 day. So there was probably some time in between the depositing  
15 of the funds from the trust and the checks.

16 THE COURT: Can I see that, Mr. Greene.

17 MR. GREENE: Absolutely, Your Honor.

18 Mr. Christiansen, if you could approach.

19 MR. VANNAH: Can we mark them as exhibits?

20 [Pause in the proceedings]

21 THE WITNESS: I think there's a date on there where  
22 it shows that it actually cleared.

23 [Pause in the proceedings]

24 BY MR. CHRISTIANSEN:

25 Q Did they clear the same day? Do you know? And

1 Mr. Vannah is whispering that they did clear the same day.

2 A I don't know, Mr. Christiansen.

3 Q All right.

4 MR. VANNAH: I could help with that. Do you want to  
5 know? Our banks called each other, and they cleared the funds  
6 the same day.

7 THE COURT: Okay.

8 MR. CHRISTIANSEN: Okay.

9 BY MR. CHRISTIANSEN:

10 Q Ms. Edgeworth, let's back up. Do you remember the  
11 cross that bridge when we come to it email?

12 A Was that about the fee in the beginning,  
13 Mr. Christiansen?

14 Q It was.

15 A Yes.

16 MR. VANNAH: Did we mark those and put them in  
17 exhibits?

18 THE COURT: Do you guys want them admitted?

19 MR. GREENE: Please.

20 MR. VANNAH: Please, yes, I'd like to make those  
21 exhibits.

22 THE COURT: Okay. Just next in line.

23 MR. GREENE: Please.

24 MR. CHRISTIANSEN: Which numbers would they be, Your  
25 Honor, just so I can write them down? 92 and -3 maybe or

1 something like that?

2 MR. GREENE: Probably a bit more than that.

3 THE COURT: I think you've already --

4 MR. GREENE: 94 and -5 maybe.

5 [Pause in the proceedings]

6 THE COURT: Okay. So 92 will be the \$437 check.

7 MR. GREENE: Judge, I think 92 might have been the  
8 photos of the boxes.

9 MR. CHRISTIANSEN: They were, Judge.

10 MR. GREENE: And then the photos of the emails might  
11 have been 93.

12 THE COURT: So were -- there were two photos of the  
13 boxes. So did you want both of those? So that would be 92  
14 and --

15 MR. CHRISTIANSEN: Judge, one was a photo of what  
16 would've been the production, and one was a photo of just the  
17 emails.

18 THE COURT: The emails. So 92 -- could we have  
19 those, Mr. Christiansen.

20 MS. FERREL: And I have tabs for the clerk when we  
21 take a break.

22 THE COURT: Okay. 92 --

23 MR. CHRISTIANSEN: May I approach your clerk, Your  
24 Honor?

25 THE COURT: Yes.

1           -- would be the photos of the boxes.

2           93 will be the emails.

3           94 is the \$437,000 check.

4           And 95 is the \$728,000 check.

5           MR. VANNAH: So since I interjected [indiscernible],  
6 still taking this down, as an officer of the court, that is  
7 what happened is the two banks did talk to each other, and  
8 because -- they did clear the checks the same day.

9           THE COURT: Okay. Thank you, Mr. Vannah.

10          Mr. Christiansen.

11 BY MR. CHRISTIANSEN:

12          Q     Ma'am, before the beginning of the hearing where I  
13 put your husband on as the first witness, had you ever -- you  
14 had never seen Exhibit 80, Bates stamp 3557, the we'll cross  
15 that bridge when we come to it? Or let's cross that bridge  
16 later email; true?

17          A     True.

18          Q     Yes?

19          A     Yes.

20          THE COURT: So you had never seen that before this  
21 hearing?

22          THE WITNESS: No.

23          THE COURT: Okay.

24 BY MR. CHRISTIANSEN:

25          Q     And three different times after you and your husband

1 sued Danny Simon and he signed affidavits saying that Mr. Simon  
2 agreed from the outset to 550 an hour?

3 A Yes.

4 Q In all three of those affidavits, he also stated that  
5 he hired Danny Simon on May 25th -- 27th, 2016; correct?

6 A Correct.

7 Q At a Starbucks out in Henderson?

8 A Yes.

9 MR. CHRISTIANSEN: I can show you just so you know.  
10 This is Exhibit 80, Bates stamp 3552 and -3, John --  
11 Mr. Greene. I'm sorry.

12 MR. GREENE: It's okay.

13 THE COURT: Can you make that a little bit bigger,  
14 Mr. Christiansen.

15 MR. CHRISTIANSEN: I sure will try, Your Honor.  
16 Maybe.

17 MR. GREENE: I'm glad you asked. I can't see it.

18 MR. VANNAH: Yeah, I can't see it.

19 THE COURT: Okay. Thank you.

20 MR. CHRISTIANSEN: Better, Bob?

21 MR. VANNAH: Yeah. That helps. Thanks.

22 MR. CHRISTIANSEN: Sure.

23 BY MR. CHRISTIANSEN:

24 Q This email just reflects that that meeting was out  
25 there at the Starbucks in Green Valley someplace?

1           A     Yes.

2           Q     In all the emails, I count 2,000ish emails. Believe  
3 me, I wish I didn't, but I did count them. Can you find me an  
4 email, just one that shows your husband or you saying to Danny  
5 Simon, here's 550 bucks an hour, that's what we're going to pay  
6 you?

7           A     That I said it to Danny?

8           Q     Sure.

9           A     I'd have to look through all the emails.

10          Q     Did you see your husband show anybody an email when  
11 he testified that he said this is what we agreed to?

12          A     Could you say that again, please.

13          Q     Sure. Brian didn't -- Mr. Edgeworth didn't show the  
14 Judge an email he wrote reflecting the June 10th meeting  
15 where this phone call or this 550 bucks an hour occurred;  
16 correct?

17          A     No.

18          Q     In fact, as of June, your husband doesn't even know  
19 who's writing the promissory notes -- this is Exhibit 80, Bates  
20 stamp 3505 -- whether its Mark Katz or Danny; correct?

21          A     Correct.

22          Q     They've far from cemented any type of attorney-client  
23 relationship. Can we agree on that?

24          A     No.

25          Q     Well, what was Danny going to get paid for writing a

1 promissory note?

2 A \$550 an hour.

3 Q Hadn't agreed to it yet, ma'am. This was June 5th.

4 A Oh, June 5th. I didn't know that.

5 Q So 550 is the number you and your husband agreed  
6 upon; right?

7 A Yes.

8 Q That's what I thought. And can we agree that on June  
9 10th Mr. Simon is sending emails with Brian, and there's no  
10 mention of the 550 bucks an hour?

11 A [No audible response.]

12 Q Right? This is June 10th. I'll move it up.

13 A Okay. Yeah --

14 MR. CHRISTIANSEN: Sorry, Mr. Greene. This is  
15 Exhibit 80 --

16 THE WITNESS: -- I was reading the [indiscernible].  
17 Can you scroll it up, please.

18 MR. CHRISTIANSEN: -- 3499. Scroll it up, yes,  
19 ma'am.

20 THE WITNESS: Yeah. So I can read it.

21 MR. CHRISTIANSEN: Yep. I'm sorry. I was trying to  
22 keep it large so the Judge, so all of us could see it.

23 THE WITNESS: Correct. I don't see 550 an hour  
24 there.

25 BY MR. CHRISTIANSEN:

1 Q And this is your Harvard Master's in Business  
2 husband; right? I mean, he graduated from Harvard?

3 A Yes.

4 Q Multinational businessman; right?

5 A Sure.

6 Q Now, you are a multinational businesswoman it sounds  
7 like. You said you went to Taiwan at some point and had a  
8 cosmetics line?

9 A Yes.

10 Q Hired dozens of lawyers?

11 A Yes.

12 Q Let me just ask you, did you ever put in an email  
13 that you thought Mr. Simon had exaggerated his four first  
14 invoices?

15 A No. [Inaudible] no.

16 Q Did you ever put in an email that you thought  
17 Mr. Simon's rate was too high?

18 A No.

19 Q Did you ever acknowledge in your testimony that  
20 Mr. Simon told you all that his rate of 550 an hour was a  
21 reduced rate?

22 A I don't recall him telling me that but --

23 Q Well, you looked at all the bills; right?

24 A Yes.

25 Q Right. I'll just show you the bottom of bill



1 number --

2 MR. CHRISTIANSEN: Exhibit 8, John. Mr. Greene. I'm  
3 sorry.

4 BY MR. CHRISTIANSEN:

5 Q See where it says 550 an hour reduced?

6 A Yes. I've seen that before.

7 Q Okay. So you knew right from the first bill that  
8 Mr. Simon was giving you guys a break on the bill; correct?

9 A It didn't feel like the friends and family rate,  
10 Mr. Christiansen.

11 Q Ma'am, I'm not asking you what it felt like. I'm  
12 asking you what it said on the bill. It said reduced; right?

13 A Yes.

14 Q And in fairness, the initial work done on this case,  
15 you heard your husband testify it was for a property damage  
16 claim; right?

17 A Yes.

18 Q I mean, at first Mr. Edgeworth thought it was just  
19 going to be a favor? Danny was going to work for free; right?

20 A I don't think he thought Danny was going to work for  
21 free.

22 Q That's what he testified to, ma'am --

23 A Well --

24 Q -- so do you accept what he says is true or no?

25 A [No response.]

1 Q That's what he said.

2 A Okay. Well, I'm just saying what I believe.

3 Q Well, then you don't believe him now?

4 A I'm sorry?

5 Q Well, you've been telling me all along you believe  
6 your husband --

7 A I do --

8 Q -- you believe your --

9 A -- believe. Yes.

10 Q Well, he's testified from that witness stand with you  
11 in the courtroom that he thought Danny was going to do him a  
12 favor?

13 A Okay. Fair. Yes.

14 Q That's work for free?

15 A Okay.

16 Q Okay.

17 A Sure.

18 Q That changed as the nature of the case changed;  
19 correct?

20 A Yes.

21 Q All right. And when the case got into sort of hard  
22 and heavy litigation, it was no longer a claim case; correct?  
23 It wasn't a friends and family rate property damage claim  
24 anymore?

25 A It was still a claims case up until later on when the

1 discovery started being made.

2 Q When was that?

3 A I want to say July or August, somewhere around that  
4 time, July of 2016.

5 Q And you --

6 A '17. I'm sorry.

7 Q And you became aware of that in preparation for this  
8 hearing as opposed to knowing it back then; right?

9 A No. I knew about it then because my husband told me  
10 about all the cases that he was discovering. So --

11 Q All right. And it's your testimony that your husband  
12 found everything; right?

13 A Yes.

14 Q And Ms. Ferrel, she was fabricating what she found  
15 and the work she did. I think the word you used was  
16 exaggerating this morning. Right?

17 A In regards to the 90 activations.

18 Q And this chart that Ms. Ferrel testified from, have  
19 you ever seen it before?

20 A Can you please --

21 Q There you go.

22 A -- minimize it just so I can see the whole thing.  
23 I think I saw this a long time ago, yes.

24 Q Okay. Ashley did this before your husband found  
25 anything; right? In time.

1           A     I don't know.

2           Q     Right. Well, ma'am, you know, that's the concern.  
3 Remember when your husband said I think I've been overbilled,  
4 and then I presented him his little chart, and he said, well, I  
5 really don't know. I don't have any evidence of it. Do you  
6 remember that testimony?

7           A     We can't prove it.

8           Q     Okay. That's a little bit like you saying your  
9 husband found everything. You don't know, and you can't prove  
10 it; right?

11          A     That I can prove.

12          Q     Okay. I just showed you a chart Ms. Ferrel prepared,  
13 showed a cover letter to the Judge last week that --

14          A     Can I --

15          Q     -- that predates --  
16 Listen to my question.

17                that predates in time any of your husband's  
18 discoveries. Do you remember that?

19          A     No, I don't.

20          Q     All right. I didn't think so.

21                MR. VANNAH: You know, I move -- I don't think so is  
22 kind of -- it's cute in front of a jury, but it's getting a  
23 old. He's good at that though.

24 BY MR. CHRISTIANSEN:

25          Q     Have you seen this July confidential production from

1 July 6th?

2 A What is the contents of that?

3 Q It's a production by Viking. Had you seen it?

4 A Yes.

5 Q And then did you see the email where Ms. Ferrel,  
6 before your husband and you, before your husband is given the  
7 information, puts in big letters, Can you say punitive damages?

8 A Yes.

9 Q And that was before Brian even had the information to  
10 go through; right?

11 A What do you mean "the information to go through"? I  
12 don't understand what you are asking.

13 Q Sure. The Viking productions that he went through  
14 and worked with his lawyers on.

15 A The "Viking productions," I don't understand that.

16 Q Okay. Well, I'll move on to a different area with  
17 you.

18 Do you remember in -- do you agree with all of the  
19 assertions made by Mr. Edgeworth and all of the affidavits on  
20 behalf of the two entities that sued Mr. Simon?

21 A Could you please repeat that question.

22 Q Sure. Mr. Edgeworth signed affidavits in support of  
23 this hearing on February the 2nd, February the 12th and March  
24 15th of this year. Did you know that?

25 A Yes.

1 Q Did you read those?

2 A Yes.

3 Q He signed those as a co-owner of the two entities  
4 that sued Mr. Simon; correct?

5 A Correct.

6 Q Now, you were the other co-owner; correct?

7 A Yes.

8 Q Do you agree with all those statements?

9 A Yes.

10 Q You've ratified those statements; correct?

11 A Yes.

12 Q All right. Do you agree with the statement he put in  
13 the third one that as of September Mr. Simon had been paid in  
14 full for all of his work?

15 A I believe -- yes.

16 Q Do you agree with him that he put in his third  
17 affidavit that Mr. Simon -- I want to tell you exactly right.

18 Let me stop and back up to -- the 17th is the  
19 uncomfortable meeting of November? And that's my word, not  
20 yours. I'm sorry. I was trying to make it easy. Is that  
21 fair?

22 A Yes.

23 Q And after the 17th, you're texting Elena Simon;  
24 right? You text her on November the 23rd said, Happy  
25 Thanksgiving?

1           A     I did.

2           Q     And you're so upset, you're so threatened. You're so  
3 extorted. You're such a victim of blackmail that you were  
4 talking nicely to Mrs. Simon; correct?

5           A     I'm trying to keep the peace, yes.

6           Q     And, ma'am, were you here, when I say here, I mean  
7 physically in court when your husband testified that Danny  
8 Simon's November 27th letter was sent at his request, at  
9 Brian's request?

10          A     Yes.

11          Q     So do you remember telling the Judge the letter made  
12 you feel terrified, and you thought all kinds of untoward  
13 things were going on?

14          A     Yes.

15          Q     And I think the word you use over and over and over  
16 is you were stunned to receive the letter?

17          A     Yes.

18          Q     How can you be stunned to receive a letter your  
19 husband requested?

20          A     I was stunned at the contents of the letter,  
21 Mr. Christiansen.

22          Q     All right. Because we're not going to dispute that  
23 Brian directed Danny to put in writing what Danny put in  
24 writing and you received November the 27th; correct?

25          A     Correct.

1           Q     That was something he did at Brian's request after  
2 Brian sent him an estimation of damages; correct?

3           A     Could you please repeat that.

4           Q     Sure. Brian on November the 21st gave Mr. Simon an  
5 estimation of what he thought his hard damages were?

6           A     Yes.

7           Q     They were less than \$4 million; correct?

8           A     Yes.

9           Q     All right. And that was with the 1.5 stigma that  
10 Danny had found an expert to attest to; correct?

11          A     Yes.

12          Q     That was with 220,000 in prejudgment interest;  
13 correct?

14          A     Yes.

15          Q     I mean, this was a whole bunch of money to fluff it  
16 up as high it could get, and it was still not 4 million bucks;  
17 correct?

18          A     Those were the costs, yes.

19          Q     And that's why the 4 million you received made you  
20 more than whole; right?

21          A     Sure.

22          Q     And Mr. Simon is the lawyer that did the work that  
23 got you the 4 million; right?

24          A     Yes.

25          Q     And I couldn't put my finger on it, but Mr. Simon



1 handed it to me. On page 6, paragraph 21, the last sentence  
2 says, Since we've already paid him for his work to resolve the  
3 litigation, can't he at least finish what he has been retained  
4 and paid for?

5 Did I read that correctly?

6 A Can you tell me in what context this is? What  
7 document are we --

8 Q This is your husband's affidavit signed under penalty  
9 of perjury dated --

10 A Which affidavit? Can I see?

11 Q Number 1. February 2, 2018, about a month after you  
12 sued Mr. Simon rather than pay him.

13 A Okay. Yes.

14 Q Do you agree with that statement?

15 A Since we've already paid him for this work, the  
16 result of the litigation can't he at least finish what he's  
17 been retained and paid for it?

18 I think it's taken in the wrong context. We still  
19 owe him money for the work that he's done.

20 Q Where does it say that?

21 A I don't see it.

22 Q Let me make it easy for you. Isn't it true that  
23 until your testimony today you have never conceded you owe  
24 Danny Simon money?

25 A No. That's completely wrong.

1           Q     Well, before your husband agreed he owed him  
2 somewhere between 350- and 450 grand on my cross, did you ever  
3 agree you owed him money?

4           A     Yes. We owed any money.

5           Q     Ma'am, your husband signed an affidavit saying,  
6 quote, Since we've already paid him for this work, and this  
7 work is to resolve the litigation, can't he at least finish  
8 what he's been retained and paid for?

9                     Did I read that correctly?

10          A     [No response.]

11          Q     Did I read that right, ma'am?

12          A     I was trying to read the whole paragraph.

13                   MR. CHRISTIANSEN: All right. I'll move on, Judge.  
14 BY MR. CHRISTIANSEN:

15          Q     And I'll just show you the Complaint so it will be  
16 consistent. This was the Complaint filed January the 4th by  
17 you all, and the highlighted portions says that.

18                   Plaintiffs are entitled to declaratory  
19 judgment setting forth the terms of the  
20 contract as alleged herein, that the contract  
21 has been fully satisfied by the plaintiffs,  
22 and that Simon is in material breach -- in  
23 material breach of the contract and that  
24 plaintiffs are entitled to the full amount of  
25 the settlement proceeds.

1 Did I read that correctly?

2 A Yes.

3 Q Okay. So as of January when you sued Mr. Simon, you  
4 thought you were entitled to all of the 1.9 million and change;  
5 correct?

6 A Yes.

7 Q And he was entitled to nothing else; correct?

8 A He was entitled to whatever we owed him to finish up  
9 the case as a separate issue.

10 Q It was a separate issue. Do you remember in the  
11 affidavits when your husband -- all three of them -- was savvy,  
12 and he uses the word savvy enough to know that if Mr. Simon  
13 hadn't presented damages he couldn't make a claim for damages?

14 A I don't recall that.

15 Q Okay. You are unfamiliar -- I'll just show it to  
16 you. I think you're going to say you were -- with the  
17 agreement with Lange, Mr. Teddy Parker, between him and  
18 Mr. Simon to continue out all the dates; right?

19 A I'm familiar with it, yes.

20 Q You were unfamiliar with it at the time; is that  
21 true? November 29th.

22 A What do you mean "unfamiliar with it at the time"?

23 Q Did you know that --

24 A I knew that there was a settlement.

25 Q No. Ma'am, this is an agreement with the Lange --

1 Lange hired a new lawyer, and African-American man named Teddy  
2 Parker.

3 A Yes.

4 Q Remember, your husband is scared of Teddy.

5 A I was here. I meant I was in the courtroom with  
6 Teddy Parker.

7 Q Correct. Do you know Teddy, on the 29th, agreed with  
8 Danny, your lawyer, to extend all the deadlines to produce  
9 damage calculations, get experts, et cetera. Did you know  
10 that?

11 A Can you say that again. I don't understand.

12 Q Had you ever seen this letter, ma'am, on the 29th of  
13 November?

14 A I believe I've seen it before.

15 Q No. Ma'am, on the 29th of November, did you know it  
16 existed?

17 A No.

18 Q When you hired Mr. Vannah, did you know it existed?  
19 Same day, the 29th.

20 A No.

21 Q Okay. When your husband signed the affidavit saying  
22 he was savvy enough to know certain things, isn't it true he  
23 didn't know this existed?

24 A I don't understand your question, Mr. Christiansen.

25 Q Very simple. When your husband signed the affidavit

1 saying he was savvy enough to know that damages hadn't been put  
2 in the calculation spreadsheet so they couldn't be pursued,  
3 isn't it true he didn't know, Brian didn't know that Lange had  
4 agreed to extend all the deadlines?

5 A I don't know.

6 Q I'll just touch on a couple of your emails, and then  
7 I'll probably sit down with you.

8 Exhibit 42 is an email sent to you on Monday the  
9 27th, and just so we're clear, the 27th is the day after the  
10 Thanksgiving weekend; is that right?

11 A Two days, I believe.

12 MR. VANNAH: It says Monday.

13 BY MR. CHRISTIANSEN:

14 Q Monday would be -- Sunday would be the end of the  
15 weekend.

16 A Okay. Yes. Sure.

17 Q It's okay. No problem. Mr. Simon is saying, Please  
18 review and advise me of your position at your earliest possible  
19 convenience if you'd like to discuss, please call me any time.  
20 Thanks.

21 A Yes.

22 Q And it's this email that -- I wrote it down -- and  
23 you felt outraged from it? Right? Outraged was your word.  
24 You got this email. You got his proposal. You were outraged?

25 A After I read the proposal, yes.

1           Q     And then it was in response to this email, as the day  
2 goes on and Mr. Greene did it with you sort of chronologically,  
3 that you're telling him, Hey, we're going to come sit with you.  
4 We're going to come sit with you when Brian gets back, and then  
5 ultimately, rather than that, you go hire Vannah and Vannah?

6           A     Well, I was stalling for some time to figure out what  
7 to do.

8           Q     I'm just meaning it chronologically that's what  
9 happened.

10                   In August of 2017, was there any money on the table  
11 to settle your case against Viking?

12           A     August 2017, no.

13           Q     So why did your husband sign an affidavit saying that  
14 after a substantial sum of money was offered, Mr. Simon wanted  
15 to change the contract?

16           A     He was referring to the \$6 million of the settlement  
17 agreement.

18           Q     Okay. That didn't happen until November; right?

19           A     Yes.

20           Q     And you and I can agree, probably not on much, but  
21 that your husband authored an email unsolicited. There's no  
22 email saying -- from Danny saying tell me what you want to do.  
23 Brian wrote an email entitled contingency; right?

24           A     Yes.

25           Q     And that email says what it says. I'm not going to

1 get into it with you. You didn't write it.

2 A Correct.

3 Q You didn't read it?

4 A I read it.

5 Q You didn't read at the time?

6 A Not the day it was written.

7 Q You likely didn't read it until this fee dispute  
8 occurred, fair?

9 A No. I heard about that email because Brian and I  
10 spoke about the contingency fee, that conversation that he had  
11 with Danny at the San Diego meeting.

12 Q Right. And that's when everybody agreed the case had  
13 changed; right? It was a different beast?

14 A Sure.

15 Q Your husband -- I'm paraphrasing -- said nobody could  
16 have predicted this when we started, fair?

17 A Sure. Fair.

18 Q That nobody had an agreement about this new beast;  
19 right? That the case had become, and it had become a beast.  
20 To use your words, it was consuming your husband.

21 A Yes.

22 Q Okay. Nobody had ever contemplated a friends and  
23 family favor to be something consuming everybody's life, fair?

24 A Fair.

25 Q And if it was consuming your husband, it likely was

1 consuming Elena's husband, true?

2 A I don't know.

3 Q I mean, you got to see your husband; right? He's  
4 calling Danny on the weekends, at night, on vacation, from  
5 different countries. True?

6 A My husband read thousands and thousands of pages of  
7 documents and discoveries and talked to all the key people  
8 involved. So I saw him working a lot on the case.

9 Q All right. And you heard Mr. Kemp testify; right?  
10 Our expert.

11 A Yes.

12 Q And you don't have an expert, fair?

13 A Correct.

14 Q And you heard Mr. Kemp say there was, in his view, no  
15 contract for -- at any time, but much for sure not about the  
16 new beast that your memorialized in the August 22nd email;  
17 correct?

18 A He's wrong.

19 Q You heard Mr. Kemp say it. That's all I asked you.  
20 Correct?

21 A Correct.

22 Q And since you don't have an expert, there's no --  
23 you're not a lawyer; right?

24 A No.

25 Q You don't know when an agreement exists, do you?



1           A     I'm sorry. Say that again.

2           Q     You don't know the legal requirements for an  
3 agreement, a meeting of the minds?

4           A     [No audible response.]

5           Q     True?

6           A     True.

7           Q     Okay. And so you don't have any evidence to dispute  
8 Mr. Kemp's opinions; right? Evidence, not what you think or  
9 how you feel and all that other stuff. You don't have any  
10 evidence; right?

11          A     No.

12          Q     And essentially what you're asking the Court to do,  
13 if you agree you were made whole with \$4 million settlement  
14 that you've already received, is to give you monies that were  
15 earmarked as lawyer fees in the settlement; right?

16          A     No.

17          Q     You heard Mr. Kemp say he talked to the mediator who  
18 knew and told Will Kemp --

19               MR. GREENE: Object to hearsay on that as well.

20               MR. CHRISTIANSEN: She sat through the trial, Your  
21 Honor. She heard the testimony.

22               THE COURT: Are you asking her to testify to a  
23 hearsay statement, or are you asking her what Mr. Kemp said?

24               MR. CHRISTIANSEN: The latter, Your Honor.

25               THE COURT: Okay. You can ask her what Mr. Kemp

1 said.

2 BY MR. CHRISTIANSEN:

3 Q You heard Mr. Kemp say --

4 THE COURT: Because he already testified to it.

5 MR. CHRISTIANSEN: I'm sorry.

6 BY MR. CHRISTIANSEN:

7 Q -- that Mr. Floyd, the gentleman who mediated the  
8 \$6 million settlement, told him 2.4 of that money was earmarked  
9 as attorneys' fees; right?

10 A No.

11 Q Mr. Vannah is the one he did it to. Bob and him got  
12 up, and they talked back and forth with each other. Do you  
13 remember that?

14 MR. GREENE: That mischaracterizes testimony. It's  
15 also hearsay.

16 BY MR. CHRISTIANSEN:

17 Q You don't remember that?

18 THE COURT: Well, she said she doesn't know, and I  
19 remember Mr. Kemp's testimony. I remember what he said.

20 BY MR. CHRISTIANSEN:

21 Q In Exhibit 61, these are photos of your home, ma'am;  
22 is that right?

23 A Yes.

24 Q This is the home that you guys now own outright, as I  
25 understand Mr. Edgeworth's testimony; correct?

1           A     Yes.

2           Q     From the money that Mr. Simon got from Viking for you  
3 all from a \$500,000 property damage claim; correct?

4           A     No.

5           Q     Who got the money for you?

6           A     I'm sorry. Could you rephrase your question.

7           Q     Sure.

8           A     I didn't understand the question, whether --

9           Q     The money you used to pay your house off and own it  
10 free and clear came from the Viking settlement?

11          A     No, that's wrong. We built it with our own cash.  
12 We've never had a mortgage on it if that's what you're -- I  
13 don't understand your question, Mr. Christiansen.

14          Q     Well, I thought you needed to borrow money from  
15 people to build the house?

16          A     Yes.

17          Q     But you didn't need to borrow money from people to  
18 build up your damage?

19          A     We plan everything, Your Honor, okay. So we had  
20 certain money set aside for the volleyball gym, certain money  
21 set aside to finish up our house, to furnish it, and then the  
22 damage came, which was half a million dollars, plus ever  
23 mounting legal fees. We did not anticipate that.

24                THE COURT: Okay. So you guys did not use the Viking  
25 settlement to pay off this house?

1 THE WITNESS: No.

2 THE COURT: Okay. How was the house paid off?

3 THE WITNESS: We paid for in cash. We built it  
4 slowly over time with cash.

5 THE COURT: And then after the sprinkler busted, you  
6 guys did what?

7 THE WITNESS: I'm sorry?

8 THE COURT: After the sprinkler busted, then this  
9 litigation occurs.

10 THE WITNESS: Yes.

11 THE COURT: So while you guys are in this litigation,  
12 are you -- you're borrowing money from your mom --

13 THE WITNESS: Yes.

14 THE COURT: -- and this friend, and then you used the  
15 Viking settlement to pay them back?

16 THE WITNESS: Yes.

17 THE COURT: But you used all of your own money to  
18 redo the stuff in the house?

19 THE WITNESS: Yes.

20 THE COURT: Okay.

21 BY MR. CHRISTIANSEN:

22 Q Just by ease of example, wasn't there a line item for  
23 a couple hundred grand to replace all your cabinets in your  
24 kitchen?

25 A Yes.

1           Q     At least in this photograph, those cabinets have yet  
2 to be replaced; correct?

3           A     No. They were -- I think they were -- I don't know  
4 when this picture is, Mr. Christiansen. So they were replaced  
5 at some point.

6           Q     Okay. The house that you told the Judge was going  
7 to -- you were going to live in, really it's a spec house you  
8 guys were building?

9           A     Correct.

10          Q     It was an investment; correct?

11          A     Yes.

12          Q     And during the litigation, you finished the house and  
13 actually listed it for 5 and a half million bucks?

14          A     Yes.

15          Q     And then just chose to move -- I think if I get the  
16 geography right, you all used to live down the street. You  
17 moved up into this 5 and a half million dollar house that you  
18 own outright?

19          A     Yes.

20                 MR. CHRISTIANSEN: Court's indulgence.

21                 Judge, your preference. Do you need me to go through  
22 the volleyball emails, or has the Court seen enough of them?

23                 THE COURT: I have seen plenty of volleyball emails.

24                 MR. CHRISTIANSEN: Okay. That concludes  
25 cross-examination, Your Honor.

1 THE COURT: Okay.

2 MR. CHRISTIANSEN: Even I know when I'm irritating  
3 somebody.

4 Mr. Greene, do you have redirect?

5 MR. GREENE: Just briefly.

6 THE COURT: Okay.

7 MR. GREENE: A few moments this time.

8 MR. CHRISTIANSEN: We're all going to finish today,  
9 right, John?

10 MR. GREENE: Yes.

11 THE COURT: Oh, we're finishing today.

12 MR. GREENE: Court's indulgence for just one moment.

13 THE COURT: Okay.

14 REDIRECT EXAMINATION

15 BY MR. GREENE:

16 Q Let's talk about evidence of a contract. Okay?

17 A Yes.

18 MR. GREENE: This is Exhibit 2.

19 THE COURT: 2. Okay.

20 MR. GREENE: Page 1.

21 BY MR. GREENE:

22 Q This is the first invoice that Danny Simon and his  
23 law firm sent to you?

24 A Yes.

25 Q Do you see any dates on here?

1           A     No.

2           Q     You didn't get dates going on until the 8th of

3 August -- sorry, the 19th of August, 2016; correct?

4           A     Correct.

5           Q     Do you see the first entry?

6           A     Yes. Initial meeting with client.

7           Q     What did he charge you guys for that?

8           A     \$550 an hour.

9           Q     For how much time?

10          A     1.75 hours.

11          Q     Very first meeting; correct?

12          A     Correct.

13          Q     This is the Starbucks meeting; isn't it?

14          A     It is.

15          Q     Fourth entry down, we don't have any dates on these.

16 So we don't know when these happened. You as a client don't

17 know when these happened, do you?

18          A     No.

19          Q     You don't know when Danny is keeping track of his

20 time or when he's actually marking that a discussion with the

21 client took place; correct?

22          A     Correct.

23          Q     But you were seeing on the fourth entry down he's

24 billing you 4.25 hours for a discussion with client; correct?

25          A     Yes.

1 Q You're also seeing the second line down, Review file.  
2 We don't have a date on that one either, do we?

3 A No.

4 Q Review file, several discussion with clients at how  
5 many hours?

6 A 4.75.

7 Q And what did he bill you per hour at 4.75 hours?

8 A \$550 an hour.

9 Q How about 4.25 hours?

10 A \$550 an hour.

11 Q From the very beginning. Let's look at the very end.  
12 Okay. This is part of the superbill. Exhibit 5, page 79. Do  
13 you see the very last dated entry from Mr. Simon?

14 A I do.

15 Q Dated what?

16 A January 8th, 2018.

17 Q Travel to Bank of Nevada 2X Re trust deposit. Do you  
18 see that?

19 A Yes.

20 Q Number of hours?

21 A Two and a half.

22 Q What did Mr. Simon bill you, the client, per hour for  
23 that 2.5 hours?

24 A \$550 an hour.

25 Q From the initial meeting with client that we know



1 took place in May of 2016 -- nobody disputes that -- to January  
2 8th of 2018, what has every entry for Mr. Simon been billed  
3 at?

4 A \$550 an hour.

5 Q Did he ever send any of the fee checks back to you?

6 A No.

7 Q Did he ever offer to send any of the fee checks that  
8 you had sent to him back to you?

9 A No.

10 Q Did they all clear?

11 A Yes.

12 MR. GREENE: I have nothing else, Your Honor.

13 THE COURT: Thank you, Mr. Greene.

14 Mr. Christiansen, do you have any follow-up?

15 MR. CHRISTIANSEN: Just one question.

16 THE COURT: Okay.

17 RECROSS-EXAMINATION

18 BY MR. CHRISTIANSEN:

19 Q Ms. Edgeworth, I showed you the first bill. If I  
20 were to show you the last line of bills 2, 3 and 4, could we  
21 agree that the word reduced is in all four of -- all three of  
22 those bills?

23 A If you say that they are, Mr. Christiansen. Yes.

24 MR. CHRISTIANSEN: Okay.

25 MR. GREENE: I just have one more then.

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FURTHER REDIRECT EXAMINATION

BY MR. GREENE:

Q Let's take a look at the very last line of  
Mr. Simon's very last bill. Okay?

THE COURT: This is the superbill?

MR. GREENE: This is the superbill. This is page 79.

BY MR. GREENE:

Q Total fees at 550 per hour. Do you see that, Angela?

A I do.

Q Where does it say reduced?

A It does not.

Q Anywhere, does it?

A No.

MR. GREENE: That's all I have.

FURTHER RECROSS-EXAMINATION

BY MR. CHRISTIANSEN:

Q Just, Ms. Edgeworth, do you know the date of your  
first bill, just the date?

A December 6th or 16th, somewhere near December  
16th.

MR. CHRISTIANSEN: Thank you, ma'am.

THE COURT: Anything else, Mr. Greene?

MR. GREENE: No, Your Honor.

THE COURT: Mr. Christiansen?

MR. CHRISTIANSEN: No, ma'am.

1 THE COURT: Okay. This witness may be excused.  
2 Mrs. Edgeworth, thank you very much for your  
3 testimony here today.

4 [Excerpt of proceedings concluded 4:28 p.m.]

5 -oOo-

6 ATTEST: I do hereby certify that I have truly and correctly  
7 transcribed the audio/video proceedings in the above-entitled  
8 case.

9  
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11 Dana L. Williams  
12 Transcriber

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<b>2</b> <b>28 [2]</b> 86/7 94/16 <b>28th of [1]</b> 7/15 <b>29th [6]</b> 79/19 79/21 150/9 174/21 175/7 175/19 <b>29th of [3]</b> 149/22 175/12 175/15 <b>2:20 [1]</b> 73/6 <b>2:26 [1]</b> 73/8 <b>2:26 p.m [2]</b> 68/23 72/25 <b>2:54 p.m [1]</b> 103/17 <b>2nd [1]</b> 168/23 <b>2X [1]</b> 187/17	<b>50 percent [2]</b> 32/7 52/3 <b>50-50 [1]</b> 108/6 <b>55 [3]</b> 86/25 87/1 122/1 <b>550 [19]</b> 20/17 26/17 26/18 107/12 113/10 118/7 119/21 131/21 132/14 133/3 160/2 161/5 161/15 162/5 162/10 162/23 163/20 164/5 189/8 <b>5:32 p.m [1]</b> 79/4 <b>5th [2]</b> 162/3 162/4	8/22 8/23 10/2 10/4 10/10 10/21 11/2 11/25 12/3 12/8 12/9 12/12 12/13 12/14 12/18 13/1 13/2 13/4 13/4 13/7 13/18 13/19 14/2 14/3 14/4 14/5 14/6 14/22 16/1 17/11 17/19 19/3 19/24 19/25 20/20 20/21 21/25 22/13 26/2 26/3 29/16 29/19 29/25 30/1 30/11 31/3 31/4 32/19 32/24 33/16 34/22 35/8 35/11 35/25 36/14 36/15 36/18 36/25 37/4 40/18 41/25 42/23 43/2 43/6 43/8 47/25 48/1 53/16 54/5 55/19 55/22 56/19 57/14 58/18 59/22 61/13 61/22 61/23 62/23 63/5 67/17 68/12 68/14 71/1 71/17 71/18 74/1 74/3 74/7 76/8 76/19 77/7 77/14 77/22 80/6 80/7 80/12 89/4 89/5 89/25 91/1 91/20 92/4 92/12 92/13 93/7 96/24 99/20 100/8 100/20 100/21 100/25 106/4 106/8 106/12 106/13 106/24 107/8 107/20 109/18 110/7 111/16 119/3 120/3 121/8 121/17 122/12 124/21 124/22 125/25 126/18 126/22 126/23 128/21 128/22 136/17 137/8 137/13 139/10 142/6 143/14 146/12 147/2 147/8 147/18 147/20 152/14 152/18 154/16 154/20 157/12 166/9 166/10 172/11 178/9 178/10 178/18 179/15 185/16 187/9	<b>accrued [1]</b> 50/3 <b>accrues [1]</b> 148/14 <b>accruing [2]</b> 50/5 117/9 <b>accuracy [1]</b> 89/18 <b>accurate [5]</b> 30/9 30/14 89/11 89/12 148/22 <b>accurately [1]</b> 120/24 <b>accused [2]</b> 111/13 144/1 <b>Aces [4]</b> 6/17 95/11 136/5 136/5 <b>acknowledge [1]</b> 163/19 <b>across [5]</b> 11/14 29/12 29/14 33/2 65/12 <b>actions [2]</b> 114/17 115/8 <b>activation [2]</b> 31/14 109/5 <b>activations [13]</b> 29/22 29/25 30/2 30/10 30/11 30/12 30/16 31/8 31/12 31/20 31/23 32/2 166/17 <b>active [3]</b> 3/18 32/11 121/14 <b>actively [4]</b> 25/20 25/23 26/3 29/7 <b>activities [1]</b> 5/9 <b>actual [5]</b> 61/8 71/21 86/17 94/18 130/23 <b>actually [19]</b> 9/8 16/10 20/20 24/22 28/20 55/3 56/6 63/22 86/1 97/25 99/5 112/14 119/11 123/13 124/8 128/19 156/22 184/13 186/20 <b>actuarial [2]</b> 4/12 4/14 <b>add [2]</b> 94/13 94/14 <b>addition [2]</b> 29/7 90/10 <b>additional [6]</b> 66/13 83/25 84/6 84/16 90/25 91/2 <b>address [2]</b> 16/9 43/22 <b>addressed [1]</b> 78/9 <b>adjudicate [4]</b> 83/20 88/2 88/3 97/4 <b>adjudication [1]</b> 34/16 <b>administer [1]</b> 5/19 <b>administration [2]</b> 4/12 4/14 <b>admitted [1]</b> 157/18 <b>admitting [1]</b> 109/22 <b>advice [19]</b> 11/24 74/7 77/3 83/1 83/7 83/9 101/8 101/14 101/24 102/1 150/19 150/24 151/4 151/6 151/7 151/10 151/11 151/12 151/15 <b>advise [3]</b> 74/12 80/25 176/18 <b>advised [1]</b> 150/4 <b>advisory [1]</b> 6/17 <b>advocate [1]</b> 82/2 <b>affairs [1]</b> 34/2 <b>affected [1]</b> 35/12 <b>affidavit [7]</b> 169/17	172/8 172/10 173/5 175/21 175/25 177/13 <b>affidavits [10]</b> 116/25 117/13 131/12 131/15 132/15 160/1 160/4 168/19 168/22 174/11 <b>African [1]</b> 175/1 <b>African-American [1]</b> 175/1 <b>after [41]</b> 11/18 24/23 36/2 40/2 49/11 51/17 65/1 66/3 66/11 66/22 68/4 73/12 76/19 85/7 89/15 92/5 93/13 96/2 98/3 99/6 101/15 101/25 102/5 104/7 118/6 119/2 122/12 126/22 129/22 149/5 150/6 151/18 159/25 169/23 171/1 172/11 176/9 176/25 177/14 183/5 183/8 <b>after noon [1]</b> 40/2 <b>afternoon [2]</b> 104/3 104/4 <b>again [20]</b> 41/14 41/15 44/11 47/13 48/16 50/21 53/24 67/9 68/19 78/20 81/21 86/14 110/16 115/2 138/9 141/18 144/16 161/12 175/11 180/1 <b>against [17]</b> 21/2 21/4 45/4 52/12 56/22 60/6 82/22 108/8 113/7 127/7 137/6 145/7 152/2 152/11 153/5 153/16 177/11 <b>age [1]</b> 5/3 <b>ago [5]</b> 4/3 42/9 115/6 142/24 166/23 <b>agree [32]</b> 21/12 23/2 39/25 58/11 62/16 75/24 76/24 108/11 119/24 120/2 121/2 128/25 129/7 134/8 135/16 140/9 143/7 143/9 148/21 154/23 155/2 161/23 162/8 168/18 169/8 169/12 169/16 172/14 173/3 177/20 180/13 188/21 <b>agreeable [1]</b> 82/6 <b>agreed [19]</b> 20/22 78/21 86/11 108/1 119/4 131/20 132/14 135/13 135/14 146/25 155/1 160/2 161/11 162/3 162/5 173/1 175/7 176/4 178/12 <b>agreeing [1]</b> 59/4 <b>agreement [71]</b> 19/8 22/17 23/11 23/25 24/7 25/16 26/11 26/13 26/18 27/4 27/17 27/18 27/20 27/21 28/1 42/16 51/1 51/14 55/23 56/1 58/16 58/22 59/1 59/2 59/4 59/5 59/8 60/21	
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**Eighth Judicial District Court  
District of Nevada**

EDGEWORTH FAMILY TRUST; and  
AMERICAN GRATING, LLC

Plaintiffs,

vs.

LANGE PLUMBING, LLC; THE VIKING  
CORPORTATION, a Michigan corporation;  
SUPPLY NETWORK, INC., dba VIKING  
SUPPLYNET, a Michigan Corporation; and  
DOES 1 through 5; and, ROE entities 6 through  
10;

Defendants.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC

Plaintiffs,

vs.

DANIEL S. SIMON; THE LAW OFFICE OF  
DANIEL S. SIMON, a Professional Corporation  
d/b/a SIMON LAW; DOES 1 through 10; and,  
ROE entities 1 through 10;

Defendants.

CASE NO.: A-18-767242-C  
DEPT NO.: XXVI

**Consolidated with**

CASE NO.: A-16-738444-C  
DEPT NO.: X

**CLOSING ARGUMENTS OF LAW**  
**OFFICE OF DANIEL SIMON**

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1                                   **CLOSING ARGUMENTS OF LAW OFFICE OF DANIEL S. SIMON**

2                   Daniel Simon and Law Office of Daniel S. Simon d/b/a Simon Law (jointly the  
3 “Defendants” or “Law Office” or “Mr. Simon”) submits their closing arguments in support of  
4 their motion to adjudicate the attorney’s lien and motions to dismiss.  
5

6   **I.**

7   **INTRODUCTION**

8                   Danny and Eleya Simon were close family friends with Brian and Angela Edgeworth  
9 for many years. The families travelled abroad together, and they routinely helped each other out  
10 when needed. Angela Edgeworth agrees Eleya Simon was a close friend who helped plan her  
11 father’s funeral. However, after one discussion about attorney’s fees owed, the Edgeworths,  
12 ended the friendship and personally sued Mr. Simon for punitive damages. They sued Mr. Simon  
13 before he even had the ability to deposit the settlement money solely as a tactic to avoid paying  
14 him a reasonable fee.  
15

16                   On April 10, 2016, a house Brian Edgeworth started building as an investment suffered a  
17 flood. Lange, the plumber, installed a defective Viking fire sprinkler that caused the flood. The  
18 flood caused about \$500,000 in damage.

19                   Mr. Edgeworth decided not to buy course of construction insurance, so he had to look to  
20 Lange to pay or repair. Lange refused to pay or repair the flood damage, blaming the defective  
21 Viking fire sprinkler.

22                   Mr. Edgeworth first tried to resolve the claim on his own. Mr. Edgeworth got nowhere.  
23 Mr. Edgeworth soon realized that he needed an attorney.

24                   At the outset, the Edgeworths had difficulty finding an attorney. The Edgeworths felt it  
25 would be too costly to pay an hourly lawyer full time at full rates and looked for a favor.

1           Given the Edgeworths self-imposed limits on what they would pay, on May 27, 2018,  
2 the Edgeworths decided to ask their friend, Mr. Simon, for a favor:

3           Hey Danny:

4           I do not want to waste your time with this hassle (other than to force you to listen me  
5 bitch about it constantly) and the insurance broker says I should hire Craig Marquiz and  
6 start moving the process forward. Should I just do that and not bother you with this? My  
7 only concern is that some goes nuclear (with billing and time) when just a bullet to the  
8 head was all that was needed to end this nightmare (and I do not know this person from  
9 Adam).

10          ...

11          Okay, I will type up the summary with all the documents today and then get them to you  
12 somehow. I would rather pay you and get it resolved than have someone like Craig drag  
13 this in forever.

14 *See, Exhibit 80, SIMONEH0003557-0003558.*

15          Mr. Simon agreed to help his friends with the flood claim and to send a few letters.  
16 Because they were friends, Mr. Simon took the case on a friends and family basis and deferred a  
17 discussion on attorney fees. Danny specifically said “we will cross that bridge later.” *See,*  
18 **Exhibit 80, SIMONEH0003557-0003558.**

19          *There was no express written or oral agreement on fees at the “outset”<sup>1</sup> of the case.* Mr.  
20 Simon took the case as a favor in the belief that the Law Office could push Lange and Lange’s  
21 insurance carrier to pay the property loss claim, especially given the clear language of the  
22 contract between Lange and the Edgeworths.

23          In June of 2016, the Law Office filed a complaint. The case did not begin to heat up  
24 until December of 2016. While the case began as a favor, it grew into a complex products  
25 liability case with many other aspects, including breach of contract claims, contract  
interpretation, property damage, construction building codes, insurance coverage, engineering,

---

<sup>1</sup> See all three of Mr. Edgeworth’s affidavits clearly state it was agreed to at the “outset.” *See, Exhibits 16, 17 and 18.*



1 manufacturing, weather sciences and punitive damages.

2 The Edgeworths openly admit that the case dramatically changed from where it started as  
3 a favor and turned into a beast. There was never a meeting of the minds as to compensation. Mr.  
4 Kemp credibly testified that in his expert opinion, the email confirms there was no express or  
5 implied agreement for compensation as Mr. Edgeworth was looking for terms based on several  
6 options, including an hourly, contingency or hybrid. The email states as follows:

7 “We never really had a structured discussion about how this might be done”

8 ...

9 I could also swing hourly for the whole case (unless I am off what this is going to cost). I  
10 would likely borrow another \$450k from Margaret in 250 and 200 increments and then  
either I could use one of the house sales for cash or if things get really bad, I still have a  
couple million in bitcoin I could sell.”

11 *See, Exhibit 27.*

12 Mr. Edgeworth openly admitted that there was not agreement as to the punitive aspect of  
13 the case as nobody could have contemplated it at the beginning of the case that started as a favor.  
14 Mrs. Edgeworth also testified that the case changed when it became a “beast” and there was  
15 never an agreement for compensation for the new aspect of the case. Since the case became a  
16 new case, Mr. Kemp made it abundantly clear that the evidence of the August, 22, 2017 email  
17 confirms that there was no contract at all, and the lack of any other evidence supporting a  
18 different conclusion confirms that compensation for the new case was never reached.

19 The Court saw firsthand the excellent work of the Law Office. The original cost of  
20 construction of the house, including land acquisition was about \$3 million. The cost to repair  
21 flood damage was about \$500,000. The entire case settled for \$6.1 million.

22 Mr. Will Kemp testified that the result was beyond amazing. Mr. Kemp said the  
23 settlement amount was the highest for a single home product defect in Nevada history. Mr.  
24 Kemp also testified that the case would not have gotten off the ground if Mr. Simon did not take  
25

1 the case as a favor.

2 On December 7, 2017, the Edgeworths signed a "Consent To Settle" on the advice of the  
3 Vannah firm and against Simon's advice. *See*, **Exhibit 47**. This form was signed by both, Mr.  
4 and Mrs. Edgeworth who acknowledge "**We have been made more than whole.**" *Id.* This was  
5 also re-affirmed by the Edgeworths at the hearing. The Edgeworths received \$4 million cash in  
6 January of 2018. Even though they were made "more than whole" they now seek the remaining  
7 \$1,977,843.80, held in the trust account. The disputed amount left in the trust account was  
8 earmarked by the mediator, Floyd Hale, as attorney's fees when Mr. Hale made the \$6 million  
9 mediator's recommendation. The choice now is to grant the money earmarked for attorney's fees  
10 to the attorney that did the work with a great result; or, to give the money to the clients who have  
11 already received \$4 million for a \$500,000 property damage claim and "have been made more  
12 than whole."

13  
14 The Edgeworth's view of the value of legal services is contrary to the law and not  
15 supported by any evidence. Mr. Edgeworth testified about what he thinks of the value of legal  
16 services. At the end of day two, Mr. Edgeworth testified he would have been interested in a deal  
17 with the Law Office in which the Law Office paid off the loans the couple took from Angela's  
18 mother and Brian's friend. At 4:42 p.m. of the video on day 2, Mr. Edgeworth testified that he  
19 thought his negotiating position improves and the value of legal services goes down as the Law  
20 Office devoted more time to the case and made the case more valuable.

21 This is the core of the dispute. The Edgeworths believe the money due the Law Office  
22 goes down as the hours spent by the Law Office goes up and the case is made more valuable;  
23 while the Law thinks the opposite. The Law holds that the payment due increases as time spent  
24 on the case increases and when the value of the case increase.  
25

1 Mr. Simon worked on the case with the understanding that the Law Office would  
2 receive a reasonable fee at the end, in part, dependent on the result obtained. Mr. Simon's  
3 understanding was that he was due quantum meruit, per the Law. Of course, Mr. Simon also  
4 thought, incorrectly, that he could reach an agreement with his friends on what the reasonable  
5 amount would be. The facts and the law of this case support a finding by the Court of quantum  
6 meruit. If the court determines that a contract did not exist for compensation and/or Mr. Simon  
7 was constructively discharged, the court is free to determine the reasonable amount of the  
8 services rendered based on quantum meruit.

## 9 II.

### 10 **CONSTRUCTIVE DISCHARGE / TERMINATION**

11 Constructive discharge of an attorney may occur under several circumstances.

- 12 • Refusal to communicate with an attorney creates constructive discharge. *Rosenberg v.*  
13 *Calderon Automation*, 1986 Ohio App. LEXIS 5460 (Jan. 31, 1986).
- 14 • Refusal to pay an attorney creates constructive discharge. *Christian v. All Persons*  
15 *Claiming Any Right*, 962 F. Supp. 676 (U.S. Dist. V.I. 1997).
- 16 • Suing an attorney creates constructive discharge. *Tao v. Probate Court for the Northeast*  
17 *Dist. #26*, 2015 Conn. Super. LEXIS 3146, \*13-14, (Dec. 14, 2015). See also *Maples v.*  
18 *Thomas*, 565 U.S. 266 (2012); *Harris v. State*, 2017 Nev. LEXIS 111; and *Guerrero v.*  
19 *State*, 2017 Nev. Unpubl. LEXIS 472.
- Taking actions that preventing effective representation creates constructive discharge.  
20 *McNair v. Commonwealth*, 37 Va. App. 687, 697-98 (Va. 2002).

21 The Edgeworths did all the above and more. Constructive discharge occurred when the  
22 Edgeworths hired a different lawyer, stopped talking to the Law Office, stopped following the  
23 advice of the Law Office, accused the Law Office of an intent to steal \$6 million dollars, refused  
24 to deposit settlement proceeds in the trust account and sued the Law Office for conversion and  
25 requested punitive damages.

1 Mr. Simon credibly testified that when he received the letter of direction on November  
2 30, 2017, he believed he had been fired. *See*, **Exhibit 43**. Mr. Vannah's firm was retained on  
3 November 29, 2017 to represent the Plaintiffs for the Viking claims. The retainer specifically  
4 states, as follow:

5 Client retains Attorneys to represent him as his Attorneys regarding Edgeworth Family  
6 Trust and AMERICAN GRATING V. ALL VIKING ENTITIES and all damages  
7 including, but not limited to, all claims in this matter and empowers them to do all things  
8 to effect a compromise in said matter, or to institute such legal action as may be advisable  
9 in their judgment, and agrees to pay them for their services, on the following conditions:

10 ...  
11 (b) \$925 an hour for attorney time for Robert D. Vannah and John B. Greene

12 (c) Client agrees that his attorneys will work to consummate a settlement of \$6,000,000  
13 from the Viking entities and any settlement amount agreed to be paid by the Lange entity.  
14 Client also agrees that attorneys will work to reach an agreement amongst the parties to  
15 resolve all claims in the Lange and Viking litigation.

16 *See*, **Exhibit 90**, Vannah Retainer Agreement. Thereafter, Mr. Vannah's firm solely advised the  
17 Edgeworths on all aspects of the case and settlement.

18 The Edgeworths had no direct contact with Mr. Simon and refused to speak with Mr.  
19 Simon even prior to Mr. Vannah's involvement. The last verbal conversation Mr. Simon had  
20 with the Edgeworths was on or about November 25, 2017 when Mr. Edgeworth requested the  
21 proposed retainer in writing. The last email correspondence with the Edgeworths was on  
22 November 29, 2017 when Mrs. Edgeworth promised to meet with Mr. Simon when Mr.  
23 Edgeworth returned from China. *See*, **Exhibit 44**. She later admitted that these were false  
24 promises to mislead Mr. Simon.

25 Mr. Simon had already been negotiating the terms of the settlement with Viking during  
the week of November 27, 2017 prior to Mr. Vannah's involvement. These negotiated terms  
were put into a final release signed by the clients and Mr. Vannah's office on December 1, 2017.  
*See*, **Exhibit 5**. Mr. Simon's name is not contained in the release; Mr. Vannah's firm is expressly

1 identified as the firm that solely advised the clients about the settlement. The provision of the  
2 release, V.(E) states, as follows:

3 E. PLAINTIFFS represent that their independent counsel, Robert Vannah, Esq. and  
4 John Greene, Esq., of the law firm Vannah & Vannah has explained the effect of this  
5 AGREEMENT and their release of any and all claims, known or unknown and, based  
6 upon that explanation and their independent judgment by the reading of this Agreement,  
7 PLAINTIFFS understand and acknowledge the legal significance and the consequences  
8 of the claims being released by this Agreement. PLAINTIFFS further represent that they  
9 understand and acknowledge the legal significance and consequences of a release of  
10 unknown claims against the SETTLING PARTIES set forth in, or arising from, the  
11 INCIDENT and hereby assume full responsibility for any injuries, damages, losses or  
12 liabilities that hereafter may occur with respect to the matters released by this Agreement.

13 *See, Exhibit 5.*

14 The Law Office filed their Notice of Attorneys lien on December 1, 2017 recognizing the  
15 need to do so since Mr. Simon was effectively discharged. *See, Exhibit 3.* However, Mr. Simon  
16 continued to work on the case to protect the client's interest and at the specific direction of the  
17 Vannah firm.

18 On December 7, 2017, Lange offered the sum of \$100,000 to resolve the entire claim  
19 against Lange Plumbing. Mr. Simon sent a letter advising Mr. Vannah that the Lange claim was  
20 a sizeable claim as it allowed for reimbursement of attorney's fees and costs incurred for  
21 enforcing the warranty against the Viking Defendants. *See, Exhibit 46.* Mr. Simon previously  
22 advised the clients at the November 17, 2017 meeting and throughout the litigation that the claim  
23 against Lange was a valid claim that was valuable to recover the attorney's fees and costs paid  
24 from the Viking settlement.

25 Later that same day, the Edgeworths signed a "Consent to Settle" the Lange claims for  
\$100,000. *See, Exhibit 47.* Vannah advised the clients that they were made "more than whole  
from the Viking settlement." Mr. Edgeworth also testified that they were "made more than  
whole" during the evidentiary hearing:

1           PETE CHRISTIANSEN:     So you agree with Mr. Vannah's assessment that as a result  
2                                       of Mr. Simon's work on the punitive aspect of your case,  
3                                       you were over paid? Right? Made more than whole,  
4                                       correct?

5           BRIAN EDGEWORTH:     Correct, they paid me more than.

6           *See, Brian Edgeworth Testimony on August 27, 2018 at 3:52:00.*

7           The clients followed Mr. Vannah's advice and chose not to follow the advice of Mr.  
8           Simon. Regardless of the advice given, it is clear that the there was a breakdown in the attorney-  
9           client relationship preventing Mr. Simon from effectively representing the clients. This further  
10          confirmed the intentions of the Edgeworths to discharge Mr. Simon as of November 29, 2017  
11          upon retaining the Vannah firm.

12          Prior to receiving the settlement proceeds from Viking, the clients, through their lawyer,  
13          Mr. Vannah, made accusations that they believed the Law Office would steal the money and  
14          would not allow Mr. Simon to deposit the settlement proceeds in his trust account. *See, Exhibit*  
15          *48.* This is substantial evidence of a breakdown in the attorney-client relationship preventing Mr.  
16          Simon from effectively representing the clients. Mr. Vannah was already suggesting they were  
17          going sue Mr. Simon at that time. *See, Exhibit 48.*

18          The clients demanded that a new trust account be opened with Mr. Vannah as a signer to  
19          deposit the Viking settlement proceeds. *See, Exhibit 50.* Mr. Simon complied with their unusual  
20          request. Prior to depositing any settlement proceeds in the bank account, the Edgeworths,  
21          through their counsel, Mr. Vannah, sued Mr. Simon for conversion of the settlement proceeds on  
22          January 4, 2018. *See, Exhibit 19.* The settlement money was not deposited until January 8, 2018  
23          and did not clear the bank for another week thereafter. The filing of the lawsuit is substantial and  
24          compelling evidence that there was a breakdown in the attorney-client relationship preventing  
25          Mr. Simon from effectively representing the clients.

1 The breakdown in the attorney-client relationship began as early as November 25, 2017  
2 when the client's last spoke to Mr. Simon and all acts thereafter confirm that once Mr. Vannah's  
3 firm was retained, the Law Office was constructively discharged.

4 The Edgeworth's assert that because Mr. Simon has not been expressly terminated and  
5 since he has not withdrawn and is still technically their attorney of record, there cannot be a  
6 termination. Mr. Edgeworth was not credible when he testified in his affidavit that Mr. Simon  
7 was paid in full for his services and he was already paid for the work to finalize the settlement. In  
8 his affidavit Mr. Edgeworth states "Since we've already paid him for his work to resolve the  
9 LITIGATION, can't he at least finish what he's been retained and paid for? (*See, Exhibit 17*, 2-  
10 12-18 affidavit, 7:11-12) Mr. Edgeworth also alleged that Mr. Simon was paid in full in his  
11 complaint filed on January 4, 2018. *See, Exhibit 19*. Mr. Edgeworth contradicted himself under  
12 oath when he testified at the evidentiary hearing that Mr. Simon is still owed a substantial sum  
13 and was not paid in full. Mr. Edgeworth also testified that he always believed that Mr. Simon  
14 was owed money even prior to the filing of the complaint. An email from Mr. Vannah dated  
15 January 9, 2018, intimates that if Mr. Simon withdrew there would be harsh consequences. *See,*  
16 **Exhibit 53**. The Court should find that Mr. Simon was merely fulfilling his ethical duties after  
17 his termination by putting his clients' interests above his own and doing whatever acts were  
18 necessary to protect the interests of the clients. Mr. Simon's compliance with his ethical duties  
19 was also confirmed by the expert opinion of David Clark, Esq. who is a former long-standing  
20 Nevada State Bar counsel. *See, Exhibit 2*.

22 The **Court should find** that Mr. Simon was constructively discharged and there was no  
23 just cause for his termination. If this finding is made, quantum meruit is used to determine the  
24 amount of the lien.  
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**III.**

**AN EXPRESS HOURLY FEE AGREEMENT WAS NOT FORMED**

Mr. Edgeworth's proffered testimony is the only piece of evidence to suggest that an express agreement was made for \$550 an hour. At the evidentiary hearing, Mr. Edgeworth testified for the first time that an express oral contract was formed on a phone call on June 10, 2016. The claim of contract formation during a June 10, 2016 phone call, contradicted the earlier testimony by Mr. Edgeworth made in his three declarations submitted to the court, contradicted the facts alleged in the Edgeworths' complaints, and contradicted his attorney's opening statement at the evidentiary hearing. In the Edgeworth declarations, complaint and opening statement, Edgeworth said the express oral contract was formed at the outset of the retention, which occurred on May 27, 2016. *See, Exhibits 16, 17, 18, 19 and 20.*

Mr. Edgeworth, through counsel, asserted that the conversation of May 27, 2016, that an express oral contract was formed to pay \$275 an hour for the work of Law Office associate Ashley Ferrel, Esq. Mr. Simon denied any hourly fee was discussed let alone a fee for Ashley Ferrel. Mr. Edgeworth later conceded that the fee of Ms. Ferrel was never discussed. Mr. Edgeworth also testified that he was billed a week after the retention. He testified, as follows:

PETE CHRISTIANSEN: Sir you just told the Court Danny took the case as a favor, do you remember that?

BRIAN EDGEWORTH: Yeah and a week later he started billing me.

*See, Brian Edgeworth Testimony on August 27, 2018 at 1:43:00.*

This contradicted the undeniable evidence that the first bill was not created and sent to Edgeworth until December, 2016.

Ms. Ferrel did not work on the case until briefly in late December of 2016 and significant time until January of 2017. On cross examination, Mr. Edgeworth admitted that her



1 fee was never discussed at the outset. He also confirmed a bill from Ms. Ferrel was not provided  
2 until 14 months later. Mr. Simon did not send a bill for six months after the retention. This  
3 further supports Mr. Simon's version that a specific hourly fee amount of \$550 was never  
4 discussed.

5 Mr. Edgeworth sent Mr. Simon almost 2,000 emails within 18 months and never  
6 stated that there was an hourly contract only for \$550 an hour. The June 10, 2016 phone  
7 conversation was first testified to by Mr. Edgeworth at the evidentiary hearing and is not  
8 contained in any of the three (3) very detailed affidavits that Mr. Edgeworth prepared setting  
9 forth his version of the dispute. The June 10, 2016 conversation is inconsistent with his lawyer's  
10 opening statement asserting the oral agreement was made point blank at the outset of the  
11 representation on May 27, 2018. Mr. Edgeworth tried to suggest outset, which means the  
12 beginning, actually meant something else like several weeks after the beginning. This new  
13 explanation was created to get around the "cross that bridge later" email from Mr. Simon on May  
14 27, 2016, concerning the fees. There is no evidence to support Mr. Edgeworth's contention that a  
15 phone call occurred wherein the parties expressly agreed orally to an hourly representation of  
16 \$550 an hour. He could have, but did not provide his own phone bill. The email from Mr. Simon  
17 on June 10, 2016, when he was out of town, does not reference this crucial phone call. *See*, June  
18 10, 2016 email, attached as **Exhibit 80, SIMONEH0003500**.

19  
20 Mr. Simon never sent a bill for six months after he started working on the case  
21 and credibly explained the reasons for the bills created and the reasons that Mr. Edgeworth chose  
22 to pay them, which is discussed in further detail below. Ms. Ferrel credibly testified that the  
23 hourly rate of Mr. Simon was first discussed between herself and Mr. Simon only in December,  
24 2016, to determine an amount to establish damages in the Lange claim only. The amount of \$550  
25

1 was determined by using an amount less than what was already approved by the Court in another  
2 case and used so that the Defendants would not dispute the amount as damages for the Lange  
3 claim. Mr. and Mrs. Edgeworth both admitted that they clearly understood the bills were used for  
4 damages in the Lange claim. It was never stated that the \$550 an hour was an amount already  
5 agreed to with Edgeworth, which was expressly denied.

6 When the Early Case Conference happened in November, 2016, Mr. Simon had to  
7 go back and recreate a bill to produce under NRCP 16.1. The initial bill also had a lot of lost time  
8 as the bill was recreated and did not include a lot of emails and phone discussions. Yet, the  
9 Edgeworths now want to complain the bill was too high. The Edgeworths both concede they  
10 never suggested the bills were too high to Mr. Simon. To the contrary, the Edgeworths both  
11 admitted on the stand they knew the bills were used as damages in support of the Lange claims.  
12 As sophisticated and detailed as the Edgeworths are, they both denied knowing that the 2,000  
13 emails and numerous phone calls were not contained in the bills they received. Yet, they want to  
14 complain about the time entries, even in the initial bill, was against their favor. Again, they have  
15 no basis for this testimony. Their credibility is completely gone when suggesting \$550 an hour is  
16 too high, when they already acknowledge the reasonable fee in the Viking matter is \$925 an  
17 hour. This is not a patent or trademark case.

18  
19 The Edgeworths may argue that they did not know payment was optional. Mr.  
20 Simon made it clear in his testimony that costs were expected to be reimbursed, but it was Mr.  
21 Edgeworth that chose to pay the bills. He wanted to justify the high interest loans. Mr. Simon  
22 never sent an email suggesting he wanted the bills paid and in fact did not bill frequently. Also,  
23 Mr. Edgeworth sent a check and then tracked when it was not cashed urging Mr. Simon to cash  
24 it. *See, Exhibit 30.*  
25

1                   **A. While an implied contract between lawyer and client existed, there was no**  
2                   **agreement on the payment term.**

3                   A contract implied-in-fact must be "manifested by conduct"; it "is a true contract that  
4 arises from the tacit agreement of the parties." To find a contract implied-in-fact, the fact-finder  
5 must conclude that the parties intended to contract and promises were exchanged, the general  
6 obligations for which must be sufficiently clear. It is at that point that a party may invoke  
7 quantum meruit as a gap-filler to supply the absent term. Where such a contract exists, then,  
8 quantum meruit ensures the laborer receives the reasonable value, usually market price, for his  
9 services. *Certified Fire Prot. Inc. v. Precision Constr. Inc.*, 128 Nev. 371, 379-380, 283 P.3d  
10 250, 256, (2012) (internal citations omitted)

11                  There was no implied contract on the payment term. Mr. Simon credibly testified that the  
12 billing statements created and produced in litigation were to show damages in support of the  
13 Lange contract claim only and were not the amount of compensation to be paid for all the work  
14 on the case. Both Edgeworths conceded they knew the bills were used as damages in the Lange  
15 claim. Sadly, because the bills were created for this purpose, the Edgeworths now want to use  
16 this as a basis to support their scheme to avoid paying Mr. Simon.

17                  On cross examination, Mr. Edgeworth admitted that Mr. Simon started the representation  
18 at the outset as a "favor." The Law Office did not provide a bill until six months later, which was  
19 the time a billing statement was necessary to produce at the Early Case Conference to produce  
20 evidence of damage under NRCP 16.1 for the Lange claim only. The Law Office is not set up to  
21 bill, does not have other hourly clients, did not take a retainer from the Edgeworths, and did not  
22 bill regularly every 30 days. The Law Office advanced almost \$200,000 in costs. Mr. Edgeworth  
23 abused the time of the Law Office sending almost 2,000 emails and he admitted to calling and  
24  
25

1 emailing at all hours of the day, night and weekends. Mr. Edgeworth never requested an hourly  
2 billing contract. These are all acts inconsistent with an hourly only billing contract.

3 Mr. Edgeworth never confirmed an hourly billing agreement in any of his almost 2,000  
4 emails to the Law Office. A bill was not presented or paid by Mr. Edgeworth after September  
5 2017 when the focus of litigation was directed toward Viking and the billing statements were not  
6 necessary to support any of the Viking claims.

7 Mr. Edgeworth is a very sophisticated, well-educated business man with an MBA from  
8 Harvard University. He has successful international companies and has hired many law firms for  
9 many years, including large firms on an hourly basis. These firms always have him sign a written  
10 agreement, pay a retainer and regularly bill for all time expended on a matter. Mr. Edgeworth is  
11 aware of the process of hourly billing. Mr. Edgeworth knew that Mr. Simon's representation was  
12 not like the hourly representation with which he has extensive experience. Mr. Edgeworth never  
13 asked Mr. Simon for an hourly contract further supporting this was not an hourly contract case.  
14

15 Mr. Edgeworth sent Mr. Simon and email dated August 22, 2017 entitled "Contingency"  
16 in the subject line. *See, Exhibit 27*. There is no purpose for Mr. Edgeworth to send the email,  
17 except to attempt to reach an agreement about amount of compensation for the attorney's fees.  
18 This email supports the conclusion that there was no express or implied agreement for  
19 compensation.  
20

21 The parties testified to a conversation occurring at the San Diego Airport on or about  
22 August 9, 2017. Mr. Simon credibly testified that the case was becoming more demanding for his  
23 small boutique law firm, and he wanted to reach some type of an express agreement. At the end  
24 of the conversation, Mr. Simon told Mr. Edgeworth the Law Office would continue with the case  
25 and work out a fair fee depending on the outcome of the case, which is what he usually does. At

1 that time, the many options explored still did not make any sense given the unique nature of the  
2 case. In Mr. Edgeworth's email he confirms that no agreement exists and was trying to explore  
3 options.

4 Mr. Kemp credibly testified that in his expert opinion, the email confirms there was no  
5 express or implied agreement for compensation as Mr. Edgeworth was looking for terms based  
6 on several options, including an hourly, contingency or hybrid. The email states as follows:

7 "We never really had a structured discussion about how this might be done"

8 ...

9 I could also swing hourly for the whole case (unless I am off what this is going to cost). I  
10 would likely borrow another \$450k from Margaret in 250 and 200 increments and then  
either I could use one of the house sales for cash or if things get really bad, I still have a  
couple million in bitcoin I could sell."

11 *See, Exhibit 27.*

12 Mr. and Mrs. Edgeworth both agree that the nature of the case changed, and it became a  
13 beast. This was not a new case that could not have been contemplated by anyone prior. Simply,  
14 there was no meeting of the minds as to how to pay the Law Office to handle the beast.

15 Mr. Edgeworth never followed up about a potential fee agreement and no such agreement  
16 was ever reached as Mr. Simon was entrenched in the case and worked in good faith to get a  
17 great result. In further support that an agreement never existed, and that Mr. Simon did not work  
18 solely on an hourly basis, is that the bills that were produced were merely a fraction of the time  
19 the Law Office actually spent to prosecute the case. Rather than being grateful that the  
20 multimillion dollar investment in bitcoin did not have to be liquidated, the Edgeworths sued Mr.  
21 Simon without even a follow up meeting.

22  
23 The Court should find the bills were produced to build the case against Lange only  
24 pursuant to their construction agreement. The intention of the Edgeworth's and Mr. Simon's  
25 strategy during the case was to present the billings statements as damages against Lange. Mr.

1 Edgeworth testified to this in his deposition and at the evidentiary hearing. The attorney's fees  
2 and costs were not an item of damage in the Viking claim.

3 Mr. Simon credibly testified that Mr. Edgeworth chose to pay the bills to give credibility  
4 to his actual damages above his property damage loss. The bills paid helped justify the loans that  
5 he took out from his mother-in-law and his long-time friend from high school, who is his current  
6 employee. Mr. Edgeworth set the interest rate for his mother-in-law without her knowledge at  
7 almost 36% a year. *See, Exhibit 57.*

8 Mr. Edgeworth wanted a bill to pay just prior to his deposition to support his testimony.  
9 Mr. Simon did not send any bills to Edgeworth and Edgeworth did not pay any bills after his  
10 September deposition. Substantial work was performed by the Law Office in the months of  
11 September, October and November, 2017, against Viking ultimately forcing a substantial  
12 settlement. The Edgeworths have already received a check in the sum of almost \$4 million  
13 dollars for their property damage claim based on repairs made of approximately \$500,000.  
14

15 The Edgeworth's complain that RPC 1.5 suggests that an agreement for a contingency fee  
16 must be written and this somehow precludes quantum merit in this case. This is not true. Mr.  
17 Simon is not seeking a contingency fee as asserted. This case is unique and started out as a  
18 different case than what it became at the end when it resolved. Mr. Edgeworth could not find  
19 representation without a substantial investment in attorney's fee and costs up front. This did not  
20 make economic sense because of the small amount of property damage and the substantial legal  
21 work and costs needed to pursue the case. As a friend, Mr. Simon took the case as a favor to help  
22 the Edgeworths. Mr. Simon took that case as a favor without a retainer and did not send a bill for  
23 6 months. This certainly benefited the Edgeworths, who cried poor and this property damage  
24 claim of \$500,000 was too stressful yet they were taking vacations when the first bill was sent  
25

1 and they had millions in bitcoin. Angela Edgeworth admitted they had cash all along to pay for  
2 the house. She was not worried about the loans from her mother. Mr. Simon's bills did not  
3 include substantial work that also benefited the Edgeworths. Mr. Simon credibly testified that the  
4 objective of his representation at the outset was to trigger coverage with Lange Plumbing to step  
5 in and pay the claim. This started with letters, then a complaint and several early motions for  
6 summary judgment. It was not until April, 2017 that it was finally determined that Lange  
7 Plumbing would not step in and pay the claim. Given the nature of the claims and Mr. Simon's  
8 efforts as a friend, a written fee agreement could not be reached early on and Mr. Edgeworth was  
9 agreeable with this arrangement. Later on, the need for a fee agreement was discussed, but never  
10 agreed to as the case morphed into an entirely new case that could not have been contemplated at  
11 the beginning. Absent an express agreement for compensation, the Law Office is due the  
12 reasonable value of its services. NRS 18.015.

#### 13 14 IV.

#### 15 **THE EDGEWORTHS ARE NOT CREDIBLE**

16 The Court is asked to make a specific finding that Brian Edgeworth and Angela  
17 Edgeworth intentionally provided false and misleading testimony in an attempt to persuade the  
18 Court to decide in their favor when seeking all of the disputed funds and to advance causes of  
19 actions against Mr. Simon personally and his practice for conversion and punitive damages. The  
20 intent to support false accusations with false testimony is the most egregious act a person or  
21 entity can do when consuming this courts valuable resources and causing another party extreme  
22 hardship to defend. The Edgeworths have thumbed their nose to the legal profession when  
23 attempting to undermine the legal work done in this case, as well as the testimony of Mr. Kemp.  
24 As the fact finder, the Court is free to disregard the entire testimony of the Edgeworths. Nevada  
25

1 Pattern Jury Instruction 2.07 provides as follows:

2 The credibility or "believability" of a witness should be determined by his or her manner  
3 upon the stand, his or her relationship to the parties, his or her fears, motives, interests or  
4 feelings, his or her opportunity to have observed the matter to which he or she testified,  
5 the reasonableness of his or her statements and the strength or weakness of his or her  
6 recollections.

7 If you believe that a witness has lied about any material fact in the case, you may  
8 disregard the entire testimony of that witness or any portion of this testimony which is  
9 not proved by other evidence.

10 *See*, Nev.J.I.2.07 (196). The Law Office requests that the Court disregard the entire testimony of  
11 the Edgeworths based on the intentionally false testimony, as follows:

12 **A. Mrs. Angela Edgeworth**

13 **i. They would have hired other lawyers**

14 In an attempt to suggest they did not need to turn to their family friend, Mr.  
15 Simon, Mrs. Edgeworth suggested she had other options for help.

16 First, Mrs. Edgeworth testified they would have hired Mark Katz, but he was too  
17 busy. However, Mr. Katz is an Estate Planning and Tax Lawyer, not a trial lawyer handling  
18 complex product liability claims.

19 Next, Mrs. Edgeworth would have hired her longtime friend, Lisa Carteen.  
20 However, Ms. Carteen is a patent lawyer from Los Angeles and not licensed in the state of  
21 Nevada.

22 Then, Mrs. Edgeworth testified that they decided to use Mr. Simon instead  
23 suggesting they were doing him a favor by using him. However, Mr. Simon told them he did not  
24 even want the case at the outset, but they asked for a favor. *See*, **Exhibit 23**.

25 Mrs. Edgeworth did not have any knowledge of the underlying case and had no  
substantive involvement during the case, but consistently changed her position during her



1 testimony when it best suited their position.

2 **ii. I reviewed and authorized all payments**

3 Although at the evidentiary hearing, Mrs. Edgeworth wanted to portray she knew  
4 all about the billing because of their detailed internal procedures for payment, she took the  
5 opposite position when testifying in the underlying case. In her deposition taken September 18,  
6 2017, she testified as follows:

7 Q. Can you tell me how much you've paid in attorney's fees and costs to  
8 date.

9 A. I don't know. That would be a question for my husband.

10 Q. Okay. All right.

11 A. I don't think I want to know.

12 *See, Exhibit 86*, at 39:18-23. She continued in her deposition in the underlying case:

13 Q. So was part of this money used to pay the attorneys' fees as you've gone?

14 A. Correct.

15 Q. Okay. Because you guys have been paying the attorney's fees as you've  
16 gone?

17 A. Correct.

18 Q. Okay. So on a monthly basis you'll pay those fees?

19 A. I don't know. I don't know. You'd have to ask my husband that.

20 *See, Exhibit 86*, at 48:8-17.

21 **iii. We overpaid, his bills were inflated and rate was too high**

22 Mrs. Edgeworth pays John Green \$925 an hour. She had zero information  
23 regarding the work done by Mr. Simon. She refused to admit that 2,000 emails were not put in  
24 bills they paid, which was contrary to her husband. When questioned by the Court, she admitted  
25 she never discussed any billing concerns with Mr. Simon. When showed the boxes of  
documents, she stated "Simon's office did not review the information in the file," but it was just  
her unfounded belief. She thumbed her nose to the work lawyers do and the entire judiciary as  
we are all beneath the Edgeworths. In their skewed view, we should all consider ourselves lucky

1 to help them.

2 **iv. The new cabinets in the kitchen were already replaced.**

3 Her husband testified they were ordered and on the way (he was going to call the  
4 guy to follow up). *See, Brian Edgeworth testimony on August 27, 2018 2:31:29 to 3:31:54.*  
5 However shockingly, Mrs. Edgeworth testified they were already replaced. *See, Angela*  
6 **Edgeworth's testimony on September 18, 2018 at 4:20:34 to 4:22:47.** In the Viking case, they  
7 always asserted the need to replace kitchen cabinets for \$220,000. Mr. Edgeworth wanted to  
8 suggest to the court that they were actually using the settlement money for alleged future repairs.  
9 This testimony was a sham. Mrs. Edgeworth did not know about this future cabinet claim or  
10 forgot. Replacing all cabinets in your kitchen is a huge undertaking requiring the removal of the  
11 granite tops and major construction, including drywall, paint and new countertops. The kitchen  
12 would not be usable in their home for over a month. The Edgeworths never replaced the cabinets  
13 and Mrs. Edgeworth contradicted her husband when she was lost in her own web.

14 **v. The remediation bill was not paid because they did not provide**  
15 **a mold certificate**

16 In an effort to explain they pay their bills and give a reason for not paying the  
17 remediator who worked in good faith on an emergency basis to remove all of the water from the  
18 flood to minimize the damage, she testified that they needed a mold certificate to get a  
19 Certificate of Occupancy. This is not true. The Certificate of Occupancy was issued in  
20 December, 2016. They listed their house for sale in June, 2017 for \$5.5 Million and moved into  
21 the house at the same time. The email from the remediator for payment was dated April 18,  
22 2017. *See, Exhibit 24.* The mold certificate she speaks of was not a basis to refuse payment to  
23 the remediator to get the certificate of occupancy as she asserted under oath. *See, Angela*  
24 **Edgeworth testimony on September 18, 2018 at 2:48:18 to 2:50:05.** It was not used as a basis  
25

1 from her husband when he refused to pay because there was not a contract.

2 Mrs. Edgeworth also testified her husband pays all of their bills promptly. Yet,  
3 when confronted on cross examination and showed the email from the same remediation  
4 company she did not know anything about the email her husband authored, which stated as  
5 follows:

6 I think we have paid him a fair price. It is doubtful the insurance will pay out. If he sends  
7 receipts we will pay cost plus a fair overhead. **We have no contract** and he continually  
8 told me that his pay is between him and the insurance company. I would have used the  
9 installing subs to tear apart their work if I was paying not the temp workers he did. I want  
10 to be fair but **I think he should wait for the judgement. I will give him what the court**  
**allows.**

11 See, **Exhibit 24.** (emphasis added)

12 vi. **She spoke to Miriam Shearing to help her decide to proceed**  
**with case.**

13 She suggested that her conversation with Ms. Shearing gave her the confidence to  
14 proceed with her claims against Mr. Simon. However, she admitted that she spoke to Ms.  
15 Shearing in February of 2018. She sued Simon January 4, 2018.

16 vii. **Simon came around desk and leaned over them.**

17 This is a physical impossibility as the legs of the persons sitting in guest chairs  
18 extend underneath the front of Mr. Simons desk and there is no room for someone to walk by a  
19 seated person and certainly no room to stand in front of the desk. Her husband never suggested  
20 this fact in his hearing testimony or 3 affidavits. If true, this would be a significant scenario that  
21 was glaringly absent from his version of the events. This was her false and misleading attempt to  
22 create intimidation. Her own husband's testimony undercuts this fabrication.

23 viii. **She believes her husband**

24 Mrs. Edgeworth's testimony was almost entirely based on "I believe my husband"  
25

1 especially when she adopted all statements made in her husband's affidavit and ratified them on  
2 behalf of their company and trust, which include:

- 3 • Simon paid in full at the September deposition
- 4 • Simon already paid to resolve the litigation
- 5 • The money in the trust account is solely the Edgeworth's. His outstanding  
6 bill is a separate issue. (The Edgeworth's have lawyers to explain why  
7 their position is not legally true, yet they still sued him for conversion).
- 8 • August 22, 2017 email sent after significant offers already made.
- 9 • Papers were put in our face to sign on November 17, 2017, then they were  
10 only eluded to.
- 11 • Mr. Simon was a bully, scary, intimidating, extorting and blackmailing us  
12 at the 11-17-17 meeting. (No mention of this in any subsequent emails).
- 13 • We were uncomfortable because of "F" bombs in office. (She never heard  
14 one).
- 15 • Nothing except attorney's fees discussed at 11-17-17 meeting. (Mrs.  
16 Edgeworth admitted she knew about all matters on calendar and wanted to  
17 make sure Mr. Simon was continuing and not vacating them when she was  
18 so intimidated, worried, extorted, etc.).
- 19 • Simon said we were a danger to children to the volley ball coach. (She did  
20 not even speak to coach about the matter, only her husband. She is on  
21 board with her husband, coach and Mr. Katz. She did not know if coach  
22 even called Mr. Simon for the serious investigation).
- 23 • Mr. Edgeworth did all the work. (This comment speaks for itself).

24 **ix. No need for the loans from their mom and best friend/employee**

25 They paid the house off cash as they built it and did not use the Viking settlement  
to pay the house off. This testimony was disturbing as Mr. Edgeworth always cried poor and that  
the loans were stressful. Mrs. Edgeworth said she was not worried about her mother. Her  
husband testified that the Viking settlement was used to pay off the house. Which one is it? The  
checks for \$1.1 million to pay mom and friend cleared the same day as the Edgeworth portion of

1 the Viking check was deposited. *See*, **Exhibit 94** and **95**. Their explanation was the banks called  
2 each other. Since there was no evidence of this, the Court can infer the real reason is that banks  
3 clear checks for \$1.1 million dollars when the clients already have the money in the account. The  
4 Edgeworths can't be trusted or believed on anything.

5 **x. Will Kemp is Wrong**

6 Mrs. Edgeworth knows more than Mr. Kemp on the legal issue of contract  
7 formation. When Mr. Christiansen questioned Mrs. Edgeworth about the testimony of Mr. Kemp  
8 and that he opined that there was no contract, she stated "he is wrong." *See*, **Angela Edgeworth**  
9 **testimony on September 18, 2018 at 4:18:29 to 4:20:44**. Yet, she has no personal knowledge  
10 of any facts related to the alleged contract or the underlying case and her testimony was all based  
11 on "I believe my husband." When she was questioned on her basis for her statement, she had  
12 none. In fact, she admitted she only reviewed emails recently in preparation of the hearing. The  
13 Edgeworths do not have an expert, and cannot dispute the testimony of Mr. Kemp and cannot  
14 dispute the amount of the reasonable value of the services testified to by Mr. Kemp. Notably, Mr.  
15 Kemp's affidavit was provided in January, 2018. The Edgeworth's had plenty of time to get an  
16 expert if they could find one.

17  
18 When Mrs. Edgeworth argued with Mr. Christiansen that the mystery bill of  
19 \$72,000 was different than the costs of \$72,000; Mrs. Edgeworth finally conceded that she knew  
20 about the accounting error that Mr. Simon found and deducted \$2,750 from the \$72,000 costs.  
21 She said yes it's just a coincidence that the \$72,000 costs at that time were the same as a bill she  
22 never saw or reviewed in court. Since she knew about the credit, her testimony was again  
23 misleading to convince the court she had a basis for her personal belief. Once again, she never  
24 personally saw the alleged \$72,000 bill for attorney's fees that she was testifying about and just  
25

1 believed her husband.

2 The Edgeworths have been cursed with “Greed.” There is never enough money to  
3 satisfy them and they will say and do anything to get more. Even more disturbing, they do not  
4 care about the people they hurt along the way. Especially those people who have worked so hard  
5 to help them.

6 **xi. An oral contract existed for \$550 an hour because my husband**  
7 **told me**

8 All testimony by Mrs. Edgeworth was based on her husband only and that “she  
9 believes her husband.” She confirmed that she adopts each and every statement of her husband’s  
10 testimony. She adopted and ratified every statement contained within the three affidavits of Brian  
11 Edgeworth and both of their complaints filed against Mr. Simon. Since Mr. Edgeworth provided  
12 false and misleading testimony in all of his affidavits, and on the stand, merely adopting and  
13 ratifying his statements confirm her testimony cannot be believed. She had to acknowledge that  
14 the substantive information she had about the case came from her husband. Her testimony that  
15 there was a contract for \$550 an hour and that Mr. Edgeworth did all of the work to win the case,  
16 came only from her husband, and was based on “I believe my husband.” She never had any  
17 conversations with Mr. Simon about the fees until November 17, 2017. Mrs. Edgeworth does not  
18 have any personal knowledge about the case, the alleged oral contract, the legal work done, the  
19 negotiations or any other substantive matter and her testimony should be disregarded.

20  
21 The reality is that Mrs. Edgeworth is really angry at her husband and tried to save  
22 the day by giving false and misleading testimony that defied logic. Most telling is she tried to  
23 suggest she knew about the alleged agreement for fees in June, 2016, but did not know anything  
24 about the attorney’s fees in her deposition on September 18, 2017. She now wants to criticize the  
25 amount of the bills for \$550 an hour when she was paying her current lawyers (Vannah and

Green together) \$1,850 an hour to sue Mr. Simon to avoid paying anything.

**B. The Edgeworth's Demeanor**

The Edgeworths permeated the courtroom with arrogance and a story that just did not make sense when compared to the evidence. The Edgeworths exuded their arrogance believing that everyone will just agree with every statement they make because they are smarter than everyone else in the courtroom. The best example was when Mrs. Edgeworth had the audacity to testify that Will Kemp was “wrong” on his legal analysis of a legal issue concerning contract formation. Mrs. Edgeworth did not stop there when she attempted to become a billing expert offering opinions about the legal bills. Upon questioning by the Court, she admitted she had no basis for her testimony. She offered \$140,000 as a reasonable number for the attorney’s lien, but could not state on what basis. She offered the explanation that a bill only her husband allegedly saw at the mediation in October, 2017 was \$72,000. Therefore, she thought she would be generous and just double that bill. Her statements were without any regard to the hours or work done during the most crucial time of the case, the results achieved and is just plain offensive. She also accused the Law Office of not reviewing the documents produced in the case based on her own personal belief. Such unfounded testimony undermines the entire legal profession and the work that trial lawyers do and how judicial decisions are made. This is why she thinks her husband did the entire case. She suggested her life was impacted because her husband was not around. Mrs. Simon’s husband was not around equally for his family, and it was not her house that flooded, and her husband could have been working on other cases. The entire fee dispute has disrupted the lives of many, and the Edgeworths always demanded that Mr. Simon and his staff go above and beyond, but when it was time to be fair, they would not. The Edgeworths only care about their own lives and have no regard how their actions affect others. In

1 order to finish this hearing, Judge Herndon was kind enough to halt a criminal murder trial so  
2 Mrs. Edgeworth could complete her testimony.

3 Mrs. Edgeworth had no personal knowledge about the case or conversations her  
4 husband had with Mr. Simon, yet she advanced facts as if they were her own. She testified on  
5 direct examination as if she was actively involved, including all billing, then on cross  
6 examination went to her safe place and did not know anything as she was once again, not  
7 involved in the day-to-day. She admitted she only read the emails recently before the hearing and  
8 obviously she learned the case by sitting in the courtroom for 4 days.

9 Mrs. Edgeworth continued with the arrogance when name dropping Miriam  
10 Shearing as endorsing her position. The hearsay conversation with Ms. Shearing brought up for  
11 the first time with Mrs. Edgeworth allegedly occurred in February, 2018, long after Mrs.  
12 Edgeworth sued Mr. Simon personally for punitive damages and conversion for stealing money  
13 not yet received from the insurance company. Certainly, Ms. Shearing would not endorse filing a  
14 conversion claim against an attorney that placed the disputed funds in a trust account and did not  
15 even deposit the settlement funds from the settling defendant when the complaint was filed. The  
16 summary of Brian Edgeworth's testimony re-confirms their fabricated story telling. Mr.  
17 Edgeworth was even worse.

18  
19 **C. Mr. Brian Edgeworth**

20 **i. Mr. Edgeworth had to change his testimony about the "outset"**

21 Since Mr. Edgeworth did not read the emails when he prepared his false  
22 affidavits, he was forced to change his testimony about the oral agreement from the Starbucks  
23  
24  
25



1 meeting on May 28, 2016 to June 10, 2016.<sup>2</sup> The reason for the change was when the discussion  
2 about the fee was suggested in an email by Mr. Edgeworth, Mr. Simon replied stating “We will  
3 cross that bridge later.” *See, Exhibit 80, SIMONEH0003557-0003558.* Obviously, a new  
4 version for the oral agreement had to be changed. Mr. Edgeworth has his own phone records and  
5 never provided any evidence of this crucial phone call. This conversation is not identified by a  
6 date in Mr. Simon’s limited bill. There was an email on June 10, 2016 between Mr. Edgeworth  
7 and Mr. Simon. Mr. Simon was out of town, but still promptly answered a question Mr.  
8 Edgeworth had. Glaringly absent from the email is the lack of any statements as to the lawsuit  
9 being filed or the conversation about the alleged oral contract for \$550 an hour. This further  
10 undermines the existence of a contract in favor of Mr. Simon’s version of events. Simply, Mr.  
11 Edgeworth has zero evidence of his alleged “express oral agreement for \$550 an hour.”

12  
13 ii. **The reason for the August 22, 2017 email was that the case**  
14 **blossomed after substantial offers were made by one**  
**defendant.**

15 In Mr. Edgeworth’s initial affidavit signed under oath on February 2, 2018, Mr.  
16 Edgeworth asserted that the reason for an email to Mr. Simon labeled “Contingency” dated  
17 August 22, 2017 was based on the fact that one of the Defendants made a substantial offer and  
18 the case already blossomed. *See, Exhibit 16.* Mr. Edgeworth states in his affidavit “...after a  
19 significant sum of money was offered to Plaintiffs from defendants, Simon became determined  
20 to get more, so he started asking me to modify our contract. **Thereafter, I sent an email labeled**  
21 **“Contingency.”** (*See, Exhibit 16, B.E. Affidavit 2-2-18,3:8-10*). (emphasis added)

22 During the evidentiary hearing it was confirmed that there were not any offers  
23 from any Defendant made prior to the time Mr. Edgeworth sent the August 22, 2017 email. The  
24

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25 <sup>2</sup> The Court will recall Mr. Vannah’s opening remarks included the assertion that \$550 an hour was made point blank at the “outset.”

1 first minimal offers did not occur until October 10, 2017, which was after substantial time and  
2 effort was made by the Law Office.

3 This statement made in support of material issues in his February 2, 2018 affidavit  
4 is false and noticeably absent in his affidavits dated February 12, 2018 and March 15, 2018. *See*,  
5 **Exhibit 17** and **Exhibit 18**. This was a material fact asserted in an attempt to persuade the Court  
6 that an express agreement for an hourly fee was already in place when he sent his August 22,  
7 2017 email. It was also made to explain away his August 22, 2017 email that made it clear an  
8 agreement did not exist. *See*, **Exhibit 27**. The Court should find this testimony was intentionally  
9 false and misleading and that no oral contract existed for compensation. Upon questioning by  
10 Mr. Christiansen, Mr. Edgeworth refused to acknowledge what was plainly stated in his  
11 affidavit. Conduct before, during and after an event can be considered by the Court when  
12 determining state of mind. The omission of this fact in the subsequent affidavits is  
13 “consciousness of guilt” of his false testimony.  
14

15 **iii. Mr. Edgeworth’s Evidentiary Hearing Chart was false and**  
16 **misleading**

17 Mr. Edgeworth testified that he spent 25-30 hours creating a chart to present to  
18 the court to show that the hourly time sheets of Mr. Simon and Ms. Ferrel were not accurate in  
19 an effort to undermine their efforts or suggest they were being deceitful. *See*, **Edgeworth**  
20 **Exhibit 9, 00007-00012**. One chart entry involved Mr. Simon billing for emails on 8-20-17 and  
21 8-21-17. Mr. Edgeworth asserted that these entries for review of client emails were double  
22 entries for the same work. Mr. Simon showed the court 10 emails on 8-20-17 and 12 separate  
23 emails on 8-21-17. *See*, **Exhibit 80, SIMONEH0002430-0002457**.

24 Mr. Edgeworth had access to his own emails and could easily verify his own  
25 assertions that were intentionally put into a chart aimed solely to discredit Mr. Simon’s work in

1 hopes of persuading this Court. These statements made by Mr. Edgeworth were false and  
2 misleading to the Court. Mrs. Edgeworth confirmed they had all of the emails when his chart was  
3 made and it would have been easy for her husband to verify the emails before making the wild  
4 accusations. When questioned by the Court on several other entries in the chart, Mr. Edgeworth  
5 conceded that his assertions made in the chart that he created had no basis and were also  
6 misleading and unreliable. Mr. Edgeworth testified he had no evidence to dispute any of the time  
7 entries presented by the Law Office. Mrs. Edgeworth also did not have any reason to dispute the  
8 entries made in the chart.

9           Notably, upon questioning by Mr. Christiansen, Mr. Edgeworth continued to  
10 refuse to acknowledge an amount owed despite his admission at the evidentiary hearing that he  
11 always knew he owed Mr. Simon substantial sums of money for the work performed, and he had  
12 no reason to dispute the entries after September, 2017. Mrs. Edgeworth offered speculative  
13 testimony based on her own self-serving beliefs that \$140,000 would be reasonable. When  
14 questioned by the Court on her basis for the number owed, she conceded she had none.

15           Ms. Ferrel credibly testified to all of the entries in the time sheets and how the  
16 Law Office arrived at the hours listed. Ms. Ferrel testified that all of the work contained in the  
17 time sheets was work actually done and even though there are some days with entries of 15 plus  
18 hours, the work was performed albeit potentially on other days and the dates were merely used to  
19 tie the work done to a date as the bill was recreated merely to show the time spent by the Law  
20 Office. Ms. Ferrel also credibly testified that Law Office was unable to recover hundreds of  
21 hours due to the inability to get the phone logs from Cox Communications and other matters. Mr.  
22 Simon testified after Ms. Ferrel and the Edgeworths did not ask Mr. Simon any questions about  
23 the time sheets. Ms. Ferrel provided a clear explanation for the entries made. Mrs. Edgeworth sat  
24  
25

1 through all of Ms. Ferrel's testimony. Despite the explanations given by Ms. Ferrel, Mrs.  
2 Edgeworth attempted to advance the entries in her husband's misleading chart and then even  
3 created her own chart on phone logs that the Edgeworths never produced. The reason is that Mrs.  
4 Edgeworth suggested they she compared her own phone logs (never produced) to Mr. Simon's  
5 phone logs, which did not show what she testified to. She stated the bills were 100-200% more  
6 than the time for the phone calls. A simple review of the logs shows there is minimal time above  
7 the actual time on the logs 1.6% for Simon and 2% for Ms. Ferrel on average. The reason for the  
8 minimal difference is that the actual time on the bills is not the full time for billing purposes. The  
9 lawyer has to think about the purpose of the call, review information before making a call, then  
10 make the call before getting a connection, and after the call take some action that is responsive.  
11 Simply, all lawyers, including the Vannah firm, are well aware that billing entries for phone calls  
12 will always be more than the actual call time on a phone bill.  
13

14 **iv. The November 17, 2017 Meeting**

15 Mr. Edgeworth testified that on November 17, 2017 while in Mr. Simon's office, Mr.  
16 Simon put fee agreement papers in front of him and demanded that Mr. and Mrs. Edgeworth sign  
17 them immediately. Specifically, Mr. Edgeworth testified:

18 PETE CHRISTIANSEN: This morning you heard Mr. Vannah tell the Judge that in  
19 your last meeting with Danny Simon he presented you a  
contract and wanted you to sign it. Remember hearing that?

20 BRIAN EDGEWORTH: Yes.

21 PETE CHRISTIANSEN: That's not true is it? When you and your wife Angela went  
22 to Danny's office November the 17th to meet with him  
23 about what was going on in court that very morning, right.  
He had to come over here in front of Judge Jones that  
24 morning, right?

25 BRIAN EDGEWORTH: Correct.

1 PETE CHRISTIANSEN: He didn't give you anything, try to force you to sign it, did  
he?

2 BRIAN EDGEWORTH: He tried to force us to sign something, yes.

3 *See, Brian Edgeworth Testimony on August 27, 2018 at 2:11:00.* Then when Mr. Green got  
4 up and questioned Mr. Edgeworth he changed his testimony and then Mr. Christiansen  
5 questioned him why he changed his testimony as follows:

6 PETE CHRISTIANSEN: Isn't it true that a day ago two days ago you told the Judge  
7 after you heard Mr. Vannah tell the judge in opening  
8 statement that on the 11/17 meeting Danny Simon  
9 presented you with a document and tried to force you and  
your wife to sign it, isn't it true that was your testimony.

10 BRIAN EDGEWORTH: Yes.

11 PETE CHRISTIANSEN: Isn't it also true that just now when Mr. Green is up here on  
12 direct examination you denied being forced, attempted to  
sign something on the 11/17 meeting? Isn't that true?

13 BRIAN EDGEWORTH: No.

14 ...

15 PETE CHRISTIANSEN: Sir that's not what I asked you. When I asked you the  
16 question and when Mr. Vannah stood up in opening  
statement he told the court that Danny Simon tried to force  
you that day, you and your wife, to sign something, right?

17 BRIAN EDGEWORTH: Correct

18 PETE CHRISTIANSEN: But that's not what you just testified under oath for Mr.  
19 Green, you did not just say that, correct?

20 BRIAN EDGEWORTH: Not using the exact same words, no.

21 *See, Brian Edgeworth Testimony on August 29, 2018 at 11:13:59.*

22 Mr. Edgeworth also testified on another day that Mr. Simon did not show them any  
23 papers. Mrs. Edgeworth also contradicted her husband and their lawyers opening statement and  
24 said that no papers were put in front of them. Then, they changed their testimony and alleged that  
25

1 Mr. Simon only eluded to papers behind him, whatever that means. This version makes no sense  
2 in the practice of law. If Mr. Simon had papers he wanted signed, why would they not be shown  
3 to them? Mr. Simon would have provided papers with an amount he thought was fair if there  
4 were actual papers. The emails show that Mr. Simon knew that they would get their own attorney  
5 to review the proposal and he was even willing to speak to that attorney. There is no secret about  
6 papers the clients would be asked to sign as that would be a part of their file and everyone gets  
7 copies under the law. The Edgeworths histrionic version of events do not make sense.

8 Mr. Edgeworth further testified that Mr. Simon said he wanted 40% plus an hourly fee  
9 for the entire case. This claim is inconsistent with the evidence presented, including the proposal  
10 sent to the Edgeworths on November 27, 2017. *See*, Edgeworth **Exhibit 4**. No lawyer would say  
11 he wanted 40% plus a full hourly as this does not make any sense. Yet, it was another attempt to  
12 suggest Mr. Simon was doing something improper. Mr. Edgeworth the contradicted himself  
13 when testifying that the proposal discussed at the meeting was sent to him on November 27,  
14 2017. This proposal did not contain 40% plus full hourly.

15 Mr. Simon credibly testified that he did not present the Edgeworths with a proposed fee  
16 agreement on November 17, 2017, he merely advised what his normal fee would be and to figure  
17 out a fair fee. The proposed fee agreement was not created until November 27, 2017, after Mr.  
18 Simon returned from a Thanksgiving trip out of town. The letter and proposed agreement were  
19 created after Mr. Edgeworth requested the proposal in writing during their conversation on  
20 November 25, 2017. This is consistent with Mr. Simon's testimony regarding the reason for the  
21 November 21, 2017, email that Mr. Edgeworth sent to Mr. Simon showing his perceived losses.  
22 The purpose for the perceived losses was to allow Mr. Simon to create a proposal for the  
23  
24  
25

1 reasonable value of his services. *See, Exhibit 39.* Mr. Edgeworth admitted the reason for the  
2 November 21, 2017 as follows:

3 BRIAN EDGEWORTH: ... in one of the phone calls he says give me a list of all  
4 your costs in his case. What you feel your damages or costs  
5 or whatever was. I cut and pasted an Excel thing and  
6 emailed it to him.

7 *See, Brian Edgeworth Testimony on August 27, 2018 at 2:11:00.* Again he testified:

8 PETE CHRISTIANSEN: And his request is for you to do just that, tell you, tell him  
9 what you think your case is really worth.

10 BRIAN EDGEWORTH: Correct.

11 *See, Brian Edgeworth Testimony on August 27, 2018 at 2:11:00.* This all occurred after the  
12 November 17, 2017 meeting.

13 Mr. Edgeworth also claimed that Mr. Simon's behavior was inappropriate at the  
14 November 17, 2017 meeting. The several emails and conversations after the November 17, 2017  
15 meeting do not support the testimony that Mr. Simon was inappropriate and do not mention the  
16 alleged papers that Mr. Simon demanded they sign. The Edgeworths suggest they were offended,  
17 shocked, flabbergasted, blackmailed and extorted at this meeting, yet they did not mention it in  
18 any emails or even through communications with their new counsel after replacing Mr. Simon.  
19 Why would Mr. Edgeworth send the November 21, 2017, email to Mr. Simon if he was so  
20 outraged? Why didn't this email just say, send me your final bill at \$550 an hour? Why doesn't a  
21 single email say we just had an hourly contract at \$550 an hour? This was another false story  
22 created by his legal team and perpetuated by the testimony of the Edgeworths.

23 **v. The Edgeworths were "stunned" to get the proposal**

24 Mr. Edgeworth testified in his affidavit that he was stunned to get the proposal from Mr.  
25 Simon on November 27, 2017. *See, Exhibit 16.* This contradicted his testimony at the

1 evidentiary hearing where he testified that during their last conversation on November 25, 2017,  
2 he requested Mr. Simon put his proposal in writing. Mrs. Edgeworth said she was outraged to  
3 receive the letter and content, but none of Mrs. Edgeworth's emails after receiving this letter  
4 remotely suggest that she was stunned, outraged or anything other than we will review it with  
5 our attorney and get back to you. What did she expect the letter and proposal to say? She was  
6 texting Mrs. Simon "Happy Thanksgiving." after the 11-17-17 meeting. *See, Exhibit 73.*

7 Even more disingenuous is the irrational response testified to by Mrs. Edgeworth. She  
8 alleges "I was scared, shocked, outraged, blackmailed, bullied, confused, etc." Are you really all  
9 of those emotions instantly with a close friend who just helped you recover \$6 million dollars?  
10 She immediately told her friend in Los Angeles, Lisa Carteen that Mr. Simon was extorting her  
11 within 2 days (November 19, 2017), yet there was no follow up meeting with Mr. Simon. The  
12 Edgeworths are revisionist story tellers. Mrs. Edgeworth reviewed and paid bills and was  
13 shocked at how high the rates were and had concerns about the blocked billing that was not in  
14 her favor, yet she admitted she never discussed it with Mr. Simon, when asked by the Court. The  
15 Edgeworths refused to sit down with Mr. Simon through their new lawyers, Mr. Vannah and Mr.  
16 Green, who all refused to speak about resolution and the amount due Mr. Simon. The  
17 Edgeworths and their lawyers knew Mr. Simon was owed substantial sums, but then raced to file  
18 a baseless lawsuit accusing him of stealing the settlement money and disparage his name and  
19 reputation. *See, Exhibit 48.* Even after the motion to adjudicate was filed, the Edgeworths never  
20 approached Mr. Simon for resolution. The Edgeworths allege they pay their bills promptly. It  
21 took them 3 months to pay Mr. Simon his outstanding costs and 2 months after Mr. Simon gave  
22 them a check for \$4 million. Notably, they paid their mother and best friend the same day their  
23  
24  
25



1 received the \$4 million, yet a simple reimbursement for costs took 2 months. *See, Exhibits 55,*  
2 **94 and 95.** Their motives to refuse payment to Mr. Simon are transparent.

3 Mr. Edgeworth was also not credible when testifying he did not understand the proposal  
4 that Mr. Simon sent on November 27, 2017. The proposal is not confusing on its face, especially  
5 for a highly educated business person like Mr. Edgeworth.

6 Mr. Simon credibly testified that he told the Edgeworths what his usual and customary  
7 fee was and that it was time to figure out a fair fee since the Viking portion of the case was  
8 resolving. This is when the bizarre behavior started. Mr. Simon credibly testified he did not  
9 present any paperwork to them except the print out of outstanding advanced costs in the  
10 approximate amount of \$72,000. Mr. Edgeworth never said a word in response to the comments  
11 concerning the fee and Mrs. Edgeworth said we will talk about it and get back to you. This  
12 version is consistent with the Edgeworth's emails after the November 17, 2017 meeting and the  
13 November 27, 2017 proposal as they promised to sit down with Mr. Simon to discuss the  
14 proposal. *See, Exhibit 42.* The Edgeworths then took the November 27, 2017 proposal letter to  
15 create a story about the November 17, 2017 meeting.  
16

17 **vi. The only thing discussed at the November 17, 2017 meeting**  
18 **was attorney's fees**

19 Mr. Edgeworth testified in his affidavit about the November 17, 2017 meeting  
20 and stated "Rather than discuss the LITIGATION, SIMON'S only agenda item was to pressure  
21 us into modifying the terms of the contract. (*See, Exhibit 17, BE Affidavit, 2-12-17 4:5-7.*) Mr.  
22 Edgeworth testified at the hearing that nothing about the case itself was discussed, and the  
23 conversation only concerned the attorney's fees. This testimony is not credible considering all of  
24 the pending matters on calendar and the intricacies of the Viking settlement as it related to the  
25 remaining Lange claim. The Edgeworth emails to Mr. Simon after the November 17, 2017

1 meeting also support that the Edgeworths had a lot of questions about the settlement and the  
2 process. Mrs. Edgeworth contradicted Mr. Edgeworth and said she told Mr. Simon that she  
3 wanted the Viking and Lange case to proceed, and that was worried about the matters on  
4 calendar, including the evidentiary hearing until the deal was formalized. She admitted to  
5 discussions of other matters about the case and had a detailed understanding of everything on  
6 calendar. Notably, this was the first time Mr. Simon ever spoke to Mrs. Edgeworth about the  
7 status of the case, which was exclusively handled by her husband. Obviously, the attorney's fees  
8 were not the only matter discussed.

9 Other things were discussed. The Viking acceptance of the mediator proposal was also  
10 discussed. Viking added conditions of confidentiality, waiving the Lange claim and the need for  
11 a motion for good faith settlement. Although the clients were agreeable to the settlement amount,  
12 many other issues still needed to be agreed to. The Edgeworths did not want to waive the Lange  
13 claim, didn't understand the determination of good faith settlement and did not like  
14 confidentiality. These were all matters discussed with the clients, as well as an update on  
15 everything on calendar and the reopening of discovery to proceed with Lange if that was  
16 preserved. Mr. Simon worked with Viking counsel from November 27, 2017 through November  
17 30, 2017. The omission of confidentiality, preservation of the Lange claim, mutual release were  
18 all negotiated before Mr. Simon received the Vannah letter of direction on November 30, 2017.  
19 Although dated November 29, 2017, Mr. Simon received the letter of direction on November 30,  
20 2017. *See, Exhibit 43.* Viking revised the release to include Vannah in the afternoon of  
21 November 30, 2017 and the release was immediately forwarded to Vannah to explain to the  
22 Edgeworths. The Edgeworths signed the next day on December 1, 2017. *See, Exhibit 5.* There is  
23 no delay as may be alleged by Edgeworth to secure the omission of the confidentiality clause.  
24  
25

1 Mr. Vannah asserted that the confidentiality issue was Mr. Simon's issue and not the  
2 Edgeworth's. This is not true. Mr. Edgeworth was very concerned. The reason is that Viking  
3 already sued the client and lawyer in the prior California case for disclosing the defect in its  
4 product to other people, as Mrs. Ferrel credibly testified about. Mr. Edgeworth requested a copy  
5 of lawsuit against these other people and Ms. Ferrel provided it to him.

6 Mr. Edgeworth also testified in his affidavit that "We really felt we were being  
7 blackmailed by Simon, who was basically saying "agree to this or else." (See, **Exhibit 17**, BE  
8 Affidavit, 2-12-17, 4:14-16.) This statement is not supported by the evidence. Mr. Simon never  
9 suggested "they sign the proposal or else" as a proposal did not exist on November 17, 2017. The  
10 evidence supports Mr. Simon's version as he continued to work on the case to protect the  
11 interests of the clients and Mr. Edgeworth's assertions in his affidavits that Mr. Simon was  
12 threatening to withdraw if papers were not signed is contrary to the Edgeworth's own emails sent  
13 after the meeting. The Edgeworth's emails after the November 17, 2017 meeting contradict the  
14 statements made in Mr. Edgeworth's affidavit and further support Mr. Simon's version of events.

15  
16 **vii. Threats to withdraw**

17 Mr. Edgeworth testified in his affidavit that "Simon prepared a proposed settlement  
18 breakdown with his new numbers and presented it to us for our signatures. This, too, came with a  
19 high-pressure approach by Simon. This new approach also came with threats to withdraw and to  
20 drop the case..." (See, **Exhibit 17**, BE Affidavit, 2-12-18 5:10-13.) The evidence contradicts this  
21 statement. The several emails following the November 27, 2017 letter and proposal do not  
22 support a finding that he was threatening to withdraw or going to drop the case. These words are  
23 never used by Mr. Simon in any letter or email. Similar to the word "bonus" these are the words  
24 used by Edgeworth only. Mr. Simon continued to work on the case and protected the client's  
25

1 interest negotiating favorable settlement terms. Again, the emails sent by Mrs. Edgeworth after  
2 the November 27, 2017 letter do not suggest Mr. Simon was threatening to withdraw and  
3 confirms Mr. Simon was inviting the Edgeworths to his office to discuss the case as they seemed  
4 to have a lot of questions. The Edgeworths promised to come to the office, but never did. *See*,  
5 **Exhibit 42**. Simply, there was never a high-pressure approach. The Edgeworths refused to speak  
6 with Mr. Simon after November 25, 2017, and the emails and later actions by Mr. Simon  
7 completely refute the Edgeworth's testimony.

8 **viii. Volleyball emails are not credible**

9 In Mr. Edgeworth's affidavit he states that "I was forced to tell Herrera everything about  
10 the lawsuit and Simon's attempt at trying to extort millions of dollars from me. I emphasized that  
11 Simon's accusation was without substance and there was nothing in my past to justify Simon  
12 stating I was a danger to children." (*See, Exhibit 17*, BE Affidavit, 8:12-16.) When questioned at  
13 the evidentiary hearing, Mr. Edgeworth again contradicted himself under oath and he denied  
14 telling Mr. Herrera what was contained in his affidavit. He denied saying to Herrera that Mr.  
15 Simon was extorting him even though it is clearly stated in his affidavit. However, Mrs.  
16 Edgeworth made it clear that she told her friend on November 19, 2017, that Mr. Simon was  
17 extorting her. This statement was made only 2 days after the November 17, 2017, meeting when  
18 her husband is still talking with Mr. Simon to work things out and long before the November 21,  
19 2017 email from her husband. Mrs. Edgeworth testified she was staying out of it and wanted her  
20 husband to work it out with Mr. Simon. Mr. Simon did not send the November 27, 2017 letter  
21 yet, but Mrs. Edgeworth was already telling people Mr. Simon was extorting them? The  
22 Edgeworths cannot be believed on any topic.  
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**ix. Danger to Children Investigation**

The Court reviewed the emails and realized it does not state “he was a danger to children.” This is more fabricated histrionic testimony. A simple review of the entire chain of emails suggests that any reasonable person would not conclude that Mr. Simon ever said or inferred that Mr. Edgeworth was a danger to children. *See, Exhibit 45*. When further questioned, Mr. Edgeworth testified he sits on the board with his wife, Coach Ruben Herrera and his personal attorney, Mr. Katz who created the loan documents for his mother-in-law. The revisionist story telling was in full force and the Edgeworth’s dreamt up another story to add to the list. Any background check was self-inflicted and done at the hand of Edgeworth personally. *See, Exhibit 45*. Mrs. Edgeworth testified she never even talked to the coach about the emails, which was allegedly a serious allegation. Mr. Edgeworth made it seem as if the board forced a background check. The Coach never even called Mr. Simon concerning an alleged investigation stemming from the emails which merely requested that his daughter be released from the volleyball team due to her knee condition. This is another fabricated story and untrustworthy statement asserted by the Edgeworth’s.

**x. The money is solely the Edgeworth’s**

In his affidavits Mr. Edgeworth states several times that the settlement proceeds are solely the Edgeworths’. Mr. Edgeworth states “The settlement proceeds are ours, not SIMON’S. To us, what Simon did was nothing short of stealing what was ours.” (*See, Exhibit 17, BE Affidavit, 2-12-18; 6:23-25.*) Mr. Edgeworth also testified under oath in his affidavit that “Since we’ve already paid him for this work to resolve the LITIGATION, can’t he at least finish what he’s been retained and paid for? (*See, Exhibit 17, BE Affidavit, 2-12-18; 7:11-12.*) When questioned at the evidentiary hearing, Mr. Edgeworth again contradicted himself acknowledging

1 these statements were false as the Edgeworths have always known that the Law Office was owed  
2 substantial sums for attorney's fees long before the affidavits were prepared and the complaints  
3 were filed against Mr. Simon. The last payment made to Mr. Simon was in September, 2017  
4 making the statement that he was "already paid to resolve the litigation" is a complete falsehood.  
5 The allegations that the proceeds are solely the Edgeworth's and that Mr. Simon was paid in full  
6 was proven false at the evidentiary hearing.

7 **xi. Mr. Simon was paid in full based on the Deposition**  
8 **Testimony**

9 Even more absurd is when Mr. Edgeworth asserted in his affidavits and his complaints  
10 that Mr. Simon advised defense counsel in the September 27, 2017 deposition of Mr. Edgeworth  
11 that all of the bills were produced to them. This was done to suggest Mr. Simon and the Law  
12 Office was not owed any money after September 2017. *See, Exhibit 16, 17, 18 and 19.* Mr.  
13 Edgeworth attempts to assert that the bills referenced in the deposition represent all of the bills  
14 for the work, past and future, and Mr. Simon has already been paid in full. It is very disturbing  
15 that the Edgeworths would seek an order from this court that all bills were paid in full as part of  
16 its amended complaint filed on March 15, 2018. In the complaint the Edgeworths allege "the full  
17 amount of his fees, as produced, are the amounts set forth in the invoices that Simon presented to  
18 Plaintiff and that plaintiffs paid in full" at para. 36, and "that the contract has been fully satisfied  
19 by Plaintiff's, that Simon is in material breach of the contract, and that Plaintiffs are entitled to  
20 the full amount of the settlement proceeds." *See, Exhibit 20* at para. 37.

21  
22 In the evidentiary hearing, Mr. Edgeworth again contradicted himself when he testified  
23 that he knew that the statement in the deposition did not include all work and payments in full.  
24 The statements in his affidavits are false and misleading and contradicted by his own testimony  
25 in the same deposition, as follows:

1 Q. And as a result of his breach of contract and his conduct in failing to act in good faith  
2 and deal fairly with you, you have incurred over \$500,000 in attorney fees, costs in this  
3 case, haven't you.

4 A. That correct. In the contract, he was supposed to enforce the warranty against Viking  
5 if he believed it was a defect. He never did.

6 .....

7 Q. And these damages are accruing every day?

8 A. Correct.

9 *See, Exhibit 84*, Edgeworth deposition, 287: 19-25

10 Mr. Edgeworth knew at the time he made the statements in his affidavit and when he  
11 filed his complaints in January, 2018 and March, 2018 that Mr. Simon was owed substantial  
12 sums. During the evidentiary hearing Mr. Edgeworth admitted that Mr. Simon was not paid in  
13 full. Specifically during the evidentiary hearing, Mr. Edgeworth testified as follows:

14 PETE CHRISTIANSEN: So in this paragraph under oath, you claim that finishing up  
15 the litigation is something you've already paid Danny in  
16 full for, correct?

17 BRIAN EDGEWORTH: It doesn't say that.

18 PETE CHRISTIANSEN: He's been retained and paid for, it absolutely says that.

19 BRIAN EDGEWORTH: Since we've already paid him for this work to resolve the  
20 litigation can he at least finish what he's been retained and  
21 paid for?

22 PETE CHRISTIANSEN You've already paid him is what you are telling the Judge.

23 BRIAN EDGEWORTH: For all the work he's done to that point.

24 PETE CHRISTIANSEN: Can he just finish what he's been retained and paid for,  
25 that's what you told the Judge in this affidavit, right?

BRIAN EDGEWORTH: Correct.

PETE CHRISTIANSEN: Ok, that's inconsistent with what you just told me a few  
minutes ago which is that you were still willing to pay  
Danny.

1 BRIAN EDGEWORTH: I don't think it's inconsistent.

2 *See, Brian Edgeworth Testimony on August 27, 2018 at 1:52:00.* Again he testified:

3 PETE CHRISTIANSEN: And then you agree that there are legal bills not billed yet?

4 BRIAN EDGEWORTH: Correct.

5 ...

6 PETE CHRISTIANSEN: When you wrote this email you knew you owed Danny  
7 money?

8 BRIAN EDGEWORTH: Correct.

9 *See, Brian Edgeworth Testimony on August 27, 2018 at 3:52:00.*

10 The Edgeworths have not paid any attorney's fees to the law office after September,  
11 2017. The statements that Mr. Simon was paid in full at the time of the September, 2017  
12 deposition is false.

13  
14 **xii. Mr. Edgeworth was savvy enough to know**

15 Mr. Edgeworth also acknowledged his understanding of the Lange claim in his  
16 deposition, as follows:

17 Q. Pursuant to the contract, they're responsible for your attorney's fees and costs; is  
18 that you understanding?

19 A. That is. That's correct. It's pretty clear in the contract.

20 *See, Exhibit 84 at 289: 6-13.*

21 In his affidavits, Mr. Edgeworth testified that he was savvy enough to know that the fees  
22 and costs paid to Mr. Simon could not be recovered in a later action. This testimony was made  
23 by Mr. Edgeworth to suggest Mr. Simon was deceitful suggesting anything above the bills  
24 produced in the case could never be recovered in the Lange claim. Mr. Simon credibly explained  
25 that the trial and discovery was being continued with Lange Plumbing and the attorney's fees



1 and costs paid after the Viking settlement could have been pursued under the Lange claim. *See,*  
2 Letter to Teddy Parker, attached as **Exhibit 80, SIMONEH0004552-0004555**. Mr. Simon also  
3 explained that the case against Lange could have been dismissed without prejudice and since it  
4 was a breach of contract action, the statute does not expire for 4 more years. The claim for  
5 attorney's fees under the Lange contract did not become ripe until the attorney's fees and costs  
6 were finally determined. Mr. Edgeworth's testimony in his affidavit was again contradicted by  
7 the evidence in the case.

8 **xiii. Mr. Edgeworth's efforts alone did not result in the six-million-**  
9 **dollar settlement.**

10 Edgeworth asserted his efforts were what achieved the settlement. All agree that Mr.  
11 Edgeworth put a lot of time and effort into the case. This is demonstrated by the almost 2,000  
12 emails to the Law Office alone. This also shows that Mr. Simon had to read and analyze these  
13 same emails. Merely because a client is involved, it is not the client that achieves the results in a  
14 complex, hotly contested products liability case.

15 Mr. Edgeworth asserts he uncovered the punitive damages aspect of this case and  
16 presented a July 25, 2017 email in support of this contention. *See, Edgeworth Exhibit 9, 00001.*  
17 However, as early as July 10, 2017, the Law Office already reviewed documents and confirmed  
18 in an email that they knew punitive damages were already in play. *See, Exhibit 80,*  
19 **SIMONEH0007860**. Mr. and Mrs. Edgeworth both brought up the name, Harold Rogers,  
20 suggesting they found his identity and he provided all of the magic to the case. This is not true.  
21 Ms. Ferrel made a chart of activations with associated names from the discovery received. *See,*  
22 **Exhibit 91**. Mr. Rogers name is the first entry on the chart and all over the chart that was created  
23 in July, 2017 before Mr. Edgeworth ever received any information.  
24  
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1 The evidence supports the finding that the NRCP 30(b)(6) deposition taken by Mr. Simon  
2 in May, 2017, and the written discovery served by the Law Office, laid the groundwork for the  
3 extensive motion work that led to the great results achieved. Mr. Nunez and Mr. Kemp both  
4 credibly testified that the motion to strike Viking's answer was devastating and ultimately forced  
5 the Viking Defendants to settle the case. There was substantial work performed by the law office  
6 that led up to the ability to even file such a motion.

7 Mr. Edgeworth is not a lawyer, has no legal training and is not the reason for the six-  
8 million-dollar settlement. The information Mr. Edgeworth reviewed in the case was provided to  
9 him by the Law Office, which obtained the information through discovery. Mrs. Edgeworth  
10 testified that although she was not involved, she saw her husband reviewing a lot of documents.  
11 She has no other information of his involvement. The Court should find that the legal work done  
12 and Mr. Simon's trial skills and experience was the main reason that the \$6 million dollar  
13 settlement was obtained, *not* Edgeworth.

14 Mr. Edgeworth admitted that Mr. Simon retained all the experts, including the appraiser  
15 that provided a stigma loss for \$1.5 million. Mr. Simon researched and provided the materials for  
16 the appraiser to support his opinion. Mr. Simon also obtained a loan expert to justify the amounts  
17 and rate borrowed by Brian Edgeworth. Also, Mr. Simon persuaded the mediator, Floyd Hale, to  
18 propose six million instead of the five million that Mr. Edgeworth thought the number should  
19 have been. *See, Exhibit 36.* Notwithstanding the numerous hours expended by the Law Office,  
20 the extra \$2.5 million was solely attributable to the work of Mr. Simon.

21 The register of actions clearly shows the substantial work that Mr. Simon did on the case.  
22 *See, Exhibit 63.* The Law Office's review of filings of over 120,000 pages of documents, the  
23 extensive motion work, including excluding a crucial expert, a motion to strike the Defendants  
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1 answer, the voluminous emails, lengthy depositions, multiple sets of written discovery, as well as  
2 Mr. Simon's negotiation skills, trial skills, knowledge of the law, experience, reputation, and 26  
3 years of handling similar claims is the reason for the \$6 million dollar settlement, not Mr.  
4 Edgeworth.

5 Mr. Edgeworth also asserts that Mr. Simon did not share in the risk of the case. However,  
6 Mr. Simon credibly testified that he committed his time almost exclusively to the Edgeworth  
7 case, not allowing him to work on other cases with significant value. Mr. Drummond credibly  
8 testified that Mr. Simon was not available to assist him on his cases that had value in the multi-  
9 millions. Many of Mr. Simon's cases were continued so that priority was given to the Edgeworth  
10 case. The time sheets submitted to the court on January 24, 2018 show substantial time was not  
11 billed during the case to benefit Edgeworth. *See, Exhibits 13, 14 and 15.* This time not billed or  
12 paid during litigation is sharing in the risk. If the outcome was not significant, Mr. Simon  
13 testified these hours would never had been billed and would be lost time for the law office.  
14 However, if the outcome was significant, the full reasonable value of his services would be  
15 expected. The only way to determine this amount would be at the end of the case depending on  
16 the outcome.

17  
18 If the Court determines that a witness has lied about any material fact, the entire  
19 testimony of that witness can be disregarded. The **Court should find** that the testimony of the  
20 Edgeworths was so untrustworthy, their entire testimony is disregarded.

21 The testimony of both of the Edgeworths followed the same theme. We know everything  
22 about the case when Mr. Green asked the questions, but on cross examination, we don't know  
23 anything about the case or fail to understand the plain meaning of words. These words that they  
24  
25

1 were so confused about came directly from their own affidavits, their own emails and both of  
2 their complaints.

3 **V.**

4 **NO WRITTEN AGREEMENT EXISTS**

5 All agree that there was not a written contract. The Edgeworths suggest this  
6 favors their position. However, the Edgeworths are not credible on this point based on the  
7 evidence. The evidence confirmed that the Vannah firm did not have a written retainer for the  
8 lawsuit filed against Mr. Simon, which is a separate matter than the case they were retained,  
9 which was specifically for the Lange and Viking case. The retainer states as follows:

10 Client retains Attorneys to represent him as his Attorneys regarding Edgeworth Family  
11 Trust and AMERICAN GRATING V. ALL VIKING ENTITIES and all damages  
12 including, but not limited to, all claims in this matter and empowers them to do all things  
13 to effect a compromise in said matter, or to institute such legal action as may be advisable  
14 in their judgment, and agrees to pay them for their services, on the following conditions:

15 ...  
16 (b) \$925 an hour for attorney time for Robert D. Vannah and John B. Greene

17 (c) Client agrees that his attorneys will work to consummate a settlement of \$6,000,000  
18 from the Viking entities and any settlement amount agreed to be paid by the Lange entity.  
19 Client also agrees that attorneys will work to reach an agreement amongst the parties to  
20 resolve all claims in the Lange and Viking litigation.

21 *See, Exhibit 90.*

22 Edgeworth repeatedly argued violations of NRCP 1.5, but if they consider this an  
23 important issue, then why don't their own lawyers have a written agreement for suing Mr.  
24 Simon. NRCP 18.015 and quantum meruit is the law that controls payment, not NRCP 1.5. The  
25 Edgeworth's acknowledged they are well educated in business, extremely savvy and experienced  
in hiring lawyers. They require contracts to reflect the real agreement as they want to know up  
front what they may have to pay. It is curious that the Edgeworths never asked for an hourly  
contract and were proposing terms that were much different than an hourly contract in August,

1 2017. The Edgeworths argue the reason for the proposal was so that the Edgeworths could get  
2 better terms. This testimony does not make any sense. They wanted Mrs. Edgeworth's mother to  
3 get paid back all of her initial loan with interest. After paying back the loan they didn't want to  
4 pay any fees and going forward and wanted the attorney's fees to operate on a percentage only.  
5 The limited bills produced at the time of the August, 2017 email were in the sum of \$231,266.84.  
6 Following the Edgeworth's logic, Mr. Simon would have had to work for free from May 27,  
7 2016 through August, 22, 2017 and come out of pocket in the sum of \$47,291.84, and then  
8 continue the case from that point on a lower contingency only. The Edgeworths are only ever  
9 looking to benefit themselves and never the people trying to help them and who worked very  
10 hard for them. The unique nature of this case made it virtually impossible to put a written  
11 contract in place as the only realistic scenario was to determine what was fair at the end. Mr.  
12 Simon explained this throughout the case.

13  
14 **A. Mr. Simon's Conduct Does Not Violate RPC 1.5**

15 Although the Edgeworth's complain there was not a written contract in place with  
16 Mr. Simon, they received 12 times their property damage when not having insurance in place. If  
17 insurance was in place they would not have received any money above the cost of repairs. The  
18 Edgeworths complain that Mr. Simon did not bill them for all of his time during the litigation,  
19 yet at the same time, they cried poor and were stressed out about their financial hardship.  
20 Imagine if Mr. Simon really did just do the case on an hourly and billed every single minute  
21 from beginning to end. The loans and payments for fees would have easily exceeded \$2 million  
22 dollars. In March 2017, the Edgeworths were willing to accept One Million Dollars as full  
23 settlement of the entire claim, inclusive of attorney's fees. *See*, Offer of Judgement for 1 Million  
24 for entire case, attached as **Exhibit 87**. Notably, their house was repaired already, and the hard  
25

1 damages were already established and never changed. It was only the soft damages that changed.

2 It was most telling at the end of Mrs. Edgeworth's testimony when she admitted  
3 that they always had the money and never needed the loans at all. She confirmed that the money  
4 from the Viking settlement was not used to pay off the house and the house was free and clear  
5 before the Viking settlement. *See, Angela Edgeworth's testimony on September 18, 2018 at*  
6 **4:20:34 to 4:22:47.** Simply, the Edgeworths cannot be believed. She also confirmed that she was  
7 not worried about the loans from her mom, yet her husband testified that the risk of these loans  
8 caused extreme hardship. For the first time from Mrs. Edgeworth's testimony on the stand, is it  
9 now learned that the loans were just another scheme by the Edgeworths to increase their  
10 damages in the case.

## 11 VI.

### 12 SPOUSAL PRIVILEGE

13 During cross examination, Mr. Edgeworth invoked the spousal immunity doctrine to  
14 avoid providing testimony on discussions with his wife, Angela Edgeworth. Angela Edgeworth  
15 is a principal of Plaintiff American Grating, LLC., and is trustee and has an equal percentage of  
16 the Edgeworth Family Trust and was required to make decisions and sign settlement documents  
17 as a result.  
18

19 It is a reasonable inference that Angela Edgeworth was knowledgeable to some degree  
20 over the events and circumstances relative to the discharge of Mr. Simon, and lien adjudication,  
21 including the alleged oral contract. Therefore, the use of the privilege creates an adverse  
22 inference that the precluded testimony would have been averse to the Edgeworths' cause.  
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VII.

**THE FEE IS REASONABLE**

**A. Quantum Meruit**

If the Court finds that if there is no express oral agreement and that there is no implied payment term, then the Court is required to use quantum meruit to determine compensation for the Law Office under the lien. *Certified Fire Prot. Inc. v. Precision Constr. Inc.*, 128 Nev. 371, 283 P.3d 250 (2012). Alternatively, if the court finds constructive discharge, the court is also required to use quantum meruit to determine compensation for the Law Office.

The Court should find that the reasonable value of Mr. Simon's services in this case is in the sum of \$2,440,000. Mr. Kemp testified his opinion for a reasonable fee is as follows:

WILL KEMP: My opinion is that a reasonable fee for a case of this sort would be \$2.44 and I take that, I get that by taking the, you know applying the Brunzell factors, as well as, I could go into more details but that's the general opinion.

JIM CHRISTENSEN: Ok.

WILL KEMP: Which I set forth in the declaration that we filed  
*See, Will Kemp Testimony on August 30, 2018 at 11:17:41.*

Mr. Simon asserted a lien for an amount less than the full value of his services in the amount of \$2,350,000 and provided a credit for all payments previously made by Edgeworth for a net lien of \$1,977,843.00. It is requested that this full lien amount be awarded as quantum meruit, which is supported by substantial evidence.

The basis for the Court's findings should be made after full consideration and a detailed analysis of the *Brunzell* factors and the factors set forth in RPC 1.5.

**B. The Brunzell Factors**

A reasonable fee must be determined by use of the *Brunzell* factors. *Brunzell v. Golden*

1 *Gate National Bank*, 455 P.2d 31 (Nev. 1969). The *Brunzell* factors are:

- 2 1. The qualities of the advocate;
- 3 2. The character of the work to be done;
- 4 3. The work actually performed; and,
- 5 4. The result obtained.

6 The factors support a finding that the reasonable fee that is due to Mr. Simon for his great  
7 work on the clients' case is the full value of his lien.

8 **i. Qualities of the advocate**

9 *Brunzell* expands on the "qualities of the advocate" factor and mentions such items as  
10 training, skill and education of the advocate. Mr. Simon is considered one of the top lawyers in the  
11 state of Nevada. He has a proven track record handling large complex cases. Craig Drummond  
12 credibly testified that he considers Mr. Simon a top 1% trial lawyer and he associates and brings Mr.  
13 Simon in on cases that are complex and of significant value. Michael Nunez, the defense lawyer for  
14 Giberti, also credibly testified that Mr. Simon's work on the case was extremely impressive and  
15 second to none. Mr. Kemp also supported this factor as he has known Mr. Simon professionally for  
16 years and understands his work product and results, which is exceptional.

17 **i. The character of the work to be done**

18 Mr. Kemp credibly testified that the quality and quantity of the work was exceptional for a  
19 products liability case against a world-wide manufacturer that is very experienced in litigating cases.  
20 The Law Office had to advocate against several highly experienced law firms for Viking, including  
21 local and out of state counsel. In this regard, the Motion to Strike Answer filed on September 29,  
22 2017 is of utmost significance. *See, Exhibit 1.*

23 Mr. Kemp further testified that the Law Office retained multiple experts to secure the  
24  
25



1 necessary opinions to prove the case. It also creatively advocated to pursue unique damages claims  
2 (e.g., the “stigma” damages) and to prosecute a fraud claim and file many motion that most lawyers  
3 would not have done. The Law Office also secured rulings that most firms handling this case would  
4 not have achieved. The continued aggressive representation prosecuting case was a substantial  
5 factor in achieving the exceptional results. *See, Exhibit 1.*

6 **iii. The work actually performed**

7 Mr. Simon was aggressive and successful in discovery, which led to the disclosure of prior  
8 floods. Mr. Simon kept a tight hold on deadlines and the Court’s trial order, which allowed the  
9 clients an opportunity to fully present their case, while placing the defense at risk of losing their  
10 main expert and having their answers struck. Michael Nunez also credibly testified that Mr. Simon’s  
11 work on the case was extremely impressive and matched by no other.

12 Mr. Simon found, retained and prepared experts on the product defect, and on the difficult  
13 and rare damage claim of real estate stigma. Most lawyers would not be able to even address a  
14 claim of damages from real estate stigma, let alone present an expert opinion sufficient to survive a  
15 *Hallmark* challenge. *See, Exhibits 92 and 93.* Mr. Simon successfully negotiated the claim to obtain  
16 an additional one million dollars over and above what Mr. Edgeworth suggested.

17 **iv. The results**

18 The result was incredible. Mr. Simon recovered about double what it cost to build the entire  
19 house. Another lawyer might have set their target on a case value ranging from \$500,000 to \$1  
20 Million. Mr. Simon recovered orders of magnitude above.

21 Mr. Kemp credibly testified that one client with property damage is not attractive to most  
22 experienced product liability litigators due to the amount of energy and costs. The case did not  
23 involve serious personal injury or multiple clients. A settlement of \$6.1 million in a complex  
24  
25

1 product liability case with no personal injury or death and only \$731,242 in “hard costs” is truly  
2 remarkable.

3 Mr. Edgeworth, a sophisticated client, expressed the opinion on August 2, 2017 that it  
4 would take a trial and appeal to get “Edgeworth expected result.” Most lawyers would agree that it  
5 would take years to even get the hard costs.

6 The Edgeworths have failed to present any evidence that disputes Mr. Kemp’s expert  
7 opinion as to the value of the services. The Edgeworths and their lawyers do not dispute the  
8 exceptional result obtained and do not dispute the incredible result. In fact, they do not dispute that  
9 every single factor in *Brunzell* and RPC 1.5 were met. The court only needs to rely on one factor to  
10 reach its decision; however, every single factor has been met and is supported by substantial  
11 evidence. Mr. Simon testified that this is potentially the highest property damage settlement for a  
12 single family home in the history of Nevada. Even Mr. Kemp testified he has never seen a better  
13 result for this type of case. Mr. Kemp’s opinion as to the amount of the reasonable value of Mr.  
14 Simon’s services is undisputed and Mr. Kemp confirmed the amount of the fee he determined was  
15 not calculated as a contingency fee, but is the amount that represents quantum meruit for this type of  
16 case and the results achieved. Mr. Kemp opined, as follows:

18 “When evaluating the novelty and difficulty of the question presented; the adversarial nature  
19 of this case, the skill necessary to perform the legal service, the lost opportunities to work on  
20 the other cases, the quality, quantity and the advocacy involved, as well as the exceptional  
21 result achieved given the total amount of the settlement compared to the “hard” damages  
22 involved, the reasonable value or the services performed in the Edgeworth matter by the law  
23 office, in my opinion, would be the sum of \$2,440,000. This evaluation is reasonable under  
24 the Brunzell factors. I make this declaration under penalty of perjury.”

25 See, **Exhibit 1**, Declaration of Will Kemp, at para. 24, 25.

The *Brunzell* factors support the full lien amount to the Law Office. Mr. Simon met and  
exceeded every factor substantially. In the absence of an express contract, the market approach is

1 the most reasonable approach in determining the amount of the lien in this case. The Court should  
2 also consider the factors set forth in RPC 1.5, as follows:

3 (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an  
4 unreasonable amount for expenses. The factors to be considered in determining the  
reasonableness of a fee include the following:

5 (1) The time and labor required, the novelty and difficulty of the questions involved, and  
the skill requisite to perform the legal service properly;

6 (2) The likelihood, if apparent to the client, that the acceptance of the particular  
employment will preclude other employment by the lawyer;

7 (3) The fee customarily charged in the locality for similar legal services;

8 (4) The amount involved and the results obtained;

9 (5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the lawyer or lawyers performing the  
services.

10 Mr. Kemp testified that the usual and customary fee in the state of Nevada for this type of  
11 case ranges from \$2,440,000 to \$2,745,000 based on the work done in this case and the amazing  
12 outcome. Mr. Kemp acknowledged that there was not a signed retainer for a contingency fee in this  
13 case and also understands that Mr. Simon is not seeking a contingency fee. However, in this case,  
14 the reasonable value of the fee is similar to that of an amount of 40%-45% of the settlement, but not  
15 solely based on a percentage. He testified that the results achieved were an overwhelming factor. He  
16 also testified that Mr. Simon met all other factors. Mr. Simon has a small firm and was precluded  
17 from other employment in which he would have earned a fee equal to or greater for the time spent.  
18 That the work performed, the quality of the advocacy, the novelty of the questions were very  
19 difficult limiting the quality of attorneys that Mr. Edgeworth would have been able to retain. The  
20 experience, reputation, and ability of Mr. Simon has been proven and was impeccable in this case. It  
21 is undisputed that the work Mr. Simon performed, and the results were nothing short of amazing.  
22 This is conceded by Edgeworth.  
23

24 The market approach is supported by the expert opinion of Mr. Kemp. In support of this  
25

1 finding, Mr. Kemp confirmed what was contained in Mr. Simon's letter to the Edgeworth's on  
2 November 27, 2017 that \$2.4 million dollars was specifically included in the \$6 million dollar  
3 mediator proposal by the mediator for attorney's fees when the mediator proposed the \$6 million  
4 dollars. *See, Will Kemp Testimony on August 30, 2018 at 3:25:40.* There is no better support for  
5 the quantum meruit of the amount of attorney's fees in this case than the portion of the settlement  
6 directly attributable to attorney's fees in the actual settlement. In this case, that amount is  
7 \$2,400,000. Mr. Kemp's testimony was not disputed and is substantial evidence in support of the  
8 court's findings.

9       The Court is not awarding a contingency fee. The Court is granting the full net lien as the  
10 reasonable value of the services for the work performed. Alternatively, the Court can reach the same  
11 result by taking the hours on the time sheets and multiply them by the hourly fee of \$925 an hour.  
12 This is the fee that the Edgeworths established as fair and reasonable in this very case when paying  
13 Mr. Green \$925 an hour for taking over the case from Mr. Simon on November 29, 2017.  
14 Arguably, the work that the Law Office performed on the case was much more difficult, demanding  
15 and complex warranting even a higher hourly fee. If the Court applies the hourly fee of \$925 per  
16 hour to the hours on the time sheets, the total fees equal \$2,316,477.70. The hours on the time sheets  
17 do not include several hundred hours spent by the Law Office that could not be recovered.

## 18 **VIII.**

### 19 **THE COURT'S DECISION**

20       The Court's should exercise its wide discretion in favor of the full lien. The case  
21 settled for \$6.1 million. The Edgeworths received \$4 million cash in January 2018 and now seek  
22 the remaining **\$1,977,843.80** that is currently in the Trust account. The remaining amount in the  
23 trust account is the disputed amount and was earmarked by the mediator, Floyd Hale as  
24  
25

1 attorney's fees when the \$6 million was offered by the mediator and accepted by Viking. The  
2 court is now faced with the decision to give the money earmarked for attorney's fees to the  
3 attorney that did the work with a great result or the clients who have already received \$4 million  
4 for a \$500,000 property damage claim. The Edgeworths already admit they have been made  
5 more than whole and any alleged agreement was not for the new case, referred to as the "punitive  
6 case" or "the beast" as the new case could not have been contemplated at the beginning.

7 When weighing the credibility of the parties, the court should find that the  
8 Edgeworths were not credible as the fact finder. That Mr. Simon was credible and no contract,  
9 express or implied was found. Absent an agreement, the Law Office is due quantum meruit.  
10 Alternatively, the court can reach the same conclusion to apply quantum meruit by finding that a  
11 constructive discharge occurred. If the court finds quantum meruit should be used to determine  
12 the lien amount, then the Court should determine the method of calculation.

13  
14 **A. What method should the court use to determine quantum meruit?**

15 One alternative method of calculation would be taking the hours on all the time  
16 sheets and then use the hourly rate of \$925, which is established as the reasonable fee by the  
17 Edgeworths in this very case. This calculation is the full lien.

18 Another alternative method of calculation to reach the same result, which is the  
19 preferred method of calculation for quantum meruit, is the market approach. Mr. Kemp provided  
20 undisputed and substantial evidence that the value of the services is actually greater than the  
21 claimed lien amount. Mr. Simon meets and exceeds every single *Brunzell* factor and RPC 1.5  
22 factor in support of this conclusion. Since all factors are met and the conclusion is supported by  
23 substantial evidence, any reviewing court will not disturb such a finding. Therefore, this Court  
24 should not have any reservations awarding the full lien amount.  
25