

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

LAW OFFICE OF DANIEL S. SIMON;  
DOES 1 through 10; and, ROE  
entities 1 through 10;

Petitioner,

vs.

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

Respondents,

and

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC,

Real Parties in  
Interest.

**SUPREME COURT  
CASE NO.**

DISTRICT COURT CASE

NO.: A-16-738444-C

*Consolidated with:*

DISTRICT COURT CASE

NO.: A-18-767242-C

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1 know, free money.

2 THE COURT: Okay. Okay. Mr. Christensen, do you have any  
3 questions based on my follow-up question?

4 MR. CHRISTENSEN: None, Your Honor.

5 THE COURT: Mr. Vannah?

6 MR. VANNAH: Just one.

7 THE COURT: Okay.

8 FURTHER RECROSS-EXAMINATION

9 BY MR. VANNAH:

10 Q And they were ecstatic, right. They were happy to get the  
11 100, more than 25?

12 A I have no idea.

13 Q Well, they were happy, I was happy.

14 A Okay.

15 Q It's four times what we gave the authority for.

16 A Good to hear.

17 Q Bottom line. I mean, let's just get to the -- I want to make  
18 sure the Judge -- it doesn't matter whether you, or I think the settlement  
19 should be more, or less, or whatever, it's up to the client who takes the  
20 risk, who takes -- it's their asset, their case, they absolutely have the  
21 absolute right to settle a case, for whatever reason they want to on the  
22 Lange case. It's up to them to do that, right, it's their choice?

23 A It's the client's decision to settle in a case.

24 Q Now I don't think anybody's taking my advice, or taking your  
25 advice, but they're certainly getting your advice through me. They're

1 hearing my advice, for whatever reason, and then they make the  
2 decision. It may not be to take yours or my advice, or maybe do  
3 something down the middle. They could go back and say we're not  
4 taking a dime less than 500,000. They can do all sorts of things, right?

5 A What's abundantly clear, Mr. Vannah, is they were taking my  
6 advice, because I didn't have any communication with them about the  
7 Lange settlement.

8 Q You understood that I --

9 A Other than what --

10 Q Fine.

11 A -- we discussed about how that claim could proceed.

12 Q But you were --

13 A When it came to settlement time that was all you.

14 Q Except that you remember me telling you, telling you on the  
15 phone, along with Mr. Christensen, that I had passed on to the best of  
16 my ability, your advice. You put that on piece of paper saying --

17 A Yeah. Yeah. Yeah.

18 Q -- I told what --

19 A I tried to lay out the risks and the alternatives and everything,  
20 right?

21 Q And there's risks in doing what you want to do, and there's a  
22 reward for potentially doing what you want to do, right?

23 A In life, yes.

24 Q Yeah. Life's that way.

25 A Yes.



1 Q Everything, we do there's a risk reward. Even -- that's what  
2 golf is all about?

3 A That's right.

4 Q You're going to try to go over the water, or you go around it.  
5 And bottom line is, I just want to make it so clear, is that the decision to  
6 accept the Lange settlement, the 100 percent not my decision. It's my  
7 choice or your choice, it's up to them, right?

8 A Like I said, before, yes.

9 Q Thank you.

10 A You're welcome.

11 THE COURT: Anything else Mr. Christensen?

12 MR. CHRISTENSEN: No, Your Honor.

13 THE COURT: Okay. Mr. Simon, you may be excused.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Thank you very much. And we're going to  
16 take a 15 minute recess, and then Mr. Kemp we'll put you on the stand  
17 when we come back. So, we'll be back at 3:00

18 [Recess at 2:46 p.m., recommencing at 3:02 p.m.]

19 THE COURT: Okay, you guys. Are you ready?

20 MR. CHRISTENSEN: Yes, Your Honor.

21 THE COURT: Okay. We're back on the record A-767242 and A-  
22 738444, Edgeworth Family Trust v. Daniel Simon. Mr. Christensen, your  
23 next witness.

24 MR. CHRISTENSEN: Thank you, Your Honor. We'd like to call Mr.  
25 Kemp to the stand.

1 THE COURT: Okay. Mr. Kemp, if you can approach the witness  
2 stand.

3 MR. KEMP: Yes, Your Honor.

4 WILLIAM KEMP, DEFENDANT'S WITNESS, SWORN

5 THE CLERK: Please be seated, stating your full name, spelling your  
6 first last name for the record.

7 THE WITNESS: William Kemp, K-E-M-P.

8 THE COURT: Okay. Mr. Christensen.

9 MR. CHRISTENSEN: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. CHRISTENSEN:

12 Q Mr. Kemp, can you give us a rundown of your legal  
13 background and experience?

14 A Well, I started clerking here in '76 for the AG's office, in '77 I  
15 clerked for Jones, Jones, Close & Brown. In '78 I was admitted to  
16 practice here. I started doing personal injury work and commercial  
17 litigation at that firm. In '80 I got on the MGM case, which I was on until  
18 about '87, '88, on Plaintiff's legal committee. Let's see what happened  
19 after that. Then in '86 or '87, I went down, and I was on the DuPont Plaza  
20 case, a hotel fire in Puerto Rico where 97 were killed.

21 After that I did another fire case, in Atlanta, the Peachtree 25th  
22 case, where five people were killed. I've been on the fen-phen case, that  
23 was the diet drug case that was a \$28 billion settlement. I was on the  
24 Castano case, that's the tobacco litigation where we ultimately  
25 negotiated a \$370 billion national settlement, which got recrafted into a

1 \$200 billion settlement. But I was on the fee committee on that case.

2 And along with others, I have like, I think either the top three, or  
3 the top four verdicts in Nevada history, in products' cases, two of the  
4 three products cases. So, I pretty much specialized in product liability  
5 litigation and -- there used be in the emphasis with fire litigation, but  
6 there's so many sprinklers now there's really not that many fires.

7 Q Okay. Can you tell the Court a little bit more about your  
8 experience with working on fee committees, and determining fees for  
9 lawyer's work on product liability cases?

10 A Well, on the *MGM* case I drafted the motion for the  
11 committee fee, and then I testified at the fee hearing in front of the  
12 Federal judge. We were represented by Arthur Miller, he presented -- he  
13 did the argument. The *DuPont* case, I also drafted the fee petition, and  
14 argued that. And in the *DuPont* case, you know, it's kind of a fight  
15 between the lawyers as to how much fees the committee should have,  
16 and the individual lawyers.

17 So, we had two appeals on that, that went up to the 1st Circuit and  
18 I did the briefing on those, and I did the arguments on both of those, and  
19 that's In re 19 Appeals, and In re 13 Appeals, they're two published 1st  
20 Circuit decisions.

21 I was also on the fee committee in the tobacco case where our  
22 group got \$1.3 billion in fees, and I was on the A-person committee that  
23 divided it among, you know, the 63 biggest Plaintiffs' firms in the  
24 country, which was not a lot of fun. But in any event we did that, and I'm  
25 generally familiar with, you know, attorney's fees in general

1 Q Could you tell the Court a little bit more about the division of  
2 fees in the tobacco settlement. What were you looking at, how were you  
3 making breakouts?

4 A Well, in the tobacco case there were 63 firms. And the way  
5 that case started is in 1993 we filed a national class action, and they had  
6 ultimately spawned the State cases, and you know, the insider, and the  
7 whistleblowers and all kinds of stuff.

8 But in any event, at the end of the day we had to sit down and  
9 decide, based upon, you know, the amount of work each person did,  
10 what results they achieved, what their particular skillset was, how many  
11 points they would get out of a 100 points.

12 So, we took a 100 points, which was the 1.3 billion, and some  
13 people got 2 points, some people got 2 points, some people got .25  
14 points, but they each came in and made a fee presentation and written  
15 materials, and we had to evaluate it. Which took eight weeks, they  
16 locked us up in a hotel down in New Orleans for eight weeks, but --

17 MR. CHRISTENSEN: Your Honor, I'd like to submit Mr. Kemp as an  
18 expert on not only product liability cases, but also on the reasonableness  
19 of fees in product liability cases.

20 MR. VANNAH: Oh, no.

21 THE COURT: Any objection to that?

22 MR. VANNAH: None whatsoever.

23 THE COURT: Okay.

24 BY MR. CHRISTENSEN:

25 Q Mr. Kemp, what is your opinion?

1           A     My opinion is that a reasonable fee for a case of this sort  
2 would be about 2.44, and I take that by taking the -- I did that by taking,  
3 you know, playing the Brunzell factors, as well as -- I could go into more  
4 detail, but that's the general opinion.

5           Q     Okay.

6           A     Which I set forth in the declaration that we filed--

7           THE COURT: I have read that, Mr. Christensen.

8           THE WITNESS: -- on or about January 31st.

9           BY MR. CHRISTENSEN:

10          Q     Can you turn to page 5 of your declaration, which is marked  
11 as the Office Exhibit 1.

12          MR. CHRISTENSEN: Your Honor, do you have courtesy copy?

13          THE COURT: And this is your motion to adjudicate?

14          MR. CHRISTENSEN: Yes.

15          THE COURT: In your brief I know there's an affidavit from Mr.  
16 Kemp that's attached.

17          MR. CHRISTENSEN: Right.

18          THE COURT: Yes. And this is the one that's attached to your  
19 Defense brief, right?

20          MR. CHRISTENSEN: Correct, Your Honor.

21          THE COURT: Okay, yes.

22          MR. CHRISTENSEN: It's been submitted several times, so --

23          THE COURT: Yes, it has, I've read it.

24          MR. CHRISTENSEN: They're all the same.

25          BY MR. CHRISTENSEN:

1 Q All right. It looks like you start to address the Brunzell factors  
2 at paragraph 15 --

3 A Right.

4 Q -- page 5 of your report?

5 A Right. You know, Brunzell is kind of a funky case, it's really  
6 kind of an off-chute V-case. So, when you read Brunzell they really don't  
7 elaborate on these factors much, but these are the four factors.

8 Q And it sounded like at least in general the four Brunzell  
9 factors were very similar to the factors that you applied in the tobacco  
10 litigation and maybe in other contexts?

11 A Yeah. What happened in, you know, the old days, and Mr.  
12 Vannah will remember too, we used to call this the Lindy Lodestar  
13 factors after the Lindy case, and then that kind of got changed, and then  
14 each State court had their case, and so it's now the Brunzell cases, but  
15 basically the Lindy Lodestar factors.

16 Q Okay. So, the first one is the qualities of the advocate?

17 A Right.

18 Q So what is your opinion concerning the qualities of Mr.  
19 Simon and the rest of his office?

20 A You know, I really started with 4, results, so can we start --

21 Q Okay.

22 A -- there perhaps. You know, there --

23 Q Let's start with number 4.

24 A Yeah. the result of this case, I don't think anybody involved  
25 can dispute it's amazing. You know, that we have a single house that

1 has a defective sprinkler that has flooding; as I understand it the house  
2 wasn't occupied at the time, they were building it. But we don't have  
3 any personal injury, we don't have any death, we have property damage.

4 You know, we can get into the amount of property damage, but, I  
5 mean, you know, like I say in my affidavit, we probably wouldn't take this  
6 case unless it was a friends and family situation, which I understand to  
7 be the case here.

8 But we probably wouldn't take this case because it -- it is really  
9 hard to do a products liability case and make everything add up, if you  
10 have a limited amount of damages in one point. So, the result in this  
11 case, you know, when you have this kind of property damage, 500 to  
12 750, you know, depending on how you want to characterize it, and they  
13 get \$6 million, 6.1, it's just -- it's just phenomenal.

14 You know, I'm not saying it was all Mr. Simon. It sounds like they  
15 had a pretty bad sprinkler. You know, Mr. Edgeworth obviously  
16 contributed, he did a lot of work, but it is a pretty fantastic result for what  
17 they did.

18 Q What's the highest trial verdict that you've been involved in?

19 A A verdict? Well, we got 505 million in the hepatitis case,  
20 which was tried in this courtroom, by the way. We got five hundred  
21 twenty-four and twenty-eight in an HMO case, and then I think we got  
22 205 in some other case.

23 Q Okay.

24 A So those are the three highest, and two out of three were  
25 products' cases.

1 Q Have you ever heard of a \$6 million verdict off of a \$500,000  
2 property loss case?

3 A No.

4 Q I'm sorry, settlement?

5 A Yeah. And the problem in the case, is one of the early emails  
6 from Edgeworth kind of points it out, which is I guess, Mr. Marquis,  
7 who's a good attorney, you know, I Mr. Marquis, he wanted 50,000  
8 down, and that really wouldn't have been an unreasonable thing to ask  
9 for if you were in his position, because you've got to remember at the  
10 beginning of the case he would have had to retain experts, get this  
11 product tested, do some investigation. You know, because you don't  
12 know, just because the sprinkler started leaking, you don't know that  
13 there's defective product there, going into this case.

14 And so now he's got to pay 50,000 and he's got total damages of, I  
15 don't know if he knew what they were at that time, but even he knew  
16 they were 500 million [sic], you know, you're kind of throwing good  
17 money after bad. It's just hard to imagine that this case would have got  
18 off the ground, if it hadn't been a friends and family situation.

19 Q I guess number 3, really kind of -- the work actually  
20 performed kind of encompasses the result, pretty close?

21 A Well, not really. I mean, you know, you got to take -- you  
22 know, maybe they -- you always hear these stories that someone files a  
23 complaint, the next day they get a lot of money. I've never seen it  
24 happen; it's never happened to me.

25 But, you know, you got to look at what happened. I went through



1 all the emails between Mr. Edgeworth and Mr. Simon, which were pretty  
2 extensive, you know, four binder set.

3 THE COURT: Was it something like that, what's over there in  
4 those chairs?

5 THE WITNESS: Yeah. Yeah. And I went through every one,  
6 Your Honor, I went one-by-one. It was just -- it was -- you know, it kind  
7 of fast, and then I was kind of intruding on their relationship, like, you  
8 know. See, I would have answered the question this way, Mr. Simon  
9 answered it that way. You know, it was kind of interesting in a way. It  
10 wasn't that -- I wouldn't do it again.

11 But anyway, I did go through all the emails and I went through the  
12 pleadings, and I looked at the expert reports more out of professional  
13 curiosity, because given my background in fire litigation I was interested  
14 in sprinklers. And, also, we thought, gee, you know, if Danny got \$6  
15 million on this little case, maybe there's an opportunity here for us to do  
16 a class action somewhere. But so far that opportunity --

17 THE COURT: Wheels always turning, Mr. Kemp.

18 THE WITNESS: -- hasn't materialized.

19 BY MR. CHRISTENSEN:

20 Q What did you think about the stigma damage claim?

21 A I thought that was very creative, you know. I mean, I can see  
22 cases where you would have stigma damages in a house, you know,  
23 Charlie Manson murders people in the house, so I can see that being  
24 stigma. A flooding, I think -- that was very creative. I don't know  
25 whether Mr. Edgeworth came up with that, or Mr. Simon or both, but

1 that was a very creative claim.

2 I didn't -- you know, I broke this down into hard damages and soft  
3 damages. And hard damages I would call the ones that are more  
4 commonly accepted, and soft damages I put the stigma on that. I don't  
5 know that that would have gotten by a 50(b) motion. I definitely don't  
6 think the Supreme Court would have let that one go, but you know, it's  
7 creative.

8 Q Okay. Do you have opinions on the quality of the advocate,  
9 the first Brunzell factor?

10 A I thought Mr. Simon who I actually knew Mr. Simon back  
11 before he was an attorney, believe it or not, and I don't know why he  
12 became an attorney, but in any event, yeah, I thought the quality was  
13 good. I went through the pleadings. You know, they -- basically they  
14 caught the company understating the number of the incidents, and they  
15 had a motion to strike. And I don't know what Your Honor would have  
16 done, but I would have stricken it. But in any event I thought the quality  
17 is very good.

18 Q Okay. On a character of the work?

19 A The same, you know. I mean, I don't think there's any  
20 argument about factors 1 and 2 here.

21 Q And the work actually performed?

22 A You know, I was amazed at the number of emails. You know,  
23 I think Mr. Simon made some kind of crack that I wouldn't have  
24 responded to all the emails, I probably wouldn't have, you know,

25 Q Okay.

1           A     I mean, it was productive, don't get me wrong, they had a  
2 productive relationship for some reason, but there were a lot of emails.

3           Q     What happens when an attorney doesn't have an express  
4 contract with the client; either oral or written?

5           A     You've got to determine the reasonable value of the work.

6           Q     So it's commonly called quantum meruit?

7           A     Yeah. Quantum meruit.

8           Q     Okay.

9           A     Which I was trying to remember my Latin the other day, as to  
10 -- forget that.

11          Q     No express written contract in this case?

12          A     You know, it was interesting, because at the very beginning,  
13 and this is why I say it was a friends and family case, Mr. Edgeworth  
14 writes a memo, which I have up here somewhere, which I think is May  
15 27th, and he says, Mr. Marquis, who I don't know, wants 50 grand. You  
16 know, I don't want to go there. Why don't I just pay you hourly, and  
17 Danny writes back and said something to the effect of, I don't want to do  
18 that at this point, or -- you know, let's decide that later, or something?

19                So, I mean, it did start out as classic friends and family case, you  
20 know, I'll write you a couple of letters, then apparently a complaint got  
21 filed, and then somehow or another, around August of -- this was August  
22 2017, they must have -- something good must have happened, because  
23 all of a sudden I'm seeing emails from Mr. Edgeworth about a punitive  
24 damages claim, and we've got to a contingent fee. So obviously they  
25 found something good.

1           Q     Okay. Did you see an express oral contract on an hourly  
2 rate?

3           A     No. And, you know, there's at least three emails that I think  
4 are significant on that. There's the one I just alluded to, where they  
5 started, and Mr. Simon says, let's cross that bridge later, this is the May  
6 27th email. And then later on Mr. Edgeworth writes an email where he  
7 wants to -- where he says, hey, let's go for punitive damages in this case.

8           And, you know, like I say in my affidavit, they must have got --  
9 there is -- there's a large component here, in addition to what the hard  
10 and sought damages are. So, it's either fees or punitives, it's one of the  
11 two, or both. And so, he says, let's do some kind of contingency, you  
12 know. I think that was back in November.

13           But in any event that kind of indicated that at least for what they  
14 wanted to do after that point in time, if it didn't, they didn't think they  
15 had an agreement that was -- or they thought they should refine an  
16 agreement. I don't know, I would say they didn't have an agreement.

17           Q     What was your opinion of the hard damages?

18           A     I talked about that in my affidavit, and I thought I put the  
19 figure at seven-something.

20           Q     If you could turn to page 3 --

21           A     Seven-thirty-one, yeah.

22           Q     Yeah. Paragraph 10?

23           A     Uh-huh. And I think I put the interest in too. Although I don't  
24 think they would have gotten the interest rate that he was actually  
25 paying. You know, I think they might have got stuck with a legal rate,

1 but in any event I think that's included in the hard damages, the 731.

2 Q Okay. That was the, oh body the -- approximately --

3 A Oh, no. The interest is 285, I'm sorry, I'm mistaken.

4 Q Was that the interest rate on the personal loans taken up by  
5 Mr. Edgeworth?

6 A Right. As I understand it Mr. Edgeworth had some sort of  
7 family member that was giving him loans, and the rate might have been  
8 a little higher than you would ordinarily see.

9 Q Okay. And what were the soft damages?

10 A The soft damages were the cost of repair, the cost still to be  
11 repaired, which I think I broke down here; 512,000 for repairs, 24,000 for  
12 the money they owed for future repairs, and 194 still to repair. So that  
13 was the hard damages.

14 Q And then you go on in paragraph 11 on page 4, you address  
15 damages again?

16 A Yeah. I think I start talking about the email at that point in  
17 time, and you know, in the email I go through it, and we have Mr.  
18 Edgeworth, I think he was saying in August that his total damages were  
19 -- or his walkaway figure was about 3 million for the mediation. So  
20 obviously they got a lot of extra money. And I -- either it's punitive or  
21 attorney's fees, you know --

22 Q That's the extra money?

23 A Right, yeah. I come to find out it's at least 2.4 is attorney's  
24 fees, but in any event it is extra money over and above the hard and soft  
25 damages.

1 Q Okay.

2 A And I put the stigma in there too.

3 Q Okay.

4 A Right.

5 Q I think you've made your feelings clear on the stigma. You  
6 know, it's very creative, I will say that.

7 A Okay.

8 Q Did you review any other factors, say Lindy Lodestar factors,  
9 in connection with this case?

10 A You know, being old fashion, when you start reviewing it one  
11 way, that's the way you always review it, whether you call it Brunzell  
12 later on or not. So, yes --

13 Q Okay.

14 A -- I did.

15 Q Is result a big factor under --

16 A Result's a big factor in the Lindy format.

17 Q Okay. Did you also take a look at the 1.5(a) factors?

18 A I did. I have 1.5, I have here.

19 Q Okay. The result obtained is also a factor under this?

20 A Right. Uh-huh.

21 Q Now are those factors weighted in either Brunzell, Lindy  
22 Lodestar or 1.5?

23 A No. They're not weighted.

24 Q Okay.

25 A It's pretty much they give the Trial Court, or the District Court

1 judge pretty liberal discretion.

2 Q In your opinion what's the most important factor in all three  
3 of those different methods of calculation?

4 A I think result's important, and then the amount of work you  
5 did is important. And like I said before, if you'd gotten the same result  
6 the day after this thing started, I wouldn't say that the reasonable fee is  
7 2.4, okay. If you'd gotten the same result with half as much work I  
8 probably would cut it down one more, but I think result and the amount  
9 of work is most important.

10 Q How did you reach the number of 2.4?

11 A I just take the 40 times the ultimate recovered. You know,  
12 like I say in my affidavit, if we had taken this case we would have taken it  
13 under -- first of all he wouldn't have got in the door unless he knew  
14 somebody at the office, okay, or he was a good friend. And even then I  
15 don't think -- you know, we might have started getting interested in the  
16 case when we found out about the other accidents, but it is hard to  
17 imagine getting \$6 million on this kind of case.

18 Q Okay. Why did you use 40 percent?

19 A That's just the customary figure we use for products' cases.  
20 We used 40, and then --

21 Q Is that the market?

22 A -- if goes up on appeal, we usually kick it up a little bit.

23 Q Okay. Anyone else in this market use 40 percent?

24 A Pretty much everybody uses 40 percent.

25 Q Okay.

1           A     I mean, you've got to remember, you can't do a product's  
2 case nowadays for, you know, using the case we just got done, the bus  
3 case. You know, you've six to \$800,000 worth of just expert fees in the  
4 case.

5           So, you've got to be able to get a meaningful recovery. And that  
6 was the other problem with this kind of case, so even you got it out of 40  
7 percent, and your total damages are 750, so the attorney's going to make  
8 what; what's 40 percent of 750, it would be 300?

9           Q     Yes.

10          A     It's like having two malpractice cases, two medical  
11 malpractice cases. Why would you want two of those, you got the cap.  
12 You know, it's the same kind of problem.

13          Q     So you didn't like the economics from at least your point-of-  
14 view?

15          A     The economics are difficult to justify if you do it on a  
16 contingent fee basis.

17          Q     As for the -- you understand that Mr. Simon did not have a  
18 written contingency fee agreement?

19          A     I do.

20          Q     Does that affect your market rate analysis?

21          A     No.

22          Q     Why?

23          A     I mean, we look at the fair value of what he did, you know.  
24 So, I've got to look at that.

25          Q     Okay.



1           A     And I'm not looking at the fair value of what he did between  
2 X date and Y date, I'm looking at the fair value.

3           Q     Of the overall case?

4           A     Of the overall case.

5           Q     Including the result?

6           A     Including the result. Now --

7           Q     Well --

8           A     -- I do think that if he got money paid by Mr. Edgeworth,  
9 aside from the 2.4, that he should get it -- Mr. Edgeworth should get a  
10 credit for that.

11          Q     Sure.

12          A     I don't think -- okay.

13          Q     I don't think anybody is arguing that.

14          A     Yeah.

15          Q     Okay. Did you -- are you aware, or did you do any work in  
16 respect to this case, to determine whether 40 percent is kind of the  
17 prevailing market rate in Southern Nevada, for a product case?

18          A     It is the prevailing market rate, because we are out there  
19 doing contingent fee cases every day. We just got done -- well, we didn't  
20 just get done, but we did the hepatitis cases. I'm familiar with what our  
21 contract was, what everybody else's contract was. And the 40 percent is  
22 a prevailing rate for a product's case. It may be low. It probably is going  
23 to go up one more.

24          Q     How many of the lawyers were operating in the hepatitis  
25 case --

1           A     Hundreds.

2           Q     -- or active?

3           A     Hundreds. On the plaintiff side probably 35, 40.

4           Q     The rates were all 40 percent?

5           A     Some were lower, some were lower. They had, I think there  
6 was a firm out of Oklahoma or somewhere that was charging a little bit  
7 lower.

8           Q     Okay.

9           A     And I think those clients got what they paid for.

10          Q     How about the Southern Nevada attorneys.

11          A     The Southern Nevada attorneys were by and large charging  
12 40 percent.

13          Q     Okay. Well, Mr. Kemp, are there any other factors which  
14 support your opinion?

15          A     Well, I went and talked to a mediator, because I just didn't  
16 understand how they got \$6 million in a case like this. And so, he's in  
17 the same building as I'm in.

18                 MR. VANNAH: Wait a minute, excuse me. I have -- I  
19 appreciate, I have this report, but it doesn't talk anything about any  
20 conversation -- are you talking about Floyd Hale?

21                 THE WITNESS: Yeah.

22                 MR. VANNAH: Yeah. I don't have any -- okay. I have an  
23 objection about that. Nothing's ever been disclosed that he went to talk  
24 to Floyd Hale about this case. It's just -- here I am.

25                 THE COURT: Okay. So, it's not in his report. Mister --

1 MR. VANNAH: There's nothing in the report about any  
2 discussion with Floyd Hale. I just don't feel that would appropriate to  
3 bring up that as any part of this; that's wrong. Considering it's never  
4 been disclosed to me. If it had been disclosed I'm not going to -- no  
5 problem.

6 THE COURT: Yes.

7 MR. VANNAH: But that did not get disclosed to me.

8 THE COURT: Okay. Mr. Christensen, I don't see that in the  
9 report that I have, that I've read.

10 BY MR. CHRISTENSEN:

11 Q May I ask a couple of foundational questions?

12 A Yeah.

13 Q Did your conversation with Mr. Hale change or alter your  
14 opinion in anyway?

15 A No. The reference to what Mr. Hale said is in Mr. Simon's  
16 letter, dated November 27th, where he says that the mediator gave 2.4  
17 million for fees. It says that on page 2 of the letter, in the middle. So  
18 that's the only point that I was going to make that the mediator  
19 confirmed. This in Mr. Simon's letter, it's not --

20 MR. VANNAH: Well, I don't have any problem talking about  
21 whatever documents you reviewed, just conversations --

22 THE COURT: Okay.

23 MR. VANNAH: -- that I wasn't privy to that --

24 THE WITNESS: Let's --

25 MR. VANNAH: -- had never been disclosed.

1 THE WITNESS: Let's just put it this way. It was my  
2 understanding that the mediation 2.4 million was for fees. Is that --

3 THE COURT: Okay.

4 THE WITNESS: -- fair?

5 MR. VANNAH: No, I don't understand that. I actually don't  
6 understand that, what does that mean?

7 THE COURT: Okay. Mr. Kemp, what does that mean?

8 THE WITNESS: That means that the mediator threw in an  
9 extra 2.4 for fees out of the 6 million, because he wanted to get  
10 Edgeworth 3 million, plus some money for costs, and they knew that Mr.  
11 Simon, like most people, typically have around 40 percent, so that's why  
12 it's 6 million, not 3.6 million, or something like that.

13 MR. VANNAH: Thank you.

14 THE WITNESS: Yeah.

15 MR. VANNAH: That makes no sense.

16 THE COURT: Okay. Mr. Christensen.

17 BY MR. CHRISTENSEN:

18 Q Mr. Kemp, did we cover your opinions?

19 A Give me one second.

20 Q I think I referenced it, but there were a lot of emails, you  
21 know. A lot of communication with the client, so I got to commend Mr.  
22 Simon for, you know, responding. You know, sometimes he responds  
23 in a minute, it's unbelievable. And I don't want to make it sound like Mr.  
24 Edgeworth was being frivolous. I mean, there was a lot of important  
25 emails from him. You know, he had a list of questions that I thought

1 were great, for a sprinkler expert or something. So anyway, it was a  
2 productive relationship, but there was obviously a lot of work done in the  
3 case.

4 Q Okay. One follow-up. Is it hard to find a lawyer here in  
5 Southern California -- or Southern Nevada, excuse me, or in the Western  
6 United States, generally, for complex product cases?

7 A I would say so, because -- you know, there's more to product  
8 cases than people understand, you know. First of all, the average juror  
9 doesn't understand what product liability is. You know, you tell them  
10 that it, you know, it doesn't matter, there's no negligence, they still think  
11 they need some negligence.

12 A lot of the judges haven't really tried product's cases, so they  
13 don't need all the defendants always coming in, and they talk about this,  
14 that and the other thing, and sometimes the judge goes down that rabbit  
15 hole. So, there's really not that many people who do product's cases  
16 here. So, I would say, yeah, it is hard.

17 Q Well, any other reasons why a product case is different from  
18 say a typical injury case?

19 A Well, I mean, first of all you have to have a defective product,  
20 okay. Just because the sprinkler broke and there was a flood, it doesn't  
21 mean that the product was defective. But first of all, you have to have a  
22 defective product. And I think what really makes the product case  
23 different is it's pretty expert heavy. You know, you've got to spend a lot  
24 of money on the experts.

25 Q Can --

1           A     And I think this case is a good example. You know, they had  
2 like all kinds of different experts. They had a weather expert, because  
3 the sprinkler company said that there was -- you know, because it was  
4 hot that's why the sprinkler failed, which I think is really ridiculous, you  
5 know.

6           Q     Uh-huh.

7           A     I mean, what are you supposed to finish the house and turn  
8 the air conditioner before you put the sprinklers in? You know, what a  
9 ridiculous defense. But in any event, so in this case you had a  
10 weatherman defendant, you had engineering defendants. It's tough to  
11 win a product's case.

12          Q     Well, in this case there are couple hundred thousand dollars  
13 in costs, ballpark?

14          A     Yeah. That's pretty low, I'm surprised they got it done for  
15 that much.

16          Q     Okay. Do you have hourly clients?

17          A     We do.

18          Q     Do they email you as much as Mr. Edgeworth emailed Mr.  
19 Simon?

20          A     I'm not a big email guys so the answer's no. Even if I was a  
21 big email guy, I think the answer would still be no. But I'm not saying  
22 Mr. Edgeworth -- you know, he was a stern taskmaster, and you know, I  
23 can't say -- I mean a lot of productivity I think came out of this. You  
24 know, I mentioned the one about the three and a half pages of  
25 questioning. In fact, I've left that up here just in case.

1 I mean, this is the email he wrote. I mean, I've had associates who  
2 can't come up with something this good. You know, you should talk to  
3 Underwriters Laboratory about this, and about -- yeah. So, I think it was  
4 a productive relationship, you know.

5 Q Okay. Well --

6 A The Beatles -- the Beatles broke up too, so --

7 Q Were the opinions that you provided here to a reasonable  
8 degree of certainty?

9 A Yes.

10 Q And that covers everything in your declaration as well?

11 A Yes.

12 Q Okay.

13 MR. CHRISTENSEN: No further questions, Your Honor.

14 THE COURT: Cross?

15 MR. VANNAH: Certainly, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. VANNAH:

18 Q Will, we've probably known each other longer than anybody  
19 else in the courtroom have known each other right?

20 A I would say that is absolutely true. I used to work out with  
21 Mr. Vannah at the health club, and he was diligent coming Sunday  
22 nights, I'll say that.

23 Q And we worked -- not against -- well, we worked on the MGM  
24 fire --

25 A Correct.

1           Q     -- we were on that case together? And we worked on the  
2 Puerto Rico fire together, and Dupont Plaza and those were all product  
3 liability cases, as I recall?

4           A     Yeah. Part negligence, part product.

5           Q     You took the smart side, the plaintiff side, ended up doing  
6 defense. But I'm still --

7           A     You know, who knows. At the end of the case it seemed like  
8 the smart side, but during the case it seemed like you were on the smart  
9 side.

10          Q     Because I was getting paid?

11          A     Yeah, right.

12          Q     I'd send a bill to get paid. So, you know, let me talk about  
13 that. How many cases have you been involved in, when you've been  
14 lead counsel, where you took at case, and at the end of the case you  
15 asked 40 percent and didn't have a written contingency fee agreement at  
16 the beginning of the case?

17          A     That precise fact pattern, I don't think any. There are cases  
18 where we had -- we're producing a better than average result, where  
19 went to the client or the group of attorneys and said, hey, you know, this  
20 turned out better than everybody thought, you should pay us more.

21          Q     A bonus?

22          A     Yeah.

23          Q     They don't have to pay the bonus, but they can agree --

24          A     Well --

25          Q     -- or not agree?



1 A -- if they want to work with us again they do. But, yeah --

2 Q No, I understand that. But there's no --

3 A There's no --

4 Q There's no legal obligation?

5 A No, there's no legal obligation.

6 Q So just I'm clear, so you've been practicing with -- did you  
7 get admitted in '76 or '78?

8 A '78.

9 Q Okay. I was in '76, so --

10 A Okay.

11 Q And almost --

12 A But you take more vacations than me, so I practiced longer  
13 that you.

14 Q Plus you work harder than I do?

15 A Right.

16 Q I've never met anybody that works any harder than you, and I  
17 mean that.

18 A Thank you.

19 Q I have nothing but the highest respect. We've had a lot of  
20 fun together. And I think that's -- you answered my question, not once in  
21 40 years --

22 A No.

23 Q -- have you ever taken a case, and at the end of the case you  
24 just took it and said, gee whiz, let's see happens at the end of the case.  
25 And at the end of the case you said, you know what, I want 40 percent,

1 right; that just never happened?

2 A Well, that's a little different question. You asked me if had a  
3 fee agreement, and then I wanted more than 40 percent.

4 Q But let me ask that question, all right?

5 A Okay.

6 Q I guess my question is, have you ever taken a case and had  
7 no fee agreement, whatsoever, a large case, you know, something that's  
8 in the \$6 million range, or above and you've had lots of those. Have you  
9 ever taken a case that's in the \$6 million range or above, no fee  
10 agreement whatsoever, and at the end you told the client, you need to  
11 pay me a contingency of 40 percent?

12 A I would say, no. But I would also say that in the '70s --

13 Q But that --

14 A Okay. Go ahead.

15 Q -- that was a good answer, though. That's the answer to my  
16 question, right?

17 A Uh-huh.

18 Q All right. And they'll get a chance to ask you, I'm sure.

19 A I'm sure they will.

20 Q Well, go ahead, they're going to ask you anyway. Just tell  
21 me what think?

22 A I was just going to say, things were a little looser in '70s or  
23 '80s, so you would take cases and people would say, oh, it's a third or 40  
24 percent. And, you know, we didn't have the bar breathing down our  
25 neck as much.

1 Q But we have the bar now.

2 A We do. Well, we had it then, but it just wasn't breathe down  
3 our neck, as much of it.

4 Q Well, those days were kind of wild and -- those were wild  
5 days, right? A little wilder than now?

6 A I think I saw you at my cottage ranch a couple of times, I  
7 would agree.

8 Q Which, by the way, was a big ranch at the corner of what  
9 Rainbow and --

10 A Oakey, I think.

11 Q Oakey, which was out in the -- I thought that was --

12 A That was a --

13 Q -- so far out.

14 A -- great party.

15 Q That was a great party.

16 A Uh-huh. I never woke up in the stalls in those days. Some  
17 people did.

18 Q The parties for those who weren't there were for the new  
19 admittees.

20 A Stipulated that it was wilder back in the day.

21 Q All right. I would agree with that. All right. But we do have  
22 the bar and the bar's got a rule called Rule 1.5, you're familiar with that  
23 rule?

24 A That's right, I have it right here.

25 Q Right. And it says very clear, does it not, that you can't have

1 an oral contingency fee, and have it be valid, agreed?

2 A Not truly agreed, no. It says that it shall be in writing, and it  
3 should be done as soon as practicable, or practical or something -- hang  
4 on, let me find it. I thought I had it.

5 Q I have it.

6 A I think I have it.

7 Q It's okay. I can give you a copy if you want.

8 THE COURT: Can you just put it on the overhead, Mr.  
9 Vannah?

10 BY MR. VANNAH:

11 Q Yeah. I'll put it on the overhead, how about that, Will?

12 THE COURT: Yeah. And then he can see it.

13 BY MR. VANNAH:

14 Q Here we go, we can look at it together, with mine.

15 THE COURT: It's on the screen in front of you, if that would  
16 help you, Mr. Kemp.

17 THE WITNESS: Oh, great.

18 BY MR. VANNAH:

19 Q It's right there, do you see it?

20 A Thank you.

21 Q So I think you misspoke a minute ago. Let me back you up a  
22 little bit.

23 MR. CHRISTENSEN: Your Honor, could I approach the  
24 witness, so I have an easier to read copy of 125.

25 THE COURT: Okay.

1 MR. CHRISTENSEN: Mr. Vannah, is this okay?

2 MR. VANNAH: Oh, yeah, sure.

3 MR. CHRISTENSEN: If I hand it to him. It's a little bit easier  
4 to read that.

5 MR. VANNAH: I'd be delighted. Thanks for helping me, I  
6 appreciate it.

7 BY MR. VANNAH:

8 Q All right.

9 A Okay. I got it here.

10 Q So I think you misspoke a little, let me just back up, and I  
11 don't think you meant to, misspeak. But what you said was -- well, let  
12 me back up. So, whether the fee is fixed or contention --

13 A Uh-huh.

14 Q No, no, that's not how it starts, it says this: The scope of the  
15 representation and the basis or rate of the fee and expenses for which  
16 the client will be responsible shall be communicated to the client,  
17 preferably in writing, before or within a reasonable time after  
18 commencing their representation. Do you see that?

19 A Right.

20 Q And then there's an exception that doesn't apply?

21 A Right.

22 Q All right. So --

23 A So what I said is that it can be oral, but the bar advises you to  
24 put it, preferably in writing, and you should do it within a reasonable  
25 time after you start working on the matter.

1 Q Now, actually, I want -- with all due respect, take a look at (c).

2 A Okay.

3 Q That -- (c) is a little more detailed. A fee may be contention,  
4 okay?

5 A Uh-huh.

6 Q Only the outcome of the matter --

7 A -- shall be in writing, right.

8 Q For which the service is rendered, except in a matter in which  
9 a contingent fee is prohibited?

10 A Right.

11 Q A contingent fee agreement shall be in writing?

12 A Right.

13 Q Signed by the client?

14 A Right.

15 Q And shall state in boldface type, that is at least as large as the  
16 largest type used in a contingency agreement:

17 1. The method by which the fee is to be determined, include the  
18 percentage, or percentages that shall accrue to the lawyer, in the  
19 event of settlement, trial or appeal.

20 2. Whether litigation and other expenses are to be deducted from  
21 the recovery, and whether such expenses are to be deducted  
22 before or after the contingency fee is calculated.

23 3. Whether the client is liable for expenses, regardless of outcome.

24 4. That in the event of a loss to client, may be liable for the  
25 opposing parties' attorney fees, and will be liable for the opposing

1 parties' costs as required by law.

2 5. That a suit brought solely to harass or to coerce a settlement,  
3 may result in liability for malicious prosecution or abuse of  
4 process.

5 Do you see that?

6 A Yes.

7 Q So if you're going to have a contingency fee agreement, the  
8 bar requires, pursuant to this rule, that contingency fee agreement, that's  
9 not a choice, where there's oral or written, it is to be in writing, and has  
10 to contain these five items, correct; you agree with that?

11 A I don't want to quibble, and I don't know that it's applicable  
12 to this case, but I can see a circumstance where you have an oral  
13 agreement, and for some reason or another, such as the trial starting the  
14 next day, you don't reduce it to writing, and then the trial is over with,  
15 and the client would still be responsible for it then.

16 Q On a contingency basis?

17 A Yeah. Because that's really what C says. It says: It shall be  
18 communicated to the client; it doesn't say it shall be communicated in  
19 writing. In other words, if you and I agree that, okay, I'm going to try  
20 your case the next day for a third, and for some reason or another we  
21 just don't get the fee agreement done, and I win the case and you get a  
22 hundred -- well, 6 million, let's say 6 million, I should get my third.

23 Q Well, let me -- that didn't apply in this case anyway, did it?

24 A You know, it doesn't --

25 Q I mean, I don't --

1           A     -- but it --

2           Q     -- want to -- I don't want to quibble with you, I actually  
3 disagree with you. I think the rule say something different, because  
4 that's the way I read it, and the way the bar reads it, is a fee may be  
5 contingent on the outcome of the matter for which its service is  
6 rendered?

7           A     I don't think it applies to the issues we have in front of us.

8           Q     Okay. So, what --

9           A     But I would say that here we got Mr. Edgeworth proposing a  
10 contingent fee right in the thick of things. You know, he writes this letter  
11 August 22nd, 2017, and I say this is in the thick of things, because all of a  
12 sudden I see all these memos about punitives and something happened,  
13 okay. Some -- they must have had a great deposition or something.

14          Q     They did.

15          A     And, you know, so the real issue is, should this have been  
16 formalized --

17          Q     Formalized.

18          A     -- between the two of them, you know, before they went to  
19 the mediation. I would say, yeah, it should have been formalized, okay.  
20 But, you know, there's a little bit of fault on both sides here.

21          Q     Really? I mean, formalize, being put it in writing --

22          A     Right, that's what I mean.

23          Q     -- like the law requires?

24          A     Right.

25          Q     I mean, it's not like a -- the word shall is in there. Now shall



1 means what it means. But, I mean, here it is, it's saying: A fee may be  
2 contingent on the outcome of the matter for which the service is  
3 rendered.

4 A Let me answer it this way.

5 Q Well, let me just finish, though. It says, a contingent fee shall  
6 be in writing, signed by the client, and shall state in boldface print,  
7 boldface print, that it's as large as anything else, these five things,  
8 including do you apply the 40 percent on the gross settlement, do you  
9 apply the 40 percent after you take out expenses. I mean these are  
10 things the bar requires, and they're kind of serious about it, when it  
11 comes down to fee disputes, right?

12 A Yeah. Well, first of all you're confusing what the bar requires  
13 with contract law. So, let's say Mr. Edgeworth in this August 22nd email  
14 had proposed to Mr. Simon, let's do 40 percent above my \$500,000 cost,  
15 and Mr. Simon has sent back an email saying I agree. We're done, we're  
16 done under contract law, okay, it doesn't matter what Rule 1.5 says. That  
17 would be an enforceable agreement.

18 Q It could happen that way?

19 A Obviously that didn't happen here.

20 Q It didn't happen?

21 A No.

22 Q All right. So rather than talk about what could have  
23 happened, and I -- because we could go, it would be a lot of fun, we  
24 could give --

25 A Right.

1           Q     -- we could give a CLE seminar on this. But the point is, that  
2 didn't happen, and in this case you have never been provided a written  
3 contingency fee agreement signed by the client at all, much less  
4 containing these five items that the bar said should be in that, right?

5           A     I have not.

6           Q     Okay. In fact, I don't know if you realize this, I think you  
7 probably do, my client testified that there was a conversation in June of  
8 2016, a very explicit conversation, where after the friends and family  
9 efforts failed, that Mr. Simon said, this is going to be a labor intensive  
10 case, I'm getting involved here, I've got to come up with a cost, so I'm  
11 going to charge you \$550 an hour, that'll be my fee --

12          A     Uh-huh.

13          Q     -- and so -- and of course you're going to have to pay the  
14 costs. You understand that's what -- that's the testimony?

15          A     I haven't -- been not -- had not been provided Mr.  
16 Edgeworth's testimony.

17          Q     Okay. Well, let's assume that that's what the testimony is.  
18 Okay. That's the testimony that they had this meeting, shortly before  
19 they filed the complaint the following week, and that there was an oral  
20 conversation. And Danny said, I'm going to charge you \$550 an hour.  
21 I'll advance the cost, but when I send you a bill you need to reimburse  
22 me. That would be under contract law an oral agreement that's binding,  
23 correct?

24          A     Well, except we have this email that says, we never had a  
25 structured discussion about how this should be done. So, you're telling

1 me there was a structured discussion about how it would --

2 Q You're about eight questions ahead of me.

3 A Okay. Fine.

4 Q I don't think I asked that question. I thought you were --

5 A Okay. Assuming for the sake of argument that they had an  
6 oral agreement, and that they had talked about everything, you know,  
7 that we're going to go for punitives. We're going to -- this is going to  
8 cost X amount of money. You know, I would agree with you that that  
9 would probably be binding under contract law.

10 Q All right. Yes.

11 A I mean, if that's the question.

12 Q All right. August, the email you're looking at.

13 A Yes.

14 Q Do you know what was the genesis of that email, about the  
15 meeting in San Diego. Just yes, or no, have you been told that?

16 A I've been told they had some meeting in San Diego, and they  
17 had some --

18 Q So let me tell you what happened?

19 A Okay.

20 Q Okay. I want you to assume that this is what happened.

21 They went to San Diego to meet with some experts. They go back to the  
22 airport, same day. They drop off, they have a little adult beverage in a  
23 bar, waiting for the plane, chat, and somehow the conversation --

24 A Is there any other kind of beverage in a bar?

25 Q I don't know which kind they had, but -- I don't know if they

1 were having beer, or margaritas or what, but they're having some sort of  
2 -- whatever people drink in a bar, they're having some drinks.

3 A Okay.

4 Q In the midst of that, the conversation comes up, hey, is there  
5 any possibility, and they start discussing whether or not they can move  
6 this from an hourly agreement, to maybe a hybrid, like you talked  
7 about --

8 A Uh-huh.

9 Q -- where we've already paid some fees, maybe the  
10 contingency above a certain amount, and I get the first 2 million, you get  
11 30 percent above that, or, you know --

12 A Which is very common when a case goes forward.

13 Q No, I agree.

14 A Yeah.

15 Q I've done that myself.

16 A Uh-huh. Uh-huh.

17 Q So that could have -- that could have happened, and they  
18 could have reached an agreement, and they could have memorialized  
19 that. That didn't -- you don't see where that ever happened, right?

20 A No. It just says, we should explore it but then later on I think  
21 there's a memo where they're going for punitive and he wants a 100  
22 million punitives or something.

23 Q Well, you know what, let me stick with one thing at a time.

24 A Okay.

25 Q If you jump ahead of me three months that doesn't --

1 A Okay.

2 Q -- help me any. Are you ready?

3 A Yeah. I'm ready.

4 Q We'll skip back where we were.

5 A Okay.

6 Q So the testimony's been that they had this conversation, and  
7 if you read that memo when he says, look, or that email, he says, look, if  
8 I need to I can borrow more money.

9 A Uh-huh.

10 Q I can borrow money from my mother-in-law, I can borrow  
11 money from an old high school friend. I can sell some of my bitcoin, I've  
12 got a couple of million dollars in bitcoin. I mean, I can get the money, so  
13 if we're not going to be able to reach an agreement on a sort of a hybrid  
14 contingency fee, fixed fee, whatever, I -- he says there very clearly, I'm  
15 able to pay you hourly to finish the case. Do you remember reading  
16 that? I hope you have it in front of you, if you do, you'll see it.

17 A I could also swing hourly for the whole case --

18 Q Right.

19 A -- is what he says.

20 Q And I don't know if you realize, but after that meeting the  
21 response by Danny was to send another hourly bill, which my client  
22 paid; were you aware of that?

23 A I think I was aware of that, because I think it came up with  
24 Mr. Simon's testimony, while I was watching.

25 Q Okay. So, if in fact --

1           A     What this says to me is that the arrangement between them  
2 was in a state of flux, because they both fell in love with the case, down  
3 in San Diego, for some reason.

4           Q     Well, what it tells me is something totally different. But let  
5 me ask you, can it also tell you that they never reached an agreement.  
6 What he's saying now, we never reached an agreement on whether or  
7 not we can do a hybrid agreement, but if we can't I'll just continue  
8 paying you hourly. That certainly is consistent with that, right?

9           A     I think I would go even farther, in saying this is consistent  
10 from what I said originally, if they never had any agreement of any sort.

11          Q     What he says, we've never had instructions, agreement on  
12 the contingency portion --

13          A     No --

14          Q     But --

15          A     -- he says --

16          Q     But --

17          A     -- about how this might be done.

18          Q     Why, when they're talking about -- you have to look at the  
19 background, what can be done?

20          A     I would assume that means --

21          Q     But you're assuming, I don't want you to assume.

22          A     No, he says -- right now they are thinking that they have to  
23 try the case and go appeal it, and then give punitives in addition to the  
24 hourly. And so, he's trying to come up with some kind of formula to do  
25 it.

1           Q     He is, and he says clearly, we've never had a structured  
2 agreement on how this might work, but if you want I can pay you  
3 hourly, and we can just do the whole case on an hourly basis. And then  
4 in response to that, is not a suggestion, like here's a kind of agreement I  
5 would -- I would consider, the response to that by Danny is send an  
6 hourly bill, and then the client pays the bill, and that's the end of the  
7 discussion, right?

8                     MR. CHRISTENSEN: Your Honor that's --

9 BY MR. VANNAH:

10          Q     Do you have any other facts --

11          A     I don't think that's an agreement, but --

12                     THE COURT: Okay. Hold on just one second, because  
13 there's like everybody talking at the same time. Okay. Are you done  
14 asking your question?

15                     MR. VANNAH: I thought I was.

16                     THE COURT: Okay. Now --

17                     THE WITNESS: And the answer is, no. I have no other facts  
18 in that other than --

19                     THE COURT: Just one second, Mr. Christensen has an  
20 objection to that question.

21                     THE WITNESS: Okay.

22                     THE COURT: Mr. Christensen?

23                     MR. CHRISTENSEN: I -- it's a two part objection, because the  
24 question was a little vague. If it's a hypothetical it's incomplete. If it's  
25 not, there's lacking foundation, because he didn't establish the date the

1 bill that was sent, or when it was paid, because it was actually many  
2 days later; not the next day as his question implied.

3 MR. VANNAH: I never said the next day.

4 BY MR. VANNAH:

5 Q My question is very specific can you answer it?

6 THE COURT: Can you clarify, just a very simple version of  
7 your questions, Mr. Vannah?

8 MR. VANNAH: Absolutely.

9 BY MR. VANNAH:

10 Q You know we have a meeting in San Diego, right?

11 A Right.

12 Q We know then we have the email afterwards where Mr.  
13 Edgeworth's saying, we've never had a structure settlement on our  
14 conversation, a structure conversation on this. I'm still willing to  
15 consider the hybrid situation, but, you know, I can also just swing hourly  
16 and pay an hourly bill. And then within a period after that happened,  
17 with no response from Danny, Danny didn't respond to the email, Danny  
18 sent another bill that was over \$200,000, and Mr. Edgeworth paid it.

19 A Uh-huh.

20 Q Given that, that would be inconsistent with that he  
21 discontinued the hourly billing, right?

22 A No. Because he says here, they didn't have a discussion  
23 about how this might be done, and by might be done, I'm assuming he  
24 means reaching nirvana, getting the 6 million, you know, after a trial or  
25 appeal, that's what I'm assuming it means, okay. And he has two



1 approaches; 1) we do this hybrid; 2) I keep paying you hourly. There's  
2 no agreement that I see in either one.

3 Q I know. They already had an agreement to pay him hourly,  
4 and he says I can continue --

5 A Well, that's what you said --

6 Q I do.

7 A I know, but I've seen --

8 THE COURT: Okay. Mr. Vannah, he is not going to agree  
9 with you on this point. He's basically that's not how he understood it,  
10 and you understood it to be completely different.

11 BY MR. VANNAH:

12 Q Well, you know what, what you're understanding -- you  
13 understand the judge is going to make these decisions, right?

14 A I am -- I'm sure that that is true, here.

15 Q Okay.

16 A And that's probably the hardest decision, you know -- harder  
17 than my decision I think.

18 Q Right.

19 A What I'm saying that the reasonable value 2-4, I think that's  
20 pretty --

21 Q That would be great --

22 A Yeah.

23 Q -- if they had agreed at the end of the case you make the  
24 decision on the fee, but nobody agreed to that.

25 A If they want to do that, we could --

1 Q Well, the bottom line is, if there is an enforceable agreement  
2 between the parties as of June 17, that Mr. Simon will bill \$550 an hour,  
3 and bill his costs, and continue the case, and get paid every hour for  
4 \$550 an hour, plus his cost, until the case is concluded, then the  
5 proposed new agreement is one that Mr. Edgeworth could have agreed  
6 to, or say no; would you agree with that?

7 A If they had an agreement, I would agree that's the  
8 agreement.

9 Q All right. You know, what, it's really what --

10 A That's your question, right?

11 Q -- I appreciate -- you did. Yeah. That's a great answer, thank  
12 you.

13 MR. VANNAH: Thank you, Your Honor.

14 THE COURT: Thank you, Mr. Vannah. Mr. Christensen, any  
15 follow-up?

16 MR. CHRISTENSEN: Just a few things, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. CHRISTENSEN:

19 Q Mr. Kemp, I'd like to show what's been marked and admitted  
20 as Office Exhibit 80, this is Bate Stamp 3426. This is a document created  
21 by Mr. Edgeworth and --

22 A Right. I have a copy --

23 Q -- provided to Mr. Simon?

24 A -- of that up here. Uh-huh.

25 Q Okay. Where it says, not paid, or not invoiced, yet? Lawyer,

1 it says, do not know.

2 A Right.

3 Q Do you see that?

4 A Right.

5 Q Okay. Is that consistent with your understanding of whether  
6 or not there was an agreement in this case?

7 A You know, it -- really what happened here is what happens to  
8 all of us sometimes. You get into it with the client, and we both roll up  
9 our sleeves. We decide to beat up the enemy, and maybe you don't  
10 cross your T's, and dot your I's. So, yeah, I think it is consistent.

11 Q Okay.

12 A I mean, they did it -- it's unbelievable, like I keep saying.  
13 They got 6.1 million for a broken sprinkler that flooded a kitchen, and --  
14 I'm not trying to diminish the importance of kitchens, but I mean, it's an  
15 amazing result.

16 MR. CHRISTENSEN: And I hate to disagree with Mr. Vannah,  
17 I'm playing along.

18 THE COURT: Do you know about this one?

19 MR. CHRISTENSEN: I gave him the wink.

20 MR. VANNAH: I haven't seen that reluctance.

21 BY MR. CHRISTENSEN:

22 Q I think 1.5 fee is kind of heading off in the wrong direction.  
23 Because we have a statute, we have an attorney fee statute in this State,  
24 correct?

25 A We do.

1 Q And NRS 18.0152 says, in the absence of an agreement the  
2 lien is for a reasonable fee for the services which the attorney has  
3 rendered for the client, correct?

4 A Right, right.

5 Q Is your opinion there was no agreement?

6 A I don't think there was an agreement. I mean --

7 Q That's the reasonable fee for the services which Mr. Simon  
8 rendered for the client?

9 A It would be the 224, in my opinion, if not higher. You know,  
10 like I keep saying, that's based on 40 percent. We would charge -- if  
11 you'd gotten in the door, which, you know, he seems like a nice guy, but  
12 friends or family would have had to bring this case in.

13 Q Okay. And, you know, 1.5(a) that we went over, for example  
14 (3) that contemplates using the measure of what other lawyers charge in  
15 the community?

16 A That is true.

17 Q Is that true?

18 A Uh-huh.

19 Q And that doesn't say contingent, hourly whatever, it just says  
20 what other folks charge for this kind of work, that's what you get if it's  
21 reasonable, correct?

22 A Yes.

23 Q Okay. Is that --

24 A And I point out again, this is a bar rule. You know,  
25 Polsenberg and these guys draft this up. So, they say we should do this

1 for our contingency agreements, they really --

2 Q Well, he usually works for the other side, doesn't he?

3 A Usually he does.

4 Q Okay. And under Brunzell you can go and look at what other  
5 folks in the community charge as well, correct?

6 A Yes.

7 Q And under the *Loma Linda* -- or I'm sorry --

8 A *Lindy Lodestar*. The name of the case --

9 Q *Lindy Lodestar*.

10 A -- was Lindy Lodestar is the informant.

11 Q Right. That's just saying, look at what other folks in the  
12 community charge for that type of service.

13 A You know, if that guy is reading the MDL manual early in the  
14 week, because I hadn't read the new MDL manual, and it has now  
15 become vogue that when they get into fee disputes that the judge makes  
16 the defendant to produce his case. So, they look at what the defendant's  
17 fees are, to determine what a reasonable fee is for the plaintiffs.

18 And usually that works out pretty good for the plaintiff's  
19 attorney, because the defendant usually has five or six silk stocking  
20 firms, and so they're overcharging the whole way. And so usually that's  
21 a bigger fee than you get with it being an 80 percent fee contract. But,  
22 yeah. In answer to your question, yes.

23 Q Okay. Thank you.

24 MR. CHRISTENSEN: No further questions.

25 THE COURT: Anything else, Mr. Vannah?

1 MR. VANNAH: I do.

2 RECROSS EXAMINATION

3 BY MR. VANNAH:

4 Q Well, we did that in this case, actually. We looked at what  
5 the Defense was charging, they were charging 185 to 225 an hour; were  
6 you aware of that?

7 A No. But I'm not surprised because I'm familiar with Mr.  
8 Nunez' firm and his rates.

9 Q And on that 1.5 --

10 [Counsel confer]

11 THE WITNESS: But I'll bet you the total charge by the  
12 defense was over 24. I bet you when you add up all the expert and the  
13 attorney's fees?

14 BY MR. VANNAH:

15 Q Nobody's ever -- I don't know.

16 A Yeah.

17 Q I don't really care, I'm actually here to talk about --

18 A Okay.

19 Q -- this case, but no, I appreciate that.

20 A Yeah.

21 Q Look we parse, and we just saw an example of taking  
22 something totally out of context and let me show you why.

23 A Okay.

24 Q So when you look at the fee, at 1.5 the first says, a lawyer  
25 shall not make an agreement for a charge or collect an unreasonable fee.

1 Do you see that?

2 A No. Is that the --

3 Q At that top --

4 A -- very beginning.

5 Q That's where --

6 A Yeah. I see that, yes. Uh-huh.

7 Q And that was the area he's talking about --

8 A Uh-huh.

9 Q -- so when I see he, Jim Christensen was saying to you, he  
10 had you go down in that section. So, it says, a lawyer shall not make an  
11 agreement for a charge, or collect an unreasonable fee, or an  
12 unreasonable amount for expenses; do you see that?

13 A Uh-huh.

14 Q And then down below, the way he -- then he directs your  
15 attention to several things. One being the fee customary charge in the  
16 locality for similar legal services; do you see that?

17 A Uh-huh.

18 Q So what he's saying is that if Mr. Simon had brought him to  
19 say, okay, I'm charging you an 80 percent contingency fee, then that  
20 would be something later that the client can say, well, wait a minute is  
21 that -- one of the factors would be, is that the fee that's customarily  
22 charged in the locality, right?

23 A I would think that would be on the high side.

24 Q I would agree with you. So, when Mr. Christensen gets up  
25 here and takes it out of context, what he's talking about, when he says

1 the fee customarily charged in the locality he's talking under Section A,  
2 as to whether or not the fee that is agreed to is unreasonable or not,  
3 correct?

4 A Right.

5 Q All right. So, thank you.

6 A But it's that --

7 Q But that's --

8 A Okay.

9 Q Let me just -- you know, I want to give him a chance to earn  
10 his money --

11 A Okay.

12 Q -- so if you got more to add?

13 A Not a problem Mr. Vannah. I will not say a word.

14 THE COURT: Mr. Christensen?

15 MR. CHRISTENSEN: I hate to disagree with Mr. Vannah  
16 again.

17 FURTHER REDIRECT EXAMINATION

18 BY MR. CHRISTENSEN:

19 Q Actually, it says, the factors to be considered in determining  
20 the reasonableness of fee include the following. It doesn't say  
21 unreasonable, right?

22 A Right.

23 Q It says reasonable?

24 A I don't think there's any dispute on a product's case, it would  
25 be 40 or 50 -- 40 to 45 or even 50 percent. So, I don't know what the



1 dispute is here.

2 Q And to go to the MDL we're not talking about just looking at  
3 the hourly rate of one single defense lawyer on a multi-defendant  
4 situation, we're talking about aggregating all of their charges and then  
5 comparing that to the plaintiff, correct?

6 A Right.

7 Q So we wouldn't need to know that the gentleman is making  
8 185 an hour or 200, or whatever, we'd have to know what the aggregate  
9 is of all those defense attorneys and what they all made --

10 A Uh-huh.

11 Q -- and they compare that number, correct?

12 A Yeah. And it probably gets a little more complicated in this  
13 case, because apparently Viking has a team that goes from place to  
14 place, to place, to place and fights these cases. So, you probably have to  
15 throw in maybe a little more from past experience, and effort that they  
16 were bringing from other cases to this case.

17 Q But Mr. Greene is making 925 in this case, and he's adverse  
18 to Mr. Simon.

19 A You know, I have already tickled this for our annual meeting  
20 in January for a discussion, because I would charge a little bit less, but --

21 Q Okay.

22 MR. VANNAH: Well, I have more experience.

23 THE WITNESS: Well, Mr. Greene doesn't.

24 BY MR. CHRISTENSEN:

25 Q Your opinion is 2.44?

1           A     Right.

2           MR. CHRISTENSEN: Okay. Thank you, Your Honor.

3           THE COURT: Thank you. Mr. Vannah, anything else?

4           MR. VANNAH: No, nothing, Your Honor.

5           THE COURT: Okay. You guys don't have anything else to  
6 say about Rule 1.5?

7           MR. VANNAH: Nothing.

8           THE COURT: Okay. Mr. Kemp, you may be excused. Thank  
9 you very much --

10          THE WITNESS: Thank you, Your Honor.

11          THE COURT: -- for your testimony here.

12          Mr. Christensen, do you have any more witnesses?

13          MR. CHRISTENSEN: No, Your Honor.

14          THE COURT: Does Defense have any? Okay.

15          MR. GREENE: We do, Your Honor. Angela Edgeworth.

16          THE COURT: Okay. Do we think we can question her in an  
17 hour?

18          MR. GREENE: I think I'm going to make the best effort of that  
19 I possibly can.

20          THE COURT: Okay. And, ma'am, if you could remain  
21 standing, raise your right hand. Thank you.

22          ANGELA EDGEWORTH, PLAINTIFF'S WITNESS, SWORN

23          THE CLERK: Please be seated. Stating your full name,  
24 spelling your first and last name for the record.

25          THE WITNESS: Angela Edgeworth, A-N-G-EL-A E-D-G-E-W-

1 O-R-T-H.

2 THE COURT: Okay.

3 MR. GREENE: Your Honor, can Mr. Kemp be excused?

4 THE COURT: Yes.

5 MR. GREENE: Thank you, Your Honor.

6 THE COURT: Yes. Mr. Kemp you may be excused. Thank  
7 you very much.

8 MR. CHRISTIANSEN: And, Judge, this is my witness, and  
9 Your Honor asked if we can complete it in an hour. I'd like to complete it  
10 cumulatively, not end on the direct examination, and come back later.  
11 So, if we can all complete the witness, then I'm good to go.

12 THE COURT: Well --

13 MR. CHRISTIANSEN: If Mr. Greene is going to go right up to  
14 5:00, and I go, oh, shoot, I didn't know it would take this long.

15 THE COURT: Well, and that was my question. And like as  
16 you understand my concern is -- I mean, I have to assume, Mr.  
17 Edgeworth was the very first witness to testify in this at all. We've heard  
18 from several other witnesses -- well, yes, only a couple, it seems like  
19 several because it's day 4, in that amount of time.

20 So, I don't know how much questioning you guys have for  
21 her. But I would agree, I meant cumulative. Because I don't -- what I  
22 don't want, is because in all honesty, whatever we don't finish today, I  
23 don't know when we're going to finish this again. So, I don't want her to  
24 begin now if we're not going to finish her, because I don't want to forget  
25 what she said.

1                   And then I'm sitting here like three days later -- well, I mean,  
2 three months later watching the JAVS, because the problem is this, I'm  
3 not here tomorrow, because I thought this hearing was going to go three  
4 days, so tomorrow is not available. I start a trial next week on Tuesday  
5 that is going to run the entire week.

6                   The following week begins my criminal stack that goes for  
7 five weeks. We can anticipate some things may not go, but I can't ever  
8 make that promise to you. My next civil stack begins October 15th. I'm  
9 at judicial college, I'm not here that week. October 22nd I have had a  
10 med-mal, that's supposed to start, but you guys all know how that  
11 works, and it may start, it may not.

12                  So in regards to us looking at a different date to continue, I just  
13 don't know how much longer from today that's going to be. So, I don't  
14 want her to get halfway through her testimony and then I don't  
15 remember what she said.

16                  MR. VANNAH: Your point's well-taken. And I think that  
17 would risky, because -- what do you think?

18                  MR. GREENE: I think it is risky, Your Honor.

19                  MR. VANNAH: So, I don't want to do something that  
20 would --

21                  THE COURT: Yeah. And I apologize if I gave you the  
22 impression I only wanted one of you to finish today, or Mr. Christiansen,  
23 so I'm glad you cleared that up, because I don't want that at all, because I  
24 won't remember what she said.

25                  MR. VANNAH: You know, that's a good point.

1 THE COURT: Yeah.

2 MR. VANNAH: So why don't we --

3 MR. CHRISTIANSEN: And, Judge, if the Court's -- Mr.  
4 Greene, I'm sorry, I almost called you John. If Mr. Greene says, hey I got  
5 45 minutes and the Court's willing to go like 5:15, 5:30, and we can just  
6 jamb it all in. My preference is to finish completely, what I just don't  
7 want to do is have my side hamstrung, you only hear direct, and then I  
8 come back to cross, the witness in two and a half months, and nobody's  
9 memory is fresh.

10 THE COURT: No. And I don't want that either. But I'm  
11 willing to stay until like 5:15, but my thing is I'm not keeping my staff  
12 here until 7:00, while we go back and forth on her. So, you guys tell me  
13 how long this going go?

14 MR. GREENE: It's going to take at least an hour, maybe an  
15 hour and a half.

16 THE COURT: Okay.

17 MR. GREENE: I mean, she wants to be heard, Your Honor.  
18 So, I don't want to --

19 THE COURT: Well, and I mean that's what I was anticipating,  
20 and in light of, you know, the testimony that has come since her  
21 husband has testified, I would just as soon that there's things you guys  
22 have to ask her, that may have been brought up in regard to -- I know  
23 there's an email now out there that she sent to Mr. Simon, while Mr.  
24 Edgeworth, was in China, so I know you guys want to talk about that.

25 So, I mean, I just don't want to start it either, if we're not going to

1 finish.

2 MR. VANNAH: Well, said and I think you're right. So, we'll --

3 MR. GREENE: That's fair.

4 MR. VANNAH: Well, why don't we adjourn.

5 THE COURT: Okay.

6 MR. VANNAH: We've got one last witness, and then --

7 THE COURT: Is she your only witness?

8 MR. GREENE: Yes. The last one.

9 THE COURT: Okay. Well, I mean, also we have the cell phone  
10 records issue that's still out there.

11 MR. VANNAH: We do.

12 THE COURT: As well as -- I mean, I don't know, are you guys  
13 inclined to do your closings in writing, or did you guys want to do an  
14 oral presentation of those?

15 MR. VANNAH: So, let's ask you, Judge. I mean, what would  
16 you prefer, in all honesty?

17 THE COURT: Well, I would -- because I'm going to tell you  
18 this right now, and I thought I said it earlier, but I don't know that I did,  
19 because I want you guys to do findings of fact, from your -- I want each  
20 one of you to do them now that you've heard the evidence. But I will  
21 assume you guys wouldn't be prepared to close until you saw those cell  
22 phone records?

23 MR. VANNAH: Yeah. I wanted to see those.

24 THE COURT: Because in regards to the calculations and  
25 everything that you asked about, I assumed you guys wouldn't want to

1 close until you got those.

2 MR. VANNAH: It's just one thing, and there may be nothing I  
3 care about, but I'd just like to see them.

4 THE COURT: Right. But I just assumed you wanted to read  
5 those, first.

6 MR. VANNAH: So, we talked about that, but -- so I don't  
7 know if you want to give us any guidance as to -- we're almost done. I  
8 mean, there's nothing staggeringly new you're going to learn here. Just,  
9 obviously she's not as involved as Brian was.

10 THE COURT: Right.

11 MR. VANNAH: So, we talked about it the other day, all of us,  
12 about the closing and how that's going to work. So, there's two ways of  
13 doing it, either an oral closing, but I mean, if you want -- if you have  
14 some area of the law that you wanted to -- I just don't know where you  
15 are on it.

16 So, we -- you're very good at hiding the cards, we have no  
17 idea. At least I have no idea where you're leaning, or what you're  
18 looking at, or what you're concerned about.

19 So, when we had our initial conversation the other day, I was like,  
20 I'm lazy, so it would be a lot easier to argue for an hour, but when you  
21 write these briefs, it takes like four days, I mean, they're really time  
22 consuming.

23 THE COURT: I understand, I understand. Well, I mean -- and  
24 I mean, what do you want to say about that Mr. Christensen? I mean, is  
25 that what you guys discussed, or --

1 MR. CHRISTENSEN: I'm a little taken aback at the time  
2 estimate on direct of Ms. Edgeworth, given the extent of the testimony  
3 already adduced to the Court today. Putting that aside the fact that  
4 memories may fade is of course something that we're all subject to.

5 So, I'm a little concerned that with the Court's schedule as  
6 you just indicated that, we're talking about maybe taking this testimony  
7 even maybe two months down the road, three months? We really don't  
8 know.

9 THE COURT: right.

10 MR. CHRISTENSEN: And that's going to be awkward. So, I  
11 have been kind of mulling that over, and I'm not really sure what the  
12 conclusion is, other than I guess we're going to have to hope for a clean  
13 date from the Court at some point, maybe we could be on 72-hour  
14 notice?

15 THE COURT: Well, I mean, that's the thing, I mean, I do my  
16 criminal calendar calls on Monday. If I have a week that nobody  
17 announces ready, I'm more than happy to get you guys in here and wrap  
18 this up sometime in the month of September. But as I sit here right now  
19 I just cannot promise you that that's going to happen.

20 MR. VANNAH: And listen, here's the deal too, I mean, let's  
21 be honest. I mean, Jim's got his schedule, I've not mine --

22 THE COURT: Right.

23 MR. VANNAH: -- Pete's got his, Danny's got a schedule, I  
24 mean, and all of us, and you have a schedule. So, it's not -- it was hard  
25 to get the dates we got one, and listen we got four days, which is



1 wonderful, thank you, from all of us, you gave us Thursday. We're just  
2 so close to being done, but -- so we need -- you know, we have  
3 vacations, we have trials we've got to do, and you got things to do.

4 So, I don't know what the solution is here, other than obviously  
5 we're going to have to come back another time. So, whether we like it or  
6 not, like work until -- and I don't blame your for not wanting your staff to  
7 stay, and frankly, I don't want to stay either. I'm old and I need to go  
8 home and eat.

9 THE COURT: Well, I mean, because that's the thing, I could  
10 give you guys a Monday and then just start a criminal trial on Tuesday.  
11 Because if they're my cases they can go into the next week.

12 MR. VANNAH: That would be great, Your Honor.

13 MR. CHRISTIANSEN: And, Judge, I don't --

14 MR. VANNAH: Next week [indiscernible].

15 MR. CHRISTIANSEN: -- from my perspective, if Mrs.  
16 Edgeworth is the last witness and her direct is an hour, her cross won't  
17 be an hour, and if the Court wants briefs, we can argue, or the Court  
18 wants briefs, but, it seems to me that the window of time needed to set  
19 aside is not more than a half day, I guess, is what I'm saying.

20 THE COURT: Well, that's what I was thinking. I mean, and I  
21 can give you guys like an afternoon on a Monday. I'll do my criminal--

22 MR. CHRISTIANSEN: So, Mr. Vannah --

23 THE COURT: -- calendar and give you guys the Monday.

24 MR. CHRISTIANSEN: -- and I could show up, or Mr. Greene,  
25 or whoever. And she's my witness, she's Mr. Greene's witness it looks

1 like, adduce that testimony --

2 THE COURT: Okay.

3 MR. CHRISTIANSEN: -- in a couple of hours on a Monday  
4 morning, and then if you want to hear closings, or if you say you want  
5 them in briefs, we could do either, then the window that you've got to  
6 set aside even is a little smaller. Maybe you could start your criminal  
7 trial at 11:30 and we can start at 9:00 and be done.

8 MR. VANNAH: You know, Pete makes a good argument, and  
9 I have to agree with him. I don't have to be here, and Jim you don't have  
10 to be here. If I'm here, I'm here, but I don't want hold up finishing up a  
11 trial on my schedule, so --

12 MR. CHRISTENSEN: I agree.

13 MR. VANNAH: John's more available, and it sounds like you  
14 are.

15 MR. CHRISTIANSEN: Well, I'll make myself available --

16 MR. VANNAH: It's a lot easier --

17 MR. CHRISTIANSEN: -- for a couple of hours Monday  
18 morning. I get whoever else I'm in front of.

19 THE COURT: Well, then I could do it, I mean, on the 10th.  
20 Because I'm looking at my trial stack. There's a trial that has to go, and  
21 I'm pretty sure that trial is going to go longer than five days anyways, so  
22 they're going into the next week anyways.

23 MR. VANNAH: I mean, let's look here before we --

24 THE COURT: What does the 10th look like for you guys?

25 MR. CHRISTIANSEN: Of September?

1 THE COURT: Yeah.

2 MR. CHRISTIANSEN: Unless we juggle -- I'm in Scotland  
3 dropping my daughter off until the 12th, Judge, so --

4 THE COURT: Through the 12th?

5 MR. CHRISTIANSEN: Through the 5th through the 12th. And  
6 I'm here for the duration, besides that.

7 MR. VANNAH: Yeah.

8 MR. GREENE: And I'm out of town that one Monday.

9 THE COURT: You are out of town the Monday, okay. So,  
10 let's look at --

11 MR. VANNAH: If you had the 17th I could do it?

12 THE COURT: So, what about the 17th?

13 MR. CHRISTIANSEN: Yeah.

14 MR. VANNAH: Let me look here.

15 THE COURT: That's a much shorter criminal stack.

16 MR. GREENE: I'm here too.

17 MR. CHRISTIANSEN: Judge, I can do it, as long as the Court  
18 wouldn't mind maybe confirming with Department 3, where I'll be in a  
19 murder trial, that I need to start a little bit late.

20 THE COURT: I will contact --

21 MR. CHRISTIANSEN: If you tell Judge Herndon --

22 THE COURT: I will contact --

23 MR. CHRISTIANSEN: -- then I'll be here, and I'll be prepared  
24 to finish Ms. Edgeworth at that time.

25 THE COURT: Okay.

1 MR. CHRISTIANSEN: Can you do the 17th, John?

2 MR. GREENE: I can.

3 THE COURT: Okay.

4 MR. VANNAH: I can't, but that's okay. I don't need to be  
5 here.

6 THE COURT: Okay. So, if you're not going to be here, would  
7 you rather do closings in writing then, since you're not going to be here?

8 MR. VANNAH: Well, that's -- so let's talk about that just for a  
9 minute, Judge --

10 THE COURT: Okay. Well, first of all, let's see if Ms.  
11 Edgeworth, are you available --

12 MS. EDGEWORTH: Can I check my phone?

13 THE COURT: Yes.

14 MS. EDGEWORTH: Okay. Thank you.

15 MR. VANNAH: Yeah. Let's make sure she's there.

16 MS. EDGEWORTH: It's the 17th of September?

17 THE COURT: Yes.

18 MR. VANNAH: While she's doing that, it just takes a million  
19 hours to do it by --

20 MR. CHRISTENSEN: At 925 an hour you're complaining.

21 MR. VANNAH: I'm not complaining.

22 [Counsel confer]

23 MS. EDGEWORTH: Your Honor, I'm out of town that day. I get  
24 back that evening.

25 MR. VANNAH: Is that Friday a possibility.

1 THE COURT: Well, the problem is every Friday in the month  
2 of September I have an evidentiary hearing.

3 MR. VANNAH: I see.

4 THE COURT: Like it's just been crazy, I don't know why.

5 MR. CHRISTIANSEN: John, could you do Tuesday the 11th?  
6 John? If your client -- if that's okay Ms. Edgeworth?

7 MR. GREENE: Yes.

8 MS. EDGEWORTH: Yes.

9 THE COURT: Over --

10 MR. CHRISTIANSEN: Could we do --

11 THE COURT: The only problem is on Tuesday I have to make  
12 a presentation at the civil bench bar at 11:30.

13 MR. CHRISTIANSEN: Or Wednesday the 12th.

14 MR. CHRISTENSEN: 11:30 she said.

15 MR. CHRISTIANSEN: Oh, 11:30, we could finish by then,  
16 Judge.

17 MR. VANNAH: Well, if we start at 9:00.

18 MR. CHRISTIANSEN: Yeah. If we start here at 9:00 --

19 THE COURT: I have a criminal calendar -- I mean a civil  
20 calendar, we can't start until 11:00.

21 MR. VANNAH: That makes sense.

22 THE COURT: We have a calendar.

23 MR. VANNAH: Afternoon, that afternoon, or something?

24 THE COURT: I mean, I could give you the -- what about the  
25 18th -- well, Mr. Christiansen you're not even here on the 11th, right?

1 MR. CHRISTIANSEN: Correct. .

2 MR. CHRISTENSEN: That's right, he's not back until the 20th

3 THE COURT: So, what the 18th?

4 MR. CHRISTIANSEN: I could do it. I'm just going to ask

5 Judge Herndon to verify that I'm down here for a couple of hours and --

6 THE COURT: Oh, Judge Herndon, yeah he --

7 MR. CHRISTENSEN: He's good like that.

8 THE COURT: -- starts criminal calendar at 9:30-ish.

9 MR. CHRISTIANSEN: And I'm in a murder -- I'm in a retrial of  
10 a capital case in front of him. So, he'll -- he's fine, he'll push it off.

11 THE COURT: Yeah. And so, he won't finish his criminal  
12 calendar probably until somewhere around like 11:00.

13 MR. GREENE: The 18th would be perfect.

14 MR. CHRISTENSEN: John, can you do the 18th?

15 MS. EDGEWORTH: I' available as well, Your Honor.

16 THE COURT: Okay. Are available on the 18th.

17 MR. GREENE: Are you?

18 MR. VANNAH: Yeah, I am.

19 MR. GREENE: I'm in an arbitration that day, but since I'm the  
20 arbitrator, I guess you knew that.

21 THE COURT: Okay. So, we're going to do it on the 18th.

22 That is civil day, so we'll start at 11:00.

23 MR. CHRISTENSEN: Great.

24 MR. GREENE: 11:00, okay.

25 MR. CHRISTIANSEN: And Judge, can we, without imposing

1 too much on your staff, could we work through lunch, so I can get back  
2 to my murder trial. So, it might go an hour and then --

3 THE COURT: They're going to kill me, Mr. Christensen.  
4 We've got to get this --

5 MR. CHRISTIANSEN: I'm happy to bring sandwiches or  
6 something.

7 [Counsel confer]

8 THE COURT: Okay. They're okay with that, Mr. Christensen.

9 MR. CHRISTENSEN: Thank you very much

10 THE COURT: Okay. So, we'll do it on the 18th.

11 Okay. Mr. Vannah, in regards to closing.

12 MR. VANNAH: So, the last time I did those things in writing,  
13 I mean, I'm telling you, it is a lot of time.

14 THE COURT: Well, if you're going to be here we can do them  
15 orally.

16 MR. VANNAH: Yeah. Well, you know what, we could, why  
17 don't we.

18 THE COURT: Okay.

19 MR. VANNAH: Then if you have some issues you can ask --

20 THE COURT: Right, yeah. If you're going to be -- I just didn't  
21 want -- I just figured you would be the one doing the closing, so I didn't  
22 think you'd be comfortable doing it orally, if you're not here.

23 MR. VANNAH: No, I am going to do the closing.

24 THE COURT: Okay.

25 MR. VANNAH: So, the 18th.

1 THE COURT: The 18th, we'll just do it.

2 MR. VANNAH: Yeah. So that's great.

3 THE COURT: Okay. We'll do it orally. But I do need you  
4 guys to prepare findings of fact --

5 MR. VANNAH: Yes.

6 THE COURT: -- and submit them to my law clerk.

7 MR. VANNAH: Yes. That's --

8 THE COURT: Based on the evidence that you heard.

9 MR. VANNAH: Yeah.

10 MR. CHRISTIANSEN: Between now and the 18th, Your  
11 Honor?

12 THE COURT: Between now and the 18th.

13 MR. CHRISTIANSEN: Very good, that's perfect.

14 MR. CHRISTENSEN: Yes, Your Honor.

15 THE COURT: Prepare findings of fact, submit it to law clerk  
16 in a Word document.

17 MR. VANNAH: Okay.

18 THE COURT: All right.

19 MR. CHRISTENSEN: No. That's very good, Your Honor.

20 THE COURT: Yeah. If she has them by that day, because I  
21 am not going to rule from the bench that day. You'll get a ruling after.  
22 So, she just has them by the time we start on the 18th.

23 MR. VANNAH: No, I understood, I figured that. But we'll  
24 start at 11:00 on the 18th, and just go through that day and do it.

25 THE COURT: Yeah, just go through until we're done.



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[Counsel confer]

MR. VANNAH: Okay. So sounds great.

So, let me be kind to your staff. So now we're looking to at 11:00, so from 11:00 a.m. to 5:00, which I don't have a problem with. But --

THE COURT: At some point we're going to have to break in there, I mean, I understand Mr. Christensen is going to schedule, we'll work it out with Judge. Herndon. But yeah, at some we're going to have to a break and eat, we all need to eat.

MR. CHRISTIANSEN: As soon as I am done with the witness I will go back to my murder trial and let --

THE COURT: Oh, okay, okay. Yeah. Well we're still going to take a little recess.

[Counsel confer]

THE COURT: Yeah. We'll get Mr. Christiansen out of here then we will break for lunch, and then you guys --

MR. CHRISTIANSEN: And then come back.

THE COURT: Yeah. So, I'll keep that whole afternoon open for you guys. So, yeah, that's what we'll do. We'll get Mr. Christiansen, so will get Mrs. Edgeworth on, Mr. Christiansen out of here, and then we'll break for lunch, and then you guys will come back and close.

MR. CHRISTIANSEN: Thank you very much.

MR. VANNAH: Thank you, Judge.

THE COURT: Thank you.

MR. CHRISTIANSEN: Judge, thanks for you accommodations.

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MR. VANNAH: Thank you.  
THE COURT: No problem.  
MR. VANNAH: That's been great.

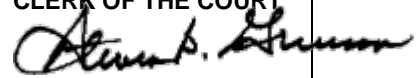
[Proceedings adjourned at 4:16 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



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Jessica B. Cahill, Transcriber, CER/CET-708



1 RTRAN

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5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 EDGEWORTH FAMILY TRUST;  
8 AMERICAN GRATING, LLC,

9 Plaintiffs,

10 vs.

11 LANGE PLUMBING, LLC, ET AL.,

12 Defendants.

CASE#: A-16-738444-C

DEPT. X

13 EDGEWORTH FAMILY TRUST;  
14 AMERICAN GRATING, LLC,

15 Plaintiffs,

16 vs.

17 DANIEL S. SIMON, ET AL.,

18 Defendants.

CASE#: A-18-767242-C  
DEPT. X

19 BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE  
20 TUESDAY, SEPTEMBER 18, 2018

21 **RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING - DAY 5**

22 APPEARANCES:

23 For the Plaintiff:

ROBERT D. VANNAH, ESQ.  
JOHN B. GREENE, ESQ.

24 For the Defendant:

JAMES R. CHRISTENSEN, ESQ.  
PETER S. CHRISTIANSEN, ESQ.

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

WA01569

**I N D E X**  
**W I T N E S S E S**

**WITNESSES FOR THE PLAINTIFF:**

ANGELA EDGEWORTH

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1 LAS VEGAS, CLARK COUNTY, NEVADA, SEPTEMBER 18, 2018, 11:10 A.M.

2 \* \* \* \* \*

3 ANGELA EDGEWORTH

4 [having been called as a witness and being first duly sworn,  
5 testified as follows:]

6 THE CLERK: Thank you. Please be seated. State and  
7 spell your name for the record.

8 THE WITNESS: Angela Edgeworth. A-n-g-e-l-a.  
9 Edgeworth, E-d-g-e-w-o-r-t-h.

10 DIRECT EXAMINATION

11 BY MR. GREENE:

12 Q May I call you Angela?

13 A Yes.

14 Q Please introduce yourself to the Court, and tell  
15 Judge Jones a little bit about yourself.

16 A I'm Angela Edgeworth. I live in Henderson. I've  
17 been a resident of Henderson since 2006. My husband and I are  
18 very active in the community. I am the mother of two teenage  
19 girls. I am currently the president and cofounder of Pediped  
20 Footwear.

21 THE COURT: Okay.

22 BY MR. GREENE:

23 Q Tell us a little about your family background if you  
24 would, please.

25 A I was born in Canada and with my parents, two

1 immigrants, and basically grew up in Canada and moved to the  
2 U.S., lived in Taiwan for a few years and moved to the U.S. a  
3 little bit more than 20 years ago.

4 Q You're married?

5 A Yes, I am. Happily.

6 Q To that man back there, Brian?

7 A Yes.

8 Q Okay. How did you guys meet?

9 A We met in University. So I met Brian in 1992. So  
10 I've known him for more than 25 years.

11 Q What did you study in college, Angela?

12 A Business administration and actuarial science.

13 Q And what are your majors?

14 A Business administration and actuarial science.

15 Q Gotcha. Would you please share what your career  
16 background has been since you graduated.

17 A Sure. I worked in California, Costa Mesa, in an art  
18 gallery for a few years, and then I went to Taiwan. I started  
19 my own cosmetics company there which I sold. I came back, and  
20 I worked in the family business for about eight years. And  
21 before when we got married, my husband and I took over the  
22 family business, and we also started Pediped Footwear at the  
23 same time, which was around 2004. So I've been an entrepreneur  
24 for more than 20 years.

25 Q And what do you do for a living now?

1           A     I'm president and the cofounder of Pediped Footwear,  
2 and we make children's shoes for basically newborns up to and  
3 age 12, and we've been recognized by the American Podiatric  
4 Medical Association, and we've won numerous awards in the  
5 industry for quality and design excellence.

6           Q     Any time for hobbies and interests?

7           A     Yes. I love to spend time with my family and my  
8 friends, and I take -- I partake in all of my daughters'  
9 volleyball activities, and we travel.

10          Q     An issue has arisen about how you and Brian honor  
11 your obligations. So let's describe for a moment on that topic  
12 some of your charitable work that you do.

13          A     Sure. I currently sit on three boards. So the first  
14 board I sit on is the Moonridge Foundation. It was founded by  
15 Julie Murray and Diana Bennett. They started Three Square.  
16 And the other board members include Stacy Alonso [phonetic],  
17 who's the highest ranking SVP for Station Casinos; Punam  
18 Mather; Marlo Vandemore, who's the CFO for Bonatel. That  
19 foundation, basically what it does is we administer funds. So,  
20 for example, the October 1 Fund, Zappos Cares, Downtown Cares,  
21 and we're responsible for holding two philanthropy summits a  
22 year, one in Las Vegas and one in Reno.

23               Also, I sit on the board for the International  
24 Women's Forum, which is an amazing and eclectic group of women  
25 in town. It includes -- the members include Mayor Debra March,

1 Mayor Goodman, Nancy Housels [phonetic], Diana Bennett, Chief  
2 Justice Miriam Shearing, Jeanne Jackson, who was the former  
3 President of Nike. And the global initiative of IWF is to  
4 promote women in basically in leadership positions in the  
5 country and around the world.

6 I'm also on the committee which awards scholarships  
7 for the Carolyn Sparks award. So we recently awarded two  
8 scholarships: One to the Kelly McMahill, who is the highest  
9 ranking female police officer in LVPD and who her husband is  
10 the undersheriff; and also Marissia [phonetic] Baca, who is the  
11 director of Las Vegas Cares. I also sit on the committee for  
12 the, specifically the nominating board committee for that  
13 organization as well.

14 We also have scholarships for WRIN, the Women's in  
15 Research in Nevada, and we recently hosted a meeting to promote  
16 women on corporate boards at the Boyd School of Law.

17 Thirdly, I'm on the advisory counsel for Vegas Aces,  
18 which is a nonprofit my husband and I started. We created that  
19 volleyball gym when our girls were young, and then we were  
20 practicing basically in squash courts. So my husband converted  
21 a gym space in our warehouse to a volleyball facility. It's  
22 always been his dream to create a --

23 MR. CHRISTIANSEN: Objection as to what somebody  
24 else's dream is, Your Honor. It's hearsay. And they asserted  
25 the marital privilege in the last hearing. So she can't now



1 talk about what her husband and her have ever talked about.  
2 They asserted and instructed Mr. Edgeworth to not talk about  
3 anything between the two of them.

4 MR. GREENE: We didn't instruct him to talk about  
5 nothing between the two of them. If he wants to give a  
6 specific example as to a question he asked --

7 MR. CHRISTIANSEN: Sure.

8 MR. GREENE: -- that something was allegedly not  
9 provided, most assuredly, then perhaps that could be limited to  
10 that, or the option is if he wants to ask Brian about some  
11 question that he had about their marital privilege, we can  
12 bring him right back up for five minutes and answer that  
13 question too.

14 MR. CHRISTIANSEN: No, Your Honor. They've made the  
15 decision to assert the privilege. It was done on the 28th of  
16 August at 12:25 p.m. Mr. Vannah asserted the privilege,  
17 marital privilege, and instructed Mr. Edgeworth to not answer  
18 my questions about conversations between his wife and himself  
19 about her seeing attorneys. They asserted the privilege.  
20 Presumption attaches when you do that and instruct your client  
21 not to answer, and you can't use the privilege as a shield and  
22 a sword, as the Court knows.

23 MR. GREENE: It was a privilege about what  
24 communications they had been having between attorneys and  
25 clients. That's the whole gist of that conversation.

1 Mr. Edgeworth testified numerous times as to what he and his  
2 wife were talking about. This was -- they're plaintiffs in  
3 this case. They both had a vested interest in this case. So  
4 this case was about them. So they've already shared  
5 information that they have talked about between each other. So  
6 if we want to limit the spousal privilege to discussions  
7 between attorneys, then that's exactly what the privilege  
8 perhaps might have attached to at the time that it was  
9 raised --

10 MR. CHRISTIANSEN: Judge, just let me read  
11 Mr. Vannah's objection: You are not allowed to know what his  
12 wife told him, quote. That's from Robert Vannah. That is an  
13 assertion of the privilege, instructed his client to not answer  
14 what -- Mr. Edgeworth what Mrs. Edgeworth told him. The  
15 assertion of the privilege is done once they've done it. I  
16 wasn't allowed to inquire as to anything Mr. Edgeworth and his  
17 wife talked about because Mr. Vannah asserted a privilege,  
18 which he has every right to do.

19 It was a valid assertion, which marital privilege  
20 exists in Nevada. There's two kinds, as the Court knows. Once  
21 they assert it, they are judicially estopped from thereafter  
22 having the spouses talk about what they spoke with each other  
23 about. That's the law. I didn't assert the privilege. They  
24 did.

25 MR. GREENE: It was a limited assertion of the

1 privilege as to discussions between attorneys. We had that  
2 conversation. That was a contested issue, Your Honor.

3 THE COURT: And, Mr. Christiansen, do you have the  
4 transcript? Because I remember Mr. Edgeworth asserting the  
5 privilege, but I don't remember the question that he was asked  
6 or exactly all of the argument that was made on that.

7 MR. CHRISTIANSEN: I think I have the video, Judge,  
8 that I can play for you actually.

9 THE COURT: Please do because I remember the  
10 privilege, but I don't remember --

11 MR. CHRISTIANSEN: And I can read it to you.

12 (Pause in the proceedings)

13 MR. CHRISTIANSEN: Go ahead and play it for Her  
14 Honor.

15 (Playing audio video recording dated 8/28/2018 at 12:25 p.m.)

16 MR. CHRISTIANSEN: So you see, Your Honor, I asked  
17 for communications. Mr. Vannah, under the spousal privilege,  
18 instructed him to not answer those communications between he  
19 and his wife. Your Honor then inquired did he have --  
20 Mr. Edgeworth -- any independent knowledge separate and aside  
21 from his wife. He said no, and I was forced to end my  
22 examination. So that's the shield that they rightfully  
23 asserted.

24 They have a right to assert marital privilege. They  
25 now can't use it as a sword and have Mrs. Edgeworth come in to

1 try to clean up what they wouldn't let Mr. Edgeworth talk  
2 about. You just can't do it. They're judicially estopped.

3 THE COURT: Mr. Greene.

4 MR. GREENE: Everything about that line of  
5 questioning had to do with conversations that the parties had  
6 with attorneys.

7 THE COURT: Right. But you guys weren't asserting  
8 the attorney-client privilege. You asserted the spousal  
9 privilege in regards to conversations between herself, her  
10 husband about these attorneys that they talked to and what was  
11 said to these attorneys.

12 MR. GREENE: That's because he was trying to get at  
13 the discussions that Angela had with attorneys. We were trying  
14 to shield them from being able to get into protected  
15 communications that the clients and attorneys have.

16 THE COURT: Right. And, I mean, had you guys said  
17 attorney-client privilege, then I could totally understand  
18 that, but you guys asserted a spousal privilege, which is a  
19 conversation he had with her. I mean, I understand that  
20 Mr. Christiansen's line of questioning when you asserted the  
21 privilege was about attorneys, but you didn't assert an  
22 attorney-client privilege. You asserted a spousal privilege.

23 MR. GREENE: And, Judge, each individual in a  
24 marriage holds the privilege. So she doesn't need to assert  
25 the privilege, and we're not asserting it on her behalf. She

1 can prevent her husband from discussing things that they've  
2 talked about if she chooses. He can prevent her if he  
3 exercises the privilege. She hasn't exercised the privilege.  
4 She does not exercise a privilege. We are not invoking the  
5 privilege on her behalf.

6 He has plenty of opportunity to cross-examine  
7 Ms. Edgeworth, and he's going to, on any topic that he wants.  
8 So holder of the privilege is a viable issue here. She holds  
9 it too. She has not invoked it.

10 MR. CHRISTIANSEN: Judge, quickly, in Nevada, the  
11 rules regarding privilege are different than what Mr. Greene  
12 has cited to which is the federal rule on privilege. There is  
13 the holder, and there is the asserter privilege. They just  
14 across the board asserted marital privilege and ended my  
15 examination. My examination wasn't tell me what the lawyer  
16 said. My question was, Do you know one way or another if your  
17 wife talked to lawyers before she met with the Vannah firm and  
18 after you quit listening to Mr. Simon? That's not an  
19 attorney-privilege question. Did she talk to lawyers and who  
20 were they? Marital privilege, don't let him answer. You saw  
21 it. Shut me down. Ended my cross.

22 They cannot -- the law is abundantly clear. They are  
23 estopped from now coming in and trying to unwind what  
24 Mr. Edgeworth, at the advice of counsel did, with  
25 Mrs. Edgeworth. She can't talk about what her and her husband

1 discussed.

2 THE COURT: So, I mean, you asserted the privilege  
3 with him. So how can she talk about their conversation?

4 MR. VANNAH: She has her own privilege.

5 MR. GREENE: She holds her own privilege. She's not  
6 going to --

7 THE COURT: So why would he then not be able to talk?  
8 Why would you guys object to him talking about the exact same  
9 thing that you are now asking her to talk about?

10 MR. GREENE: I'm not asking --

11 THE COURT: It was objectionable when  
12 Mr. Christiansen asked him about it, but now you want her to  
13 talk about it?

14 MR. GREENE: Yes. I'm also not asking her about what  
15 discussions Brian had with attorneys before we got involved in  
16 the case. It's a totally different -- that was a narrow focus,  
17 narrow pointed series of questions. It has nothing to do with  
18 this line of questioning that I'm asking Angela about. So,  
19 yes, she does hold the privilege. She's not invoking it.

20 (Inaudible colloquy between plaintiffs' counsel.)

21 THE COURT: Well, I understand that, but you guys  
22 have already asserted the privilege with him. So you can't now  
23 go back and say we're going to remove it, and we're going to  
24 call him back to testify. I mean, you asserted the privilege,  
25 and now basically you're saying we wanted you to prevent

1 Mr. Christiansen from letting him talk about this but we want  
2 her to talk about that exact same thing.

3 MR. GREENE: No. No, Your Honor. I'm not asking her  
4 about conversations that Brian had with her about lawyers that  
5 he spoke to prior to the time that we got involved.

6 THE COURT: So it's your position that privilege only  
7 applies to her talking to him about lawyers that she talked to?

8 MR. GREENE: That's the objection that we were -- we  
9 tried to get the objection sustained on attorney-client  
10 privilege, and we also invoked the privilege on attorney  
11 discussions that they had [indiscernible] with attorneys before  
12 we got involved. That was the narrow focus of this question.  
13 That's the only aspect of the privilege that was asserted  
14 pertaining to Brian's testimony. That's it.

15 MR. CHRISTIANSEN: No, Judge. They ended my  
16 examination of Mr. Edgeworth. I asked questions, and I  
17 intended to go into a slew of things he and his wife had talked  
18 about. Mr. Vannah asserted the privilege, said I couldn't talk  
19 to him about it. I sat down.

20 Mr. Vannah has that right.

21 That was the end of it. They're judicially estopped  
22 from now unwinding that assertion.

23 THE COURT: Well, I mean, she can testify to  
24 something she has independent knowledge of but she can't  
25 testify to stuff that he told her because you guys have invoked

1 that privilege.

2 And this is about the volleyball. Wasn't this  
3 about -- I'm sorry. I forgot what the question was you asked.  
4 Wasn't this about him doing some -- the volleyball place?

5 MR. GREENE: It's about her charitable background,  
6 talking about her background at this particular point.

7 THE COURT: Okay.

8 MR. GREENE: So --

9 THE COURT: Okay. Well, can we move on from that,  
10 Mr. Greene, because I'm not really sure how that applies to  
11 what's owed to Mr. Simon and the legal work that he did.

12 MR. GREENE: Well, I understand that, Your Honor, but  
13 they spent time in volumes and words in their briefs for lack  
14 of a better word sliming the Edgeworths, calling them  
15 dishonest, that they don't pay their bills, that they can't be  
16 trusted. Most assuredly their charitable background, they're  
17 giving, their conduct towards others is certainly relevant to  
18 help unwind some of that stain that the defense put on them.

19 THE COURT: I mean, I understand your desire to do  
20 that, Mr. Greene, but this isn't a jury. This is me. I'm not  
21 up here judging them based on whether or not they gave money to  
22 Three Square. I'm here to make a call about the legal work  
23 that was done by Mr. Simon and what is owed to him. That is  
24 the only thing I am here to pass judgment on. I'm not here to  
25 pass judgment on who is passing out canned goods at Three



1 Square. I'm doing it every other week in all reality, but  
2 that's not what I'm here for.

3 I mean, I'm the finder of fact. I'm not a jury. I'm  
4 not here to discuss things that are outside the legal realm.  
5 I'm just here to decide what is going to be done with what's  
6 owed to them, what's owed to Mr. Simon, who needs to get paid.

7 BY MR. GREENE:

8 Q Angela.

9 A Yes.

10 Q When did you come to know the Simons?

11 A I met Elena [phonetic] when my daughter was in  
12 preschool, and we've known them for quite a long time. Elena  
13 helped me a lot when my father passed away. She was a good  
14 friend, and I considered her to be one of my closest friends.  
15 We took family vacations together, and, you know, our kids knew  
16 each other since preschool.

17 Q Did you ever at that time gain an understanding as to  
18 what her husband Danny did for a living?

19 A Yes. I understood he was a personal injury attorney.

20 Q Let's go into your understanding of, just a Cliff  
21 Notes version, of what happened with the flood and how you  
22 became involved in that.

23 A Well, what happened with the flood was we came home  
24 in April of 2016, and we came home, and the house had flooded,  
25 and apparently the water ran down the house and caused damage,

1 about \$500,000 worth.

2 Q Did you feel that you would be able to resolve this  
3 issue without involving lawyers?

4 A Initially we were hoping that it would, but it didn't  
5 turn out that way. So not at first. We were hoping, but it  
6 didn't happen that way.

7 Q What was the first thing that was discussed or  
8 decided upon with you with getting legal help involved to help  
9 address this flood and those ramifications?

10 A Sure. The insurance company actually recommended  
11 that we speak to an attorney, Craig [inaudible].

12 Q Did you speak with him?

13 A Yes.

14 Q Okay. Did you decide to go with him?

15 A No.

16 Q Why not?

17 A Because I didn't like his technique, first, and I  
18 didn't get a good vibe from him, and then also at the end of  
19 the day I didn't want to work with somebody that I didn't know  
20 and didn't have any experience with.

21 Q What hourly rate did he quote you?

22 A \$500 an hour.

23 Q Okay. What other options were available to you as a  
24 business person for legal help following this flood?

25 A Mark Katz who's our general business attorney, and

1 Lisa Carteen [phonetic], who's a friend and attorney of mine  
2 for almost 20 years.

3 Q Did you consider hiring either of those attorneys to  
4 help out following this flood?

5 A Yes, we did.

6 Q What was behind the discussions or the  
7 decision-making on whether or not they were going to be  
8 involved?

9 A Well, Elena was a friend of mine, and so I suggested  
10 to Brian that he call Danny, and that's where that began.

11 Q But how about with Mark Katz and Lisa Carteen? What  
12 do you recall was maybe the rule out or the, hey, maybe they're  
13 not going to be the ones that we're going to be choosing?

14 A Lisa is based out of California, and Mark was busy.  
15 Sometimes he's unavailable, and he wasn't available at that  
16 time.

17 Q What was Mark's hourly rate at that time?

18 A \$250 an hour.

19 Q How about Lisa?

20 A \$415 an hour.

21 Q Thank you.

22 MR. CHRISTIANSEN: I'm sorry. I just didn't hear the  
23 last number. John, what was --

24 THE WITNESS: 415.

25 MR. CHRISTIANSEN: Thank you, ma'am.

1 THE COURT: And what was Mr. Katz?

2 THE WITNESS: \$250 an hour.

3 THE COURT: 250.

4 BY MR. GREENE:

5 Q In your business lives or life, under what  
6 circumstances had you needed to reach out and retain legal  
7 counsel in the past?

8 A Yes, on many occasions. We have occasional things  
9 come up such as business contracts, patents, trademarks,  
10 attorneys with different patents that we hold in litigation.

11 Q What law firms -- you mentioned Mark. You mentioned  
12 Lisa. What law firms have you retained in the past to assist  
13 in your business dealings?

14 A BakerHostetler, Lewis Roca and probably 20 or more so  
15 attorneys throughout our years doing business.

16 Q Do you have an understanding as to what the highest  
17 hourly rate that you would pay an attorney or a law firm prior  
18 to getting involved in this flood litigation?

19 A Yes. The highest rate we ever paid was \$475 an hour.

20 Q And who was that for?

21 A That was for an IT litigator who was a specialist.  
22 She was based out of their St. Louis office, and she was a  
23 trademark specialist in litigation. And then also Gary  
24 Rinkerman who was a trademark specialist out of the DC office,  
25 and he worked for the U.S. Trade Commission. So he had a lot

1 of expertise when we were in a patent and trademark litigation  
2 case.

3 Q We've heard a lot about fee agreements as you've been  
4 sitting in the gallery and in this case. What type of fee  
5 agreements have you entered into in the past with these law  
6 firms you just mentioned to the Judge?

7 A All hourly.

8 Q Did you ever have a contingency fee agreement  
9 presented to you prior to this flood litigation?

10 A Never.

11 Q So when you understood from your friendship with  
12 Elena that Danny was an attorney, walk us through the steps  
13 that led to the suggestion of Danny becoming legally involved  
14 in this case.

15 MR. CHRISTIANSEN: Objection to the extent it calls  
16 for hearsay or spousal communications.

17 BY MR. GREENE:

18 Q Do you have an independent understanding as to how  
19 Danny Simon --

20 A I do. Yes.

21 Q Go ahead.

22 A I had suggested to Brian that he called Danny.

23 MR. CHRISTIANSEN: Judge, objection. I just asserted  
24 the spousal -- they can't talk about what they instructed their  
25 other client to not talk about to me last week.

1           MR. GREENE: Oh, no. No. No. No. The spousal  
2 privilege is what Brian would've said to her. That's the whole  
3 point that he just spent all the time on. She just said she  
4 has an independent understanding, and she suggested to her  
5 husband.

6           THE COURT: She can testify to what she did. She  
7 suggested he called Danny.

8 BY MR. GREENE:

9           Q     Is that what happened?

10          A     Correct.

11          Q     Do you have an understanding as to what fee was  
12 eventually reached?

13          A     I do.

14          Q     And what is that understanding?

15          A     It's \$550 an hour.

16          Q     When did you gain the understanding that Danny was  
17 going to be charging 550 an hour for the work that he performed  
18 on this case?

19          A     Brian and I had a conversation before the lawsuit was  
20 actually filed about the fee, and I remember it because I  
21 wasn't happy about the fee. It was high in my estimation.  
22 \$550 was really expensive in my mind, but we agreed because  
23 Elena was a friend of mine and also because we already started  
24 working on the case. And at the time I thought it would maybe  
25 be \$5,000, \$10,000, and then we'd be done.

1 THE COURT: And this is before the original lawsuit  
2 or the lawsuit against Danny Simon?

3 THE WITNESS: No, the very first lawsuit when we  
4 filed against Viking.

5 BY MR. GREENE:

6 Q Do you have an independent recollection, Angela, as  
7 to what month and what year these concerns became right up on  
8 your frontal lobe?

9 A Yeah. It was in June of 2016.

10 Q Despite those concerns what happened?

11 A Despite those concerns, we decided to proceed based  
12 on friendship, and, you know, I would agree with  
13 Mr. Christiansen that no good deed goes unpunished. I mean,  
14 that's what we were thinking. I just thought, like, we would,  
15 you know, write a few letters, and then we'd be done with it,  
16 and, you know, we'd get our money for the damages.

17 Q Why did you believe, Angela, that this was going to  
18 be resolved with spending 5- to \$10,000ish on Mr. Simon to get  
19 this thing wrapped up?

20 A I thought it would just be when you just send a few  
21 letters to the insurance company to kind of let you know that  
22 their -- we're serious, and we wanted them to just wrap it up  
23 and that we -- you know, that we had legal representation that  
24 would help us, and so I just thought it would be a few letters.  
25 I had no idea what was about to happen.

1           Q     At any time that you had been in the presence of  
2 Danny or received emails from Danny, did he ever suggest to you  
3 prior to November of 2017 that any work was being performed on  
4 a contingency-fee basis?

5           A     No, never.

6           Q     If, knowing your business background and the way  
7 you've worked, if a contingency fee would have been suggested  
8 back in June of 2016, what would you have decided to do?

9           A     No. There's no way.

10          Q     Why not?

11          A     Because it was a property damage case. There was no  
12 upside to this case, and we were just hoping to get our damages  
13 claim back, which was about a half a million dollars. So it  
14 didn't make sense to do any type of contingency fee at that  
15 time.

16          Q     Do you know whether -- sorry. Danny represented an  
17 hourly fee agreement for either you or Brian to sign?

18          A     He didn't, but he should've.

19          Q     Why do you say that?

20          A     Because usually and, you know, when we start working  
21 with attorneys, but maybe smaller firms don't do this, but at  
22 least the large firms that I've worked at, people generally  
23 sign an engagement letter of some type, and they'll go over,  
24 you know, a range of fees. So I'm used to that. Sometimes  
25 with the smaller attorneys, if they're just one- or two-person



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?