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

4 Electronically Filed
5 Apr 02 2020 10:45 a.m.
6 Elizabeth A. Brown
7 Clerk of Supreme Court

8 **RAJWANT KAUR,**

9 Appellant,

10 vs,

11 **JASWINDER SINGH,**

12 Respondent.

CASE NO. 80090

District Court Case No:

04D323977

13
14 **APPELLANT'S APPENDIX - VOLUME III**
15 **Volume I (Bates Stamps AA0001 - 0235)**
16 **Volume II (Bates Stamps AA0236- 0388)**
17 **Volume III (Bates Stamps AA0389 - 0506)**

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LIST OF APPENDIX DOCUMENTS

<u>Title of Document</u>	<u>Filing Date</u>	<u>Volume</u>	<u>Bates Stamp</u>
Acceptance of Service	8.29.2019	I	AA0179
Acceptance of Service	8.29.2019	I	AA0180
Acceptance of Service	8.29.2019	I	AA0181
Affidavit of Resident Witness	8.27.2004	I	AA0006 - 0007
Affidavit of Service	1.9.2019	I	AA0051 - 0053
Appendix of Exhibits to Defendant's Motion to Set Aside Decree of Divorce	1.4.2019	I	AA0011 - 0040
Certificate of Service	9.4.2019	I	AA0227 - 0228
Certificate of Service	9.10.2019	II	AA0276 - 0280
Decree of Divorce	9.08.2004	I	AA0008 - 0010
Defendant's Motion to Set Aside Decree of Divorce	1.7.2019	I	AA0041 - 0050
Defendant's Opposition to Plaintiffs Motion in Limine and Defendant's Countermotion for Attorney's Fees and Costs	9.6.2019	II	AA0258 - 0268
Defendant's Pre-Trial Memorandum	9.5.2019	II	AA0236 - 0257
Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Set Aside Decree of Divorce and Defendant's Opposition to Plaintiff's Countermotion	2.8.2019	I	AA074 - 0084
Defendant's Supplemental Filing	2.12.2019	I	AA0085 - 0137
Exhibits in Support of Motion in Limine	8.30.2019	I	AA0195 - 0221

1	Ex Parte Application for an Order Shortening Time On Motion For Limine	8.30.2019	I	AA0222 - 0225
2				
3	Findings of Fact, Conclusions of Law, and Order	10.22.2019	II	AA0281 - 0289
4	Joint Petition for Summary Decree of Divorce	8.27.2004	I	AA0001 - 0005
5				
6	Motion in Limine	8.30.2019	I	AA0182 - 0194
7	Notice of Appearance of Counsel	1.16.2019	I	AA0054 - 0056
8	Notice of Entry of Findings of Fact, Conclusions of Law, and Order	10.22.2019	II	AA0290 - 0301
9				
10	Notice of Entry of Order From Hearing Held February 13, 2019	3.19.2019	I	AA0141 - 0145
11				
12	Notice of Entry of Stipulation and Order Re: Discovery	5.13.2019	I	AA0165 - 0170
13				
14	Notice of Entry of Stipulation and Order to Continue Trial (First Request)	6.3.2019	I	AA0174 - 0178
15				
16	Notice of Hearing	9.3.2019	I	AA0226
17	Notice of Hearing	9.9.2019	II	AA0269
18	Opposition to Motion to Set Aside Decree of Divorce; Countermotion	1.23.2019	I	AA0057 - 0073
19				
20	Order from Hearing Held February 13, 2019	3.14.2019	I	AA0138 - 0140
21				
22	Order Shortening Time	9.10.2019	II	AA0274 - 0275
23	Plaintiff's Pre-Trial Memorandum	9.5.2019	I	AA0229 - 0235
24	Plaintiff's Witness List	9.9.2019	II	AA0270 - 0272
25	Receipt of Plaintiff's Trial Exhibits	9.10.2019	II	AA0273
26				
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1	Stipulation and Order Re: Discovery	5.10.2019	I	AA0161 - 0164
2	Stipulation and Order to Continue Trial (First Request)	5.30.2019	I	AA0171 - 0173
3				
4	Transcript re: All Pending Motions	4.9.2019	I	AA0146 - 0160
5				
6	Transcript re: Evidentiary Hearing (9.12.2019)	1.31.2020	II	AA0302 - 0388
7	Transcript re: Evidentiary Hearing (9.13.2019)	1.31.2020	III	AA0389 - 0506
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AFFIRMATION

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding documents
filed in the above-referenced matter does not contain the social security number
of any person.

DATED this 30 day of March, 2020.

KAINEN LAW GROUP, PLLC

By: 

ANDREW L. KYNASTON, ESQ.
Nevada Bar No. 8147
RACHEAL H. MASTEL, ESQ.
Nevada Bar No. 11646
Attorneys for Appellant

CERTIFICATE OF SERVICE

I the undersigned hereby certify that I am an employee of the KAINEN LAW GROUP, PLLC, located at 3303 Novat Street, Suite 200, Las Vegas, Nevada 89129, and on the 2 day of APRIL, 2020, I served a true and correct copy of the *Appellant's Appendix - Volume III* on all interested parties to this action as follows:

☒ Electronically through the Court's ECF system:

F. Peter James

Racheal H. Mastel

☒ By Traditional Means:

Andrew L. Kynaston



An Employee of
KAINEN LAW GROUP, PLLC

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TRANS

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FILED

JAN 31 2020

Alana H. Johnson
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

IN THE MATTER OF THE)	
JOINT PETITION FOR)	
DIVORCE OF:)	
JASWINDER SINGH,)	CASE NO. 04D323977
and)	DEPT. P
RAJWANT KAUR.)	APPEAL NO. 80090
)	

BEFORE THE HONORABLE SANDRA POMRENZE
DISTRICT COURT JUDGE

TRANSCRIPT RE: EVIDENTIARY HEARING

FRIDAY, SEPTEMBER 13, 2019

1 APPEARANCES:

2 The Plaintiff: JASWINDER SINGH
3 For the Plaintiff: F. PETER JAMES, ESQ.
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6 Las Vegas, NV 89102
7 (702) 256-0087

8 The Defendant: RAJWANT KAUR
9 For the Defendant: ANDREW KYNASTON, ESQ.
10 3303 Novat Street,
11 Suite 200
12 Las Vegas, NV 89129
13 (702) 823-4900

14 Also Present: MUNIR QURESHI
15 Court Interpreter

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1 LAS VEGAS, NEVADA

FRIDAY, SEPTEMBER 13, 2019

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

3 (THE PROCEEDINGS BEGAN AT 09:41:27)

4

5 THE COURT: All right. We are here on case number
6 D323977, Singh versus Kaur. Counsel, please state your names
7 and Bar numbers for the record.

8 MR. JAMES: Good morning, Your Honor. Peter James,
9 10091, here with Jaswinder Singh.

10 MR. KYNASTON: Good morning, Your Honor. Andrew
11 Kynaston. My Bar number is 8147. I'm here with the
12 Defendant, Rajwant Kar -- Kaur.

13 MR. JAMES: And the Punjabi interpreter is also
14 here.

15 THE INTERPRETER: Munir Qureshi.

16 THE COURT: Okay. And you're our registered
17 interpreter?

18 THE INTERPRETER: Yes, I am.

19 THE COURT: Okay. And that's in Punjabi?

20 THE INTERPRETER: Yes, indeed.

21 THE COURT: Okay. Well, let's pick up where we left
22 off.

23 THE CLERK: Okay. I need to re-swear him? Judge, I
24 need to re-swear him for today?

1 THE COURT: Yes.
2 THE CLERK: Okay. So --
3 THE COURT: Sorry.
4 THE CLERK: -- please stand. Raise your right hand.
5 (OATH ADMINISTERED)
6 THE PLAINTIFF: Okay.
7 THE CLERK: Okay, please be seated.
8 THE COURT: Proceed, Counsel.
9 JASWINDER SINGH
10 called as a witness on behalf of the Defendant and having been
11 first duly sworn, did testify upon his oath as follows on:
12 DIRECT EXAMINATION CONTINUED
13 BY MR. KYNASTON:
14 Q Good morning, Mr. Singh. As -- when we left
15 yesterday, I was asking you about your surgeries. You've been
16 through -- you testified that you've had a number of
17 surgeries. Okay. So just since 2004, how many surgeries have
18 you had?
19 A The surgeries took place before 2004.
20 Q You haven't had any surgeries since 2000 -- after
21 2004?
22 A Yes, I had a major surgery after 2000 --
23 THE COURT: I'm sorry, what?
24 THE PLAINTIFF: I had a major surgery after 2004.

1 BY MR. KYNASTON:
2 Q And when did that surgery occur?
3 A In 2012.
4 Q And that was on your pancreas; is that correct?
5 A Yes, I had cancer in the pancreas.
6 Q Okay. And after you had your surgery, was there a
7 recovery period?
8 A I have -- I had been bedridden for 10 -- nine, 10
9 months.
10 THE COURT: Sir, let me ask you if you could -- I
11 know when somebody's asking you a question, when you answer,
12 you want to look at them. But when you look at him, I don't
13 hear you as well. So if --
14 THE INTERPRETER: Okay.
15 THE COURT: -- you could listen to his question,
16 provide the --
17 THE INTERPRETER: Answer to you.
18 THE COURT: -- interpretation --
19 THE INTERPRETER: Okay.
20 THE COURT: -- looking at me --
21 THE INTERPRETER: I will.
22 THE COURT: -- that would make -- I wouldn't keep
23 interrupting you.
24 THE INTERPRETER: Sure, thank you. Thank you.

1 THE COURT: Would you translate that for him?

2 Because that's your job.

3 THE COURT: Okay.

4 THE PLAINTIFF: I -- I do understand you only when I
5 look at you and --

6 THE COURT: I -- I'm not directing this to the
7 witness, I'm directing this to you, sir.

8 THE PLAINTIFF: Okay.

9 BY MR. KYNASTON:

10 Q All right. Let me re-state the question. Okay. So
11 I was asking, did you have a recovery period after your
12 pancreas surgery?

13 A The surgeon gave me six/seven years to recover fully
14 from the surgery. After nine months, I was able to sit in the
15 bed and move around a little.

16 Q Okay. So you were bedridden for about nine months
17 after the surgery?

18 A Yes. I would go only for the therapy. While being
19 on the bed, I had -- certain parts of my body shrank, and so I
20 had to go for therapy.

21 Q Okay. And did you do your recovery at home?

22 A All the treatment went through -- at -- at home. I
23 used to get IV from a nurse practitioner from time to time.

24 Q Okay. And when you were recovering at home, who was

1 taking care of you?

2 A My father was there.

3 THE COURT: I'm sorry, what?

4 THE PLAINTIFF: My father was there.

5 BY MR. KYNASTON:

6 Q So your testimony is your father was providing for
7 your care during your recovery?

8 A I -- I had very little problem at night time.
9 That's (indiscernible) --

10 Q Okay. Well, the Defendant's a nurse, correct? The
11 Defendant, she's a nurse by training; is that correct?

12 A Yes, she is.

13 Q Okay. And didn't she take care of you during your
14 recovery?

15 A When there was a -- a serious trouble. I was in
16 coma. At that time, she helped me with -- when I recover from
17 coma, then my father --

18 THE COURT: I'm sorry, what?

19 THE PLAINTIFF: I was in serious trouble. I was in
20 coma. During that time, she assisted me. But after that, she
21 started going back to her work, and my father took care of me.

22 BY MR. KYNASTON:

23 Q Okay. But was she cooking your meals?

24 A I -- I had no feed from the mouth. I would get all

1 my feed through IV.

2 Q And was your father doing the IVs?

3 A A -- a nurse from the hospital would come to give me
4 IV.

5 Q Isn't it true you continued to show the Defendant as
6 your wife on your medical records?

7 A So at the time that I was seriously ill, I thought
8 that I was about to die. So all my property should go to
9 Rajwant.

10 THE COURT: She couldn't what?

11 THE PLAINTIFF: I was about to -- and I was in the
12 state of mind that I was about to die, so I decided that all
13 my property should go to her. And that is why I had her name
14 on my accounts.

15 BY MR. KYNASTON:

16 Q So the answer to my question is, yes, you included
17 her as your wife on your medical records?

18 A Yes, it is. Yes, it is correct. I was thinking
19 that I was not about to live here, so I gave everything to
20 her.

21 Q So if you died, it was your intention that your --
22 that the Defendant be considered your wife?

23 A The social worker people said that she's your
24 ex-wife. And I told them that, no, I don't have an ex-wife.

1 Everything should go to her.

2 MR. KYNASTON: Your Honor, I'd move to strike any
3 statements that social worker may have made as hearsay.

4 THE COURT: I'm sorry.

5 MR. KYNASTON: Hearsay.

6 THE COURT: I didn't hear that.

7 MR. KYNASTON: Well, part of the -- the part of the
8 testimony where he said that social welfare told him
9 something, I would move to have that stricken as hearsay.

10 THE COURT: You know what? I didn't pick up on
11 that. I'm just going to let it go.

12 MR. KYNASTON: Okay. All right.

13 MR. JAMES: And Your Honor, I'm actually going to
14 raise a relevance objection. There's really only two issues
15 for this Court to decide. Did my client live in Nevada during
16 the relevant time. And if he did, then case is over. If he
17 didn't, then we have to answer to second question, which is
18 did he force the other side to sign the decree?

19 THE COURT: Oh, it's a --

20 MR. JAMES: How they acted --

21 THE COURT: Do you want the -- well, let's follow
22 your logic, Counsel. Because we could interrupt this right
23 now, and I can get a motion for judgment on the evidence as to
24 the first issue if you want. Or we can proceed, and then you

1 can make these arguments in your closing arguments or in your
2 briefs.

3 MR. JAMES: Very good.

4 BY MR. KYNASTON:

5 Q All right. I'm going to move on to another topic.
6 You were aware that Rajwant filed the divorce action in
7 California, correct?

8 A Yes.

9 Q And do you remember about when she filed that
10 action?

11 A In April, she did.

12 Q Of this year or 2018?

13 THE COURT: I'm sorry, I -- I missed that. You
14 looked down --

15 MR. KYNASTON: I --

16 THE COURT: -- when you --

17 MR. KYNASTON: I --

18 THE COURT: -- asked the question.

19 MR. KYNASTON: Oh, I'm sorry. I said -- he -- he
20 said in April, and I'm asking which year.

21 BY MR. KYNASTON:

22 Q Was it the -- this year or 2018?

23 A In 2000 tw -- '18.

24 Q Okay. And were you served with that petition for

1 divorce in California?

2 A Yes. Yes, I was given the summons.

3 Q Okay. Now, if you look in the exhibit book at

4 Exhibit D --

5 THE COURT: Which one?

6 MR. KYNASTON: D, as in David.

7 BY MR. KYNASTON:

8 Q Is this a copy of the petition for divorce that you

9 received?

10 A Yes. My attorney gave it to me. I didn't sign

11 anything. I couldn't read it.

12 Q Okay. But you've testified that you did receive a

13 copy of the petition for divorce in California?

14 A Yes.

15 Q Okay. Now, if you look at Exhibit E, did you file a

16 response to the petition in California?

17 A My attorney gave it. I -- I don't know how to do

18 it.

19 Q Okay. So you hired an attorney in California to --

20 A Yes.

21 Q And that attorney helped you file a response to the

22 petition, correct?

23 A Yes.

24 Q Okay. And does Exhibit E appear to be a copy of the

1 response that was filed by your attorney in California?

2 A I -- I think it is probably that. I can't say. I
3 can't read it. I had given papers to him.

4 Q Okay. Now, if you look at Exhibit E, number 3 where
5 it talks about statistical facts, do you see that? Okay.

6 What did you state was the date of the marriage?

7 THE INTERPRETER: I guess you have to repeat the
8 question.

9 MR. KYNASTON: Okay. All right. Are you able to
10 interpret what he said for the Judge?

11 THE INTERPRETER: Of the -- the attorney might have
12 written somewhere -- I -- I had given him the date, but I
13 don't know what he wrote here.

14 BY MR. KYNASTON:

15 Q Okay. So my question is, is you say on here, the
16 date of marriage was December 31, 1989; is that correct?

17 MR. JAMES: Objection as to form of the question,
18 Judge. This was drafted by counsel, and it was signed by
19 counsel. This was not signed by my client. So --

20 THE COURT: Yeah, but --

21 MR. JAMES: -- for him to --

22 THE COURT: -- she was his --

23 MR. JAMES: -- say that you put --

24 THE COURT: -- authorized representative.

1 MR. JAMES: Yes, but there's also a correction to
2 all of this later.

3 THE COURT: We -- mister -- let Mr. Kynaston get to
4 that, and your client can explain it at that point in time.

5 MR. JAMES: Very good.

6 BY MR. KYNASTON:

7 Q Let me repeat the question. So you stated on here,
8 your attorney who helped you fill out this paperwork, that you
9 hired to represent you, stated that your date of marriage was
10 December 31, 1989; is that correct?

11 A It's either '89 or '90. I had said it yesterday,
12 too.

13 Q Okay. And then if you look over a little further,
14 you said the date of separation was 12/31/2015; is that
15 accurate?

16 A Yes.

17 Q Okay. And then if you look up ov -- up in the
18 caption if the document, it says that if -- I'm looking in the
19 last box. It -- your -- in your response, you respond for a
20 dissolution of the marriage, correct?

21 THE INTERPRETER: Last page?

22 MR. KYNASTON: It's on that same page, up on the top
23 of -- top of the -- the page, there's a box up there.

24 THE INTERPRETER: Okay.

1 MR. KYNASTON: And there's a -- there's a smaller
2 box down at -- at the bottom and it says response, and it
3 says, and request for -- the box is checked -- dissolution of
4 marriage.

5 THE INTERPRETER: Response, marriage, domestic
6 partnership. I don't see dissolution of marriage.

7 MR. KYNASTON: It's under the first column, under
8 the word response. There's an X, dissolution of --

9 THE INTERPRETER: Okay, got it. Got it.

10 MR. KYNASTON: Okay? So let me restate the
11 question.

12 BY MR. KYNASTON:

13 Q So you filed in your response, a request -- you
14 checked the box, and request for. And you checked the box,
15 dissolution of. And you checked the box, marriage. Do you
16 see that?

17 A Yes.

18 Q Okay. Do you recall being served with some
19 interrogatories in California, in the California case?

20 A I had received a paper from the other attorney,
21 stating that we need 75 percent of your property -- 65 percent
22 of your property. And otherwise, you have to leave the house.

23 Q Okay, but my question was, do you recall being
24 served with interrogatories or questions in the California

1 divorce case?

2 A Yes, he (sic) did.

3 Q Okay. Can you please turn to Exhibit O? It's

4 already been admitted by stipulation. Is this a copy of the

5 interrogatories you were served with --

6 THE COURT: Which exhibit?

7 MR. KYNASTON: Exhibit O.

8 THE COURT: Okay.

9 BY MR. KYNASTON:

10 Q Is this a copy of the interrogatories you were

11 served in California?

12 A Whatever came to me, I would give it back to my

13 attorney, and I wouldn't know what to do about it.

14 Q Okay. If you look on the third page of that

15 exhibit, it's DEF0381_3. It's got an --

16 THE COURT: I'm sorry.

17 MR. KYNASTON: -- attachment page.

18 THE COURT: What was the exhibit number?

19 MR. KYNASTON: It's still Exhibit O and it's the

20 third page in. It's Bates Stamped DEF0381_3.

21 THE COURT: Okay.

22 BY MR. KYNASTON:

23 Q Do you see that page? It's got attachment A at the

24 top?

1 A Read it out. I -- I can't say otherwise.

2 Q Okay. So number one, the first interrogatory in
3 California says -- and the interpreter can translate for you.
4 Do you contend that you and Petitioner terminated your
5 marriage in July 2004 in the state of Nevada?

6 A Yes, it was asked.

7 Q Okay. Now look over at Exhibit P, which has also
8 been admitted by stipulation. Is this a copy of your response
9 to the interrogatories in California?

10 A Who sent that?

11 Q Is this -- is it your attorney's name on the top of
12 that page, Constance Bessada (ph)? Is that your California
13 attorney?

14 A Yes.

15 Q Okay. And she helped prepare the responses to the
16 interrogatories, correct?

17 A Yes.

18 Q Okay. So in response to cor -- interrogatory number
19 one that we just read, you answered no; is that correct? If
20 you look at the bottom of that page, is that correct?

21 A I -- I don't know what was the response given. It
22 was given by her.

23 Q Okay. Well, if you look on -- if you look on the
24 last page of that exhibit, DEF0390_3 -- still in Exhibit P.

1 What -- this document is called verification, at the top of
2 the page. Do you see that?

3 THE INTERPRETER: Are -- are we reading from
4 DEF0389_3?

5 MR. KYNASTON: Okay, you need to go over one more
6 page. Okay. Do you see where it says verification?

7 THE INTERPRETER: Yes.

8 MR. KYNASTON: Okay.

9 BY MR. KYNASTON:

10 Q Mr. Singh, is your signature on this page?

11 A Yes. They are here.

12 Q Okay. So you signed the verification that the
13 answers to the interrogatories were true; is that correct?

14 A The attorney asked me to sign it, so I signed it.

15 Q Okay. Now it was mentioned by your attorney, at
16 some point in the California litigation, you sought to amend
17 your response; is that correct?

18 A I -- I didn't do anything. That -- whatever paper
19 came, I -- I gave it to the attorney.

20 Q Okay. But did you amend your response to the
21 petition for divorce in California?

22 A No, I didn't do anything.

23 Q Okay. Will you please look at Exhibit F? Okay.

24 And I want you to look at the page -- it's three pages in, DEF

1 -- Bates Stamp DEF012. Do you see that page?
2 A Yes.
3 Q And is your signature on that page?
4 A Yes, there are two signs.
5 Q Okay. So now, go back to the beginning of that
6 document. Can you identify this document?
7 A No, I don't know. What is this?
8 Q Okay. You look up in the box at the top, you see
9 where it -- the big box is. There's a box that -- checked
10 that says amended. Do you see that?
11 A I -- I don't remember. It could have happened.
12 Q Okay. Now go back to number 3 on that form, on that
13 same page, the one we looked at before, statistical facts. Do
14 you see that? Okay.
15 THE INTERPRETER: Could you ask the question?
16 MR. KYNASTON: Yeah.
17 BY MR. KYNASTON:
18 Q So it sa -- you state on here, the date of marriage
19 is now November 11th, 1989.
20 THE INTERPRETER: Can he talk?
21 MR. KYNASTON: Sorry?
22 THE INTERPRETER: Can he talk?
23 MR. KYNASTON: Yes, I want him to answer my
24 question.

1 THE PLAINTIFF: I -- I had submitted that it was
2 either in 1989 or 1990.

3 BY MR. KYNASTON:

4 Q Okay. So --

5 A I don't know --

6 Q -- you're not really sure the date of the marriage?

7 A No, I -- I'm not sure of the date. I said 1989 or
8 '90.

9 Q Okay. And then if you look on that same line, you
10 now say the date of separation is November 27th, 2004; is that
11 correct?

12 THE INTERPRETER: Here, it's written dissolution.
13 Separation has been crossed.

14 MR. KYNASTON: Okay. Yeah, they wrote dissolution.
15 I -- I apologize.

16 BY MR. KYNASTON:

17 Q So date of dissolution, now, you say is 11/27/2004;
18 is that correct? Is that correct?

19 A No, I don't remember this. It was 15 years ago.

20 Q Okay. And then look back at that third page again,
21 DEF -- with your signature, DEF012. Do you see that, where
22 your --

23 THE INTERPRETER: DEF --

24 MR. KYNASTON: -- signature is?

1 THE INTERPRETER: -- zero-one-two?

2 MR. KYNASTON: Yes.

3 THE INTERPRETER: Okay.

4 BY MR. KYNASTON:

5 Q And this was signed in October -- October 25, 2018,
6 correct?

7 A The attorneys asked me to sign, and I signed the
8 papers.

9 Q Right. But did you sign it on October 25, 2018?

10 A I -- I know that these are my signatures, and I
11 signed it in 2018. And whatever I was asked to sign, I
12 signed.

13 Q Mr. Singh, isn't it true that you've never lived in
14 the Jansen Avenue address in Las Vegas, Nevada?

15 THE COURT: I'm sorry, what?

16 MR. KYNASTON: That he never lived in the Jansen
17 Avenue -- that was the address for Mr. Pabla's (ph) house in
18 Las Vegas, Nevada.

19 BY MR. KYNASTON:

20 Q You've never lived in that house?

21 A Yes, I -- I stayed with him. It -- he -- he did not
22 come to me in California. I stayed with him.

23 Q But I asked you if you'd lived there. Did you live
24 in that house?

1 A Yes, I -- I lived there. That's why this thing
2 happened.

3 Q Okay. And isn't it true that you actually just
4 traveled on one day in August to Nevada and did all the
5 divorce paperwork and then went home?

6 A It was a long time ago. I don't know where his
7 house is now. It -- the -- all the paperwork was done, and I
8 have forgotten as to what was in that.

9 Q Okay, but my question was did you travel to Las
10 Vegas on August 27, 2004 and file a joint petition for
11 divorce?

12 A I -- I came to him.

13 Q To who?

14 A I came to Pabla.

15 THE COURT: Want to try your question one more time?

16 MR. KYNASTON: Yes.

17 BY MR. KYNASTON:

18 Q I'm asking if you traveled to Las Vegas, Nevada on
19 August 27th, 2004 and filed your petition for divorce in
20 Nevada.

21 MR. JAMES: Objection, it's a compound question.

22 THE COURT: Overruled.

23 THE INTERPRETER: Okay.

24 THE PLAINTIFF: So.

1 BY MR. KYNASTON:

2 Q Did you -- is that -- did you answer in English?

3 THE INTERPRETER: So is the --

4 MR. KYNASTON: So?

5 THE INTERPRETER: -- response.

6 MR. KYNASTON: So? S-o? I don't understand the

7 response.

8 THE INTERPRETER: He didn't understand the question.

9 THE COURT: Try it one more time, Mr. Kynaston.

10 MR. KYNASTON: Okay.

11 BY MR. KYNASTON:

12 Q All right. Let me break it down. Did you travel --

13 travel from California to Las Vegas on or -- August 27, 2004?

14 A Yes.

15 Q Okay. And when you were here, did you file a

16 petition for divorce?

17 A Yes.

18 Q After you filed the petition, did you turn around

19 and go back home?

20 A No, I -- I stayed with Pabla.

21 Q For how long?

22 A About five, six weeks.

23 Q After you filed the petition?

24 A Yes, I stayed for some time after that and then went

1 back.

2 Q When you returned to California, did you continue to
3 hold yourself out as husband and wife with the Defendant?

4 MR. JAMES: I'm going to object, as it calls for a
5 legal conclusion.

6 THE COURT: I don't think that does. I think that's
7 pretty straight forward. Hold yourself out as husband and
8 wife?

9 MR. JAMES: It's a term of legal art.

10 THE COURT: You know what? Because you're having so
11 many problems getting responses, why don't you rephrase it --

12 MR. KYNASTON: Okay.

13 THE COURT: -- so that we eliminate that objection?

14 MR. KYNASTON: All right.

15 BY MR. KYNASTON:

16 Q Mr. Singh, when you returned to California, did you
17 continue to tell people that you and Rajwant were married?

18 A No, I didn't talk to anybody.

19 Q Did you tell anyone that she was your wife?

20 A No, I didn't talk to anybody.

21 Q All right. I'm almost done. Mr. Singh, do you know
22 -- do you know a Jagtar (ph) Singh?

23 THE COURT: Who?

24 MR. KYNASTON: Jagtar Singh. He's one of the

1 witnesses that we've named.

2 THE PLAINTIFF: Yes, he is Kaur's brother.

3 BY MR. KYNASTON:

4 Q He's the Defendant's brother?

5 A Yes.

6 Q And has he been to your home?

7 A No, we are not on speaking terms.

8 Q But has he ever been to your home?

9 A I -- I don't have any relations with him. When my
10 parents came, we moved away.

11 Q Didn't he live in the same apartment complex and you
12 and defen -- and the Defendant for a period of time?

13 A Yes, he was there for some time, and then he moved
14 away.

15 Q Okay. And when he lived there, did he come to your
16 home?

17 A No, we had no relations to each other.

18 Q So he was your wife's brother, and you had no
19 relationship with him?

20 A No, we had -- we were not on talking terms with each
21 other.

22 THE COURT: I'm sorry, what?

23 THE PLAINTIFF: We were not on talking terms with
24 each other.

1 THE COURT: You might want to turn that off.

2 BY MR. KYNASTON:

3 Q I've -- did you ever go to temple with him?

4 A No, I don't have -- in 2018, he was about to hit me,
5 so I don't even go --

6 THE COURT: He was about --

7 THE PLAINTIFF: -- out of --

8 THE COURT: -- to what?

9 THE PLAINTIFF: -- my house. In 2018, he tried to
10 hit me, and I -- no, I don't go out of my house.

11 BY MR. KYNASTON:

12 Q So if I understand your testimony, you have no
13 relationship with him, correct?

14 A No, I don't have any -- any relation with him. We
15 are not on speaking terms.

16 Q How long have you not been on speaking terms?

17 A In 2000, my father came and lived with me. And
18 after that, we didn't have any relations with him.

19 Q So you have no -- had no relationship since 2000?

20 A Yes. His wife had come, and they moved away from
21 there.

22 Q Do you have his phone number?

23 A No, I don't.

24 Q Do you know where he lives?

1 A No, I don't.

2 Q Okay. Do you know Supal Grenwal (ph) or Grenwal?

3 A I -- I believe he is -- is nephew of Kaur and lives
4 far.

5 THE COURT: Lives what?

6 THE PLAINTIFF: Lives far from me. About 36, 37
7 miles away from me.

8 BY MR. KYNASTON:

9 Q But still in California?

10 A In Simi Valley, California.

11 Q Okay. Has he ever been to your home?

12 A No, he didn't come to my apartment.

13 Q Is he --

14 A They didn't like me.

15 Q Okay. So he's never been to your home for dinner?
16 Tea?

17 A He came to our house, but not in the apartment.

18 Q Okay. Do you have his phone number?

19 A No, I don't have anybody's phone number.

20 Q You said he lives about 37 miles away. Do you have
21 his address?

22 A No, I don't have it.

23 Q But you know who he is, right?

24 A I -- I know that he's her nephew.

1 Q Okay. I have one -- one last -- do you know who
2 Guriqbal Pandher is? If I'm saying that right.
3 THE COURT: You want to say that --
4 MR. KYNASTON: Guriqbal --
5 THE COURT: -- a little clearer?
6 MR. KYNASTON: -- Pandher -- Pandher? Guriqbal
7 Pandher?
8 THE COURT: You want to spell that?
9 MR. KYNASTON: Yeah.
10 MR. JAMES: I wouldn't object for him showing the
11 translator the name if he can say it.
12 THE COURT: I'm sorry, what?
13 MR. JAMES: I would not object if Mr. Kynaston
14 wanted to show the translator the name so he could say it.
15 THE COURT: If I could just get a spelling so I get
16 --
17 MR. KYNASTON: I'll get --
18 THE COURT: -- some sense of what the name is.
19 MR. KYNASTON: I'll get a spelling.
20 (Pause)
21 BY MR. KYNASTON:
22 Q G-u-r-i-q-b-a-l. And the last name is
23 P-a-n-d-h-e-r.
24 A He is the brother-in-law of her nephew.

1 Q Okay, so also someone that you know?
2 A We used to get together in the church.
3 Q Okay.
4 MR. KYNASTON: I don't have any further questions,
5 Your Honor.
6 THE COURT: Proceed, Counsel.
7 MR. JAMES: All right.
8 CROSS EXAMINATION
9 BY MR. JAMES:
10 Q Mr. Singh, you testified earlier that you have
11 memory issues.
12 A Yes. When I get under pressure, then I -- I lose
13 track of things.
14 Q And what caused you to have memory issues, if
15 anything?
16 THE INTERPRETER: I guess you -- can you repeat it
17 again? I have to repeat the question.
18 BY MR. JAMES:
19 Q What caused your memory issues, if anything?
20 A The doctor told me that, you -- you take a lot of
21 stress. That's why the memory issues.
22 Q Was there an initial event that caused this?
23 A I -- I don't know how to say it. But since this
24 case has started, I'm having these issues.

1 THE COURT: I'm sorry, what?
2 THE INTERPRETER: I'm having these memory issues. I
3 -- I think he didn't understand the question.
4 THE COURT: Why are you mumbling to mister -- and
5 not talking to me? I didn't hear the answer, and that becomes
6 problematical because I'm the one that's supposed to be making
7 the decision. If I don't have the answer, maybe I have to
8 disregard the answer. And I don't think you want that,
9 Counsel.
10 MR. JAMES: No, Your --
11 THE COURT: So --
12 MR. JAMES: -- Honor.
13 THE COURT: -- what was the answer you gave?
14 THE INTERPRETER: The answer was not to the question
15 correctly. It was his own response and again --
16 THE COURT: I understand. What --
17 THE INTERPRETER: -- again, that since this -- this
18 case started, I am under pressure, and I have memory issues.
19 BY MR. JAMES:
20 Q Were you ever shot in the head?
21 MR. KYNASTON: Objection --
22 THE COURT: Sus --
23 MR. KYNASTON: -- leading.
24 THE COURT: Sustained.

1 MR. JAMES: It's a --
2 THE COURT: He answered --
3 MR. JAMES: -- yes or no --
4 THE COURT: -- your question.
5 MR. JAMES: -- question.
6 THE COURT: Now you're trying to feed him a new
7 answer. Sustained.
8 (Pause)
9 MR. JAMES: Permission to lead slightly on this
10 issue as a foundational matter, Your Honor? It's not as to
11 the --
12 THE COURT: I guess --
13 MR. JAMES: -- ultimate issue.
14 THE COURT: -- this begs the question, do you intend
15 to pretend to -- present a case in chief if I find that the
16 burden has shifted? In other words, as often happens in civil
17 domestic cases, for the sake of convenience of everybody and
18 efficiency, attorneys will agree to combine their respective
19 ch -- cases-in-chief so that their witnesses don't end up
20 getting called twice. Okay?
21 That creates some flexibility, but it also can
22 create some evidentiary problems for the party seeking to do
23 so. So I asked you because right now, in the context of where
24 we are now, your question is leading. Now, if you want to

1 present a separate case in chief, I may be looking at Mr.
2 Kynaston's objection in a different way. I don't know the
3 answer. I can't give you that guarantee. But in the context
4 of where we are now, if you want to present your case in chief
5 now or wait, that's going to be your call.

6 MR. JAMES: I was generally -- Your Honor, my
7 standard practice is to do a case in chief after I do rebuttal
8 upon --

9 THE COURT: Well, and -- and again, I certainly
10 think that that's the normal way to do it. I'm just
11 referencing the fact that because of, you know, time
12 constraints and everything else, sometimes parties will choose
13 to present all of it at once because then they don't -- aren't
14 recalling a particular witness.

15 If it's your intent to recall your client should the
16 burden shift, then I'm going to sustain the objection. Okay?
17 So is it your intent to call your client if, in fact, I decide
18 that the burden has shifted? Is it your intent to present a
19 case in chief with your client?

20 MR. JAMES: I could do it either way, Judge. I
21 could do --

22 THE COURT: Well --

23 MR. JAMES: -- by full --

24 THE COURT: -- but it's your call, not mine. It's

1 your case to try. It's just mine to decide.

2 MR. JAMES: Just to show the Court where I'm going
3 with this, I have very few questions on direct. It would be a
4 handful of questions. I'm happy to take care of it
5 immediately upon finishing my notes from direct examination.

6 THE COURT: Okay. Right now, you're confined to the
7 scope of direct, okay? That impacts how I'm going to legally
8 view any objection that's made by either party. That may be a
9 different consideration if you're presenting a separate case
10 in chief. So that's a call you have to make, and you have to
11 make it now.

12 MR. JAMES: For expediency Judge, I'll do both now.

13 THE COURT: All right, that's your call. Is that
14 your intent as well?

15 MR. KYNASTON: I -- I have no problem with that.

16 THE COURT: Okay. All right, then I am going to
17 allow the question.

18 BY MR. JAMES:

19 Q So the question was, did you ever have a gunshot
20 wound to the head?

21 A Yes.

22 Q And what effects, if any, have you had from that?

23 A I was about to die at that time.

24 Q And were there any effects that you have today from

1 that?

2 A Yes.

3 Q And what are they?

4 A I -- I have nerve issues, and I -- I feel pain in
5 the area.

6 THE COURT: I'm sorry, what?

7 THE PLAINTIFF: I feel pain in the area.

8 BY MR. JAMES:

9 Q Do you have memory issues from this?

10 MR. KYNASTON: Objection, leading.

11 THE COURT: Sustained. Now you're feeding.

12 BY MR. JAMES:

13 Q When was the gunshot wound to the head?

14 A It was in 1993.

15 (Pause)

16 BY MR. JAMES:

17 Q Do you recall being deposed in this case by Mr.
18 Kynaston?

19 A Yes. Yes, I do.

20 Q Turn to Exhibit X, please.

21 THE COURT: Can I get my deposition back, please?

22 (Pause)

23 THE INTERPRETER: Which page?

24 THE COURT: Page what?

1 MR. JAMES: Thirty-eight of the deposition
2 transcript.
3 THE COURT: Okay, thank you. I didn't hear.
4 (Pause)
5 THE INTERPRETER: Thirty what?
6 MR. JAMES: Thirty-eight. Three-eight.
7 THE INTERPRETER: Thirty-eight.
8 (Pause)
9 THE INTERPRETER: Okay.
10 BY MR. JAMES:
11 Q Line 23, it says I had a gunshot, and because of
12 that, my memory is not very good. Is that what the transcript
13 says?
14 A It's not an accident. I -- I don't pick up things
15 right away.
16 Q Okay. But is that what the transcript says?
17 A Yes. Yes, it is true.
18 Q Thank you. Just give me -- now, you testified
19 earlier that you've lived with the Defendant after the divorce
20 in this case was entered.
21 A Yes.
22 Q And that she currently lives in the same basic
23 household as you do.
24 A Yes.

1 Q My question to you is, why?

2 A She has filed for divorce against me, and she is
3 still living there in that house. You have to ask it from
4 her.

5 Q Okay. Who is permitting her to live in that
6 household?

7 A Not -- there is -- there is no permission. I
8 haven't signed any paper on that. There is no rent. There is
9 no other issue.

10 Q Why haven't you asked her to leave?

11 THE COURT: I'm sorry, what?

12 BY MR. JAMES:

13 Q Why haven't you asked her to leave?

14 A I don't want to get beaten by his -- her relatives.

15 THE COURT: What?

16 THE PLAINTIFF: I don't want to get beaten by his
17 rela -- her relatives.

18 (Pause)

19 BY MR. JAMES:

20 Q Turn to Exhibit Q, please. This is a grant deed
21 that's been previously admitted into evidence and that Mr.
22 Kynaston discussed with you.

23 A Yes.

24 Q Is your signature on this document anywhere?

1 A No, I don't have my signatures on this. No, the two
2 signatures that are here, they are not mine.

3 Q Thank you. Turn to Exhibit E, as in Edward. Turn
4 to the page that says DEF006, which is the third page of the
5 document. A little below halfway, typewritten on the page, is
6 Jaswinder Singh. Do you see that?

7 A Yes.

8 Q Now, is that your signature next to your name?

9 A No, this is not mine.

10 Q Do you know whose it is?

11 A No, I don't know.

12 Q Who is Constance Bessada?

13 A My attorney in California.

14 Q Turn to Exhibit F, please. Do you recall, this is
15 the amended response to the California divorce action?

16 A Okay.

17 Q Turn to page 3, DEF012. Do you see your name on
18 there, about halfway down?

19 A Yes.

20 Q Is that your signature?

21 A Yes, they are.

22 Q Okay. Now turn back to the first page of the
23 document, DEF010. Under heading number one, where it says
24 legal relationship, do you see that?

1 A Yes.

2 Q Are any of the boxes checked?

3 A No.

4 Q And specifically, is the box that says, we are
5 married, checked?

6 A No.

7 Q Turn to Exhibit O, please. Turn to the third page
8 of the exhibit, where it says attachment A, at the top.

9 THE INTERPRETER: Attachment A.

10 BY MR. JAMES:

11 Q Now, throughout the document, it gives a -- it
12 repeats the phrase, terminated your marriage in July 2004 in
13 the state of Nevada. Do you see that that's repeated several
14 times on the page? Do you see that on the page?

15 A Yes. Yes (indiscernible) --

16 Q Turn to Exhibit A, please. A, as in apple. Do you
17 see that document?

18 A Yes.

19 Q This is the decree of divorce. Yes?

20 A Okay.

21 Q All right. What's the -- the file date at the top?

22 A 8th September.

23 Q Of what year?

24 A 2004.

1 Q Okay.

2 MR. JAMES: I'd like the Court to take judicial
3 notice that marriage is ended upon entry of the decree of
4 divorce.

5 THE COURT: That is, effectively, the ultimate
6 question, so I can't take judicial notice of that just yet. I
7 can take notice that a decree of divorce was filed on
8 September 8th of 2004, but I can't take notice as you'd asked
9 me to.

10 MR. JAMES: No, not that this marriage was
11 necessarily ended, but that marriages are ended upon the entry
12 of decree of divorce.

13 THE COURT: I cannot even go that far. Because if
14 it's a fraudulent divorce, then that means the marriage didn't
15 end. So I can't -- it -- you're asking me to take too many
16 leaps.

17 MR. JAMES: Okay. I'll save it for argument.

18 THE COURT: Yeah. It -- I can take notice that
19 there was a decree of divorce filed. Did it end the marriage?
20 That's, basically, the -- the question that's before me. So I
21 can't -- and I -- and I cannot make a blanket statement that
22 all marriages end with all decrees of divorce. Because if
23 they are not valid decrees of divorce, then the marriage is
24 not ended. And that is the reason why I cannot take judicial

1 notice of that.

2 MR. JAMES: Understood. Where I'm going with this
3 is that the attachment A says it was terminated July 4th.

4 THE COURT: I understand. I got your point,
5 Counsel.

6 MR. JAMES: Okay.

7 THE COURT: You don't have to beat it into me.

8 MR. JAMES: Very good.

9 BY MR. JAMES:

10 Q Now, the Defendant claims that you forced her in
11 some way to sign the divorce papers in this case back in 2004.

12 A No, I -- I haven't forced her to do anything.

13 Q Did you threaten her to sign any of these documents
14 in the divorce?

15 A No, I haven't.

16 Q Now, to your knowledge, did the Defendant get
17 remarried after these divorce papers were entered?

18 A Yes, she married my brother.

19 Q Do you remember when she married your brother?

20 A I don't recall the date.

21 MR. JAMES: If I may approach, Your Honor, with a
22 exhibit book to the witness?

23 THE COURT: Yeah, I have no problem.

24 MR. JAMES: Okay. I don't like entering the well

1 and -- without permission, Your Honor.

2 THE COURT: No, and I appreciate that.

3 (Pause)

4 BY MR. JAMES:

5 Q Would you turn to Exhibit 11, please?

6 THE COURT: That's one of the stipulated exhibits,
7 correct?

8 MR. JAMES: Incorrect.

9 THE COURT: What?

10 MR. JAMES: Incorrect.

11 THE COURT: Oh, okay. I don't want to look at it.

12 BY MR. JAMES:

13 Q Do you recognize this document?

14 A It's a marriage certificate.

15 Q Between whom?

16 A This is the marriage between my brother and her.

17 Q By her, do you mean Defendant?

18 A Yes, it is.

19 MR. JAMES: Your Honor, I move to admit Exhibit 11.

20 MR. KYNASTON: Your Honor, I'd object to this
21 exhibit. It's the -- there's no foundation laid. It's -- no
22 way to authenticate it. We don't -- I assume the original was
23 in pon -- Punjabi. I --

24 THE COURT: When's --

1 MR. KYNASTON: -- don't know --
2 THE COURT: -- the first time you saw it, Counsel?
3 MR. KYNASTON: He produced it a couple weeks ago.
4 THE COURT: What?
5 MR. KYNASTON: He produced it a couple of weeks ago.
6 THE COURT: Did he produce it prior to whatever it
7 is -- 21 days from the origin -- from the trial date?
8 MR. KYNASTON: I don't know, exactly, when I got it.
9 THE COURT: Because you have made an objection to
10 authenticity and you'd have 21 days to do so, so that's why
11 I'm asking the question.
12 MR. KYNASTON: Oh. Let me --
13 THE COURT: Mr. James, do you have any kind of ev --
14 proof as to when this document was provided to Mr. Kynaston?
15 MR. JAMES: I'm checking right now. This was served
16 August 27th of this year.
17 THE COURT: Nope, not 21 days, so he still has that
18 objection, I suppose.
19 MR. JAMES: Okay. It is a self-authenticating
20 document. It is a government document.
21 THE COURT: Is there an Apostille?
22 MR. JAMES: No.
23 THE COURT: So is --
24 MR. JAMES: It is --

1 THE COURT: -- it in -- is it in Indian or English?
2 MR. JAMES: It is in English.
3 THE COURT: You get married in India, and you get an
4 English marriage certificate?
5 MR. JAMES: Different --
6 THE COURT: I've got --
7 MR. JAMES: -- countries do --
8 THE COURT: -- a question --
9 MR. JAMES: -- things different ways.
10 THE COURT: -- about authenticity, too, then. I
11 could --
12 MR. JAMES: It is --
13 THE COURT: -- understand -- I mean, I've seen a
14 multitude of marriage documents and divorce documents from
15 other countries. And they are always in the language of that
16 country, and what I am given is an Apostille.
17 MR. JAMES: On here, I can read the -- without going
18 into the merits of it, I can read the --
19 THE COURT: No, but the --
20 MR. JAMES: -- seals that are on it.
21 THE COURT: All right. The problem is, there has to
22 be some indicia of authenticity. I mean --
23 MR. JAMES: Well --
24 THE COURT: -- I hate to -- to nit-pick on that --

1 MR. JAMES: It --

2 THE COURT: -- but frankly, it -- from the
3 standpoint of admissibility, there is an issue of
4 authenticity. And I have my own issue in my head. Because,
5 as I say, when people get married in a country where the
6 language is something other than English, their certificate
7 itself is in Eng -- is not in English. There is, rather, an
8 Apostille with the translation. And if this is simply not, I
9 -- I can't necessarily take a look at it because I don't know
10 that it's valid.

11 MR. JAMES: Well, the first thing, India used to be
12 an English commonwealth, so --

13 THE COURT: I get --

14 MR. JAMES: -- English is a widely-used language
15 there. But there are --

16 THE COURT: Yeah, I understand that. And -- and you
17 know what? I've looked at -- at documents from Austria, where
18 ev -- I've been there, just got back -- everybody's speaking
19 English, okay? And I've gotten documents from former British
20 colonies, okay? But none of them use English for their
21 official documents. They use their native languages for their
22 official documents.

23 Now, if you had provided me with a marriage
24 certificate in Punjabi or another English -- or another Indian

1 dialect with an Apostille that says this is a true and correct
2 translation, then that would get you past the authenticity
3 objection. But since this appears to be a document in
4 English, I have a question about its authenticity as well.

5 MR. JAMES: Well --

6 THE COURT: This looks like -- and I haven't looked
7 at it, but it sounds like it's a translation without an
8 Apostille.

9 MR. JAMES: Actually, no Your Honor, I -- I'm going
10 to assert to you, it does not look like that. There is a seal
11 here --

12 MR. KYNASTON: Mr. James can't authenticate this
13 document on his own.

14 THE COURT: No, you can't. You --

15 MR. JAMES: But the --

16 THE COURT: -- can't testify --

17 MR. JAMES: -- Court is under the assumption --

18 THE COURT: -- as to the document --

19 MR. JAMES: -- that the documents in India are --

20 THE COURT: It is not coming in, Counsel. You know,
21 future reference, practice point. Get me the absolute
22 original document with an Apostille with the translation. And
23 should I get that document or some kind of official government
24 document that says that we do our marriage certificates in

1 English, that would be different. But I think the
2 authenticity argument is still a valid one, and I'm going to
3 sustain the objection. It's not coming in. But you're free
4 to call somebody from the Indian consulate to tell me
5 otherwise.

6 (Pause)

7 BY MR. JAMES:

8 Q Moving on. Your -- the Defendant has stated that
9 your culture demands that she do what you say.

10 MR. KYNASTON: Objection, assumes facts not in
11 evidence.

12 THE COURT: Sustained. She hasn't testified yet.

13 MR. JAMES: Huh?

14 THE COURT: She hasn't testified yet. The only per
15 -- place that is, is in the brief. She hasn't testified yet.

16 MR. JAMES: It's her argument.

17 THE COURT: Well, it's -- it -- it may well be part
18 of the argument, but you can a -- rephrase, Counsel. There's
19 a lot of ways to ask --

20 MR. JAMES: Okay.

21 THE COURT: -- to get you where you need to go.

22 MR. JAMES: Okay.

23 BY MR. JAMES:

24 Q Are you familiar with the Punjabi culture?

1 A What -- what do you mean? Well, what's the intent?

2 Q Okay. You have certain cultural beliefs, true or
3 false?

4 MR. KYNASTON: I'm going to object to this line of
5 questioning. I don't know that the Plaintiff is an expert on
6 the cul -- Punjabi culture, and he hasn't been established as
7 an expert in Punjabi culture.

8 THE COURT: I'm going to sustain that objection. I
9 -- I -- but just understand, I will permit you to call your --
10 your client back if you choose to do some rebuttal after the
11 Defendant has testified.

12 MR. JAMES: Very good, Your Honor. I have no
13 further questions.

14 THE COURT: I may have a couple.

15 (Pause)

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q With regard to Mr. Singh Pabla, with whom you have
19 alleged you resided for a period of time, did you pay him to
20 reside with him?

21 A No, we didn't give any rent.

22 Q And did you pay him to provide you with a resident
23 witness affidavit and assist you in processing the divorce?

24 A No, we didn't pay him.

1 Q So is it your testimony that Mr. Singh Pabla, who is
2 a friend of a friend, provided you with a place to live and
3 assisted you in processing this divorce out of the goodness of
4 his heart?

5 A Yes.

6 Q Now, before you went to Nevada in 2004, did you
7 discuss with anyone what the waiting period or residency
8 period is to get a divorce in Nevada?

9 THE INTERPRETER: Did you specifically ask six-week
10 stay in Nevada?

11 THE COURT: Before you -- let me repeat -- repeat
12 the question.

13 BY THE COURT:

14 Q Before you came in Nevada in 2004, did you discuss
15 with anyone what the residency period was to get a divorce in
16 Nevada?

17 A No, I didn't discuss.

18 Q If you had thought that the residency period in
19 Nevada was a year instead of six weeks, would you have gone to
20 Nevada in the first place?

21 A No, I didn't know that.

22 Q While you were in Nevada, did you fill out any
23 employment applications?

24 A It's -- it's very difficult to get a job here.

1 Q How do you know that?

2 A I -- I had asked that person what kind of jobs are
3 available here and --

4 Q What person?

5 A I -- I talked to Pabla about that, and he said that
6 it's very difficult to get a job here.

7 Q So if you knew it was very difficult to get a job in
8 Nevada, why would you come to Nevada?

9 A No, I didn't know it beforehand.

10 Q So before you came to Nevada, did you think you were
11 going to easily get a job in Nevada?

12 A I -- I -- I had no idea if I would get a job or I
13 would not get a job.

14 Q And so after Mr. Pabla told you it was hard to get a
15 job in Nevada, you didn't even try?

16 A No, it was very difficult to get a job here, so I
17 went back.

18 Q How do know it was difficult if you didn't try?

19 A Yes, I did try, but I -- I didn't get any job.

20 Q Okay, then we get back to my first question. What
21 did you do to try to get a job?

22 A I -- I tried at 7-Eleven, and I didn't get anything
23 here.

24 Q Did you fill out an application?

1 A It -- it was difficult to get an employment
2 instantly. It would take time.

3 Q Okay.

4 A So we --

5 Q Let's --

6 A -- went back.

7 Q -- try my question again.

8 THE INTERPRETER: Yes.

9 BY THE COURT:

10 Q Did you fill out an application at 7-Eleven?

11 A I -- I asked, and they said that there is no
12 opening.

13 Q Did you go to any more 7-Elevens?

14 A Well, I couldn't get a job, so I went back.

15 Q So you never went to any other 7-Elevens?

16 A If someone were to leave the job, only then I would
17 get -- get a job, and it --

18 Q Let me --

19 A -- could take --

20 Q -- ask my --

21 A -- time.

22 Q Let me ask my question again. So you went into one
23 7-Eleven, and you never went into any other 7-Elevens?

24 A I -- I tried at a couple of places, and I couldn't

1 get the job.

2 Q Which ones?

3 A It's a long time ago. I don't recall exactly as to
4 where it is. I can't even go to the same address again.

5 Q Now, your wife had a good job as a nurse in
6 California, correct?

7 A I -- I can't say about that because I don't have
8 good relations with her.

9 Q In 2004, your wife had a good job as a nurse in
10 California, yes or no?

11 A Yes, it was all right.

12 Q Okay. And in 2004, you had a pretty good job, too,
13 correct, in California?

14 A I -- I was working at a minimum wage, so I wanted to
15 try something else.

16 Q Okay. So in 1993, you were shot in the head working
17 at a store like a 7-Eleven, right?

18 A Yes.

19 Q So instead of looking for a job in a warehouse, you
20 went back into a 7-Eleven in 2004?

21 A There was a -- there was a stipulation of minimum
22 wage and restricted hours of work.

23 Q Where?

24 A In the -- in the company in the -- in the warehouse

1 company.

2 Q But it was a steady job, correct?

3 A It was not a perfect job.

4 Q I didn't ask if it was a perfect job. It was a

5 steady job, right?

6 A Yes, it was, but --

7 Q And it was --

8 A -- I wanted to make more money.

9 Q It was full-time employment, correct?

10 A Yes, it was 40 hours.

11 Q And you didn't have the same worries about robbery

12 attempts, right?

13 A No, there are cases of robberies. I -- I got

14 gunshot in robbery.

15 Q During a robbery, right?

16 A Yes.

17 Q Let's talk about Balbinder (ph) Singh Pabla. Your

18 resident witness.

19 A Okay.

20 Q And he was the person who swore under oath that you

21 were a bona fide resident of the state of Nevada, correct?

22 A Yes.

23 Q Since this litigation started up again, what efforts

24 have you made to find Mr. Pabla?

1 A No, I didn't try.

2 Q Okay. And you didn't even Google his name?

3 A No, I didn't. I don't know how to.

4 Q And so sir, you are expecting me to rely on an
5 individual who is not coming forward as the proof of your
6 residency?

7 MR. JAMES: Your Honor, can we sidebar?

8 THE COURT: Well, let me hear the answer, and then
9 I'll make that call.

10 THE PLAINTIFF: At that time, I had some relations
11 with him. After that, he went away. And I don't have any
12 connection with him now.

13 BY THE COURT:

14 Q But you didn't try to find him for this litigation;
15 did you?

16 A No, I didn't try.

17 Q Okay.

18 THE COURT: Mr. James, you get your sidebar. You
19 want to do this on the record or out in the hall?

20 MR. JAMES: On the record's fine.

21 THE COURT: Okay. Come on. We'll do the white
22 noise thing.

23 (BENCH CONFERENCE AS FOLLOWS)

24 MR. JAMES: My office contacted Mr. Pabla, and he

1 was -- he moved down to Louisiana.

2 THE COURT: To where?

3 MR. JAMES: Louisiana.

4 THE COURT: Okay.

5 MR. JAMES: If I remember correctly. He said I

6 don't want anything to do with this, which is why we didn't

7 bring him in as a witness. He's not cooperative. I just --

8 THE COURT: There --

9 MR. JAMES: -- thought I had to --

10 THE COURT: There's a funny thing called a subpoena.

11 And did you provide this new address to Mr. Kynaston, as

12 you're arguing he didn't provide you information?

13 MR. JAMES: I believe I did.

14 THE COURT: Did you have the information to contact

15 Mr. Pabla?

16 MR. KYNASTON: I think the only thing I saw was

17 there was some kind of a deed or something that listed an

18 address somewhere in Louisiana.

19 THE COURT: No -- and we have no phone number?

20 MR. KYNASTON: No.

21 MR. JAMES: My office contacted him.

22 THE COURT: I understand that, but you should have

23 given Mr. Kynaston the opportunity to make -- to do the same

24 thing. Because frankly, I think it's in -- it's necessary

1 when people are arguing that they were bona fide residents,
2 that the person attesting to that fact is able to come forward
3 and confirm that fact.

4 MR. JAMES: And I did --

5 THE COURT: Now, that leaves me with many, many
6 questions because this person is not appearing.

7 MR. JAMES: And I'm aware of the -- what the --

8 THE COURT: And I am --

9 MR. JAMES: -- adverse --

10 THE COURT: -- not --

11 MR. JAMES: -- consequence are.

12 THE COURT: This Court is not unmindful of the
13 number of people who come to get quickie divorces in Nevada,
14 don't intend to be residents. I mean, I don't -- you know,
15 the Vaile case talks about that. I appreciate that. But it
16 -- it's a constant, and it's something that we -- that we
17 struggle with on a regular basis.

18 So most of my colleagues, myself included, expect to
19 hear from that resident witness when that's a question. And I
20 would have expected more herculean efforts to get some
21 testimony from him. That's why I asked your client the
22 question, okay?

23 MR. JAMES: Okay. And I understand the adverse
24 consequence of him not --

1 THE COURT: Right. Because maybe if your client had
2 talked to him, because they're such buddies, maybe he would
3 have been forthcoming.

4 MR. JAMES: Yeah.

5 THE COURT: But he didn't, and I don't have that
6 resident witness. All I've got is your client and this
7 Defendant, and I have to make credibility findings. And the
8 fact that a particular witness would be crucial to corroborate
9 your client isn't present, there's nothing from him, no
10 affidavit, no nothing, that -- that is a problem and that's
11 why I asked him the question.

12 MR. JAMES: There is an affidavit, the affidavit of
13 resident witness.

14 THE COURT: Yeah. You know how many false ones I've
15 seen over 15 years? There were a couple of attorneys,
16 long-time attorneys, and they always came in with these
17 divorces. And everybody was from the Philippines, and the
18 resident witness started looking really familiar. Because you
19 can't get a divorce in the Philippines, and that -- and that's
20 why it's for -- and again, I'm not --

21 MR. JAMES: I know.

22 THE COURT: -- tying that to this. But over time,
23 we all become somewhat skeptical with this scenario. And it
24 would have helped your client greatly if this particular

1 resident witness provided some evidence and testimony. We
2 could have put him on TV. But without that, it's a problem.
3 All right.

4 MR. JAMES: I understand, Your Honor.

5 (END OF BENCH CONFERENCE)

6 VOIR DIRE EXAMINATION CONTINUED

7 BY THE COURT:

8 Q Okay. Sir, you have Costco card, correct?

9 A Yes.

10 Q And you still regularly shop at Costco?

11 A Yes, I have it with my father.

12 Q Okay. And when you go to check out what you
13 purchased, you hand your card to the clerk, right?

14 A Yes.

15 Q And you've seen the clerk at Costco turn the card
16 around to look at your picture, right?

17 A Sometimes they do. Sometimes they don't.

18 Q But it's your testimony that on multiple occasions,
19 someone else was able to use your card at Costco?

20 A Yes.

21 (Pause)

22 THE COURT: Okay, I have no further questions.

23 MR. KYNASTON: I just have a couple, Your Honor, on
24 redirect.

1 REDIRECT EXAMINATION

2 BY MR. KYNASTON:

3 Q Mr. Singh, you testified that you have some memory
4 issues; is that correct?

5 A Yes, since 1930 (sic). Sometimes I recall a little
6 bit later.

7 Q Okay. Are you taking any medication for memory
8 issues?

9 A No, I don't get any medication. I have only this
10 advice from the physician that, take it easy, don't take so
11 much stress --

12 MR. KYNASTON: I'd object to --

13 THE PLAINTIFF: -- and you'll be okay.

14 MR. KYNASTON: -- any comment from the physician as
15 hearsay.

16 MR. JAMES: For medical diagnosis, Your Honor.

17 THE COURT: I'll strike it. I take that back. I'm
18 not striking it. He didn't, verbatim, say what the physician
19 said.

20 MR. KYNASTON: Okay.

21 THE COURT: And it's simply repeating advice that he
22 claims he got.

23 MR. KYNASTON: All right.

24 BY MR. KYNASTON:

1 Q Are you being treated for memory loss by any
2 physician?
3 A No. I don't have any doctor for that.
4 Q And when you were shot in 1993, where were you shot?
5 A Yeah, it came from -- from the front to the side of
6 my head.
7 Q So like, in the jaw area and then it came back?
8 A Yes, they broke.
9 Q Okay. And did the bullet af -- touch your brain?
10 A I -- I don't know. Only the doctors would know if
11 it did.
12 Q Okay. You didn't have to have any brain surgery
13 because of it?
14 A They did something. I don't know what.
15 Q Okay. But you recovered from the -- from the
16 gunshot?
17 A For six, seven years, I continued to be bedridden,
18 and I used to get IV.
19 Q Okay, but this was, like, 25 years ago, roughly?
20 A It's -- it was in 1993, yeah.
21 Q And you've been able to work?
22 A I started working again in 1998.
23 Q Okay. Mr. James asked you about the grant deed when
24 you bought the house in 2009. Do you remember about --

1 remember that?

2 A Yes. He -- he showed me those.

3 THE COURT: I'm sorry, what?

4 THE PLAINTIFF: Yes, he showed me just now.

5 BY MR. KYNASTON:

6 Q Okay. And he pointed out that you don't -- your
7 signature's not on the deed; is that correct?

8 A Yes, there are no -- my --

9 Q Okay.

10 A My signatures are not there.

11 Q All right. And do you know if you're the recipient,
12 if you're the person buying the property, if you have to sign
13 the deed?

14 A No, I don't know that.

15 THE COURT: Counsel, approach.

16 (BENCH CONFERENCE AS FOLLOWS)

17 THE COURT: I don't want to -- you to mislead the
18 Plaintiff. When you purchase property, there are various
19 documents you sign, like a HUD disclosure statement and stuff
20 like that. Not every state requires that the recipient of a
21 deed sign the deed itself.

22 MR. KYNASTON: Right. I'm just trying to establish
23 that he doesn't know.

24 THE COURT: Okay. But and again, I -- you know,

1 you're asking him to -- it -- it's sort of a misleading
2 question, is --
3 MR. KYNASTON: Okay.
4 THE COURT: -- what concerns --
5 MR. KYNASTON: Well --
6 THE COURT: -- me about that.
7 MR. KYNASTON: -- when Mr. James asked about it, it
8 was misleading. He's trying to make it sound like --
9 THE COURT: I know, but --
10 MR. KYNASTON: -- it's not a --
11 THE COURT: -- it didn't --
12 MR. KYNASTON: -- valid deed because --
13 THE COURT: -- it didn't mean --
14 MR. KYNASTON: -- he didn't --
15 THE COURT: -- anything to --
16 MR. KYNASTON: -- sign it.
17 THE COURT: -- me because you don't sign. The --
18 MR. KYNASTON: Okay.
19 THE COURT: -- the recipient, generally, doesn't
20 sign --
21 MR. KYNASTON: Okay.
22 THE COURT: -- the deed.
23 MR. KYNASTON: I will just --
24 THE COURT: They sign a --

1 MR. KYNASTON: I don't --

2 THE COURT: -- bunch of other stuff, but.

3 MR. KYNASTON: I'll withdraw the question --

4 THE COURT: Okay.

5 MR. KYNASTON: -- and --

6 THE COURT: Thank you.

7 (END OF BENCH CONFERENCE)

8 MR. KYNASTON: I -- I'm going to withdraw my last
9 question.

10 BY MR. KYNASTON:

11 Q Okay. Mr. James also asked you about your answers
12 to the interrogatories in California. Do you recall that?

13 A Yes. /

14 Q Okay. When I previously asked you about the
15 question that was asked, whether you and the Defendant were
16 divorced in July of 2004, you in -- you indicated in your
17 interrogatory, the answer was no, correct?

18 A I -- I don't recall that. When was it asked in
19 2004?

20 Q Okay. Well, let -- let me ask it a different way.
21 When you answered no to the question about whether you and the
22 Defendant had been divorced in July 2004, did you answer no
23 because the date was wrong or because you hadn't been -- you
24 didn't believe you were divorced?

1 A I -- I don't recall the month. I do remember the
2 year, 2004.

3 Q Okay. But my question is, was your answer no
4 because the date was wrong or because you didn't believe you
5 had been divorced?

6 A Yes, it was concerning the date.

7 Q Okay. And did you provide any additional
8 information in your response to clarify that it was because
9 the date was wrong?

10 MR. JAMES: Objection, the -- it asks for a yes or
11 no question in there. There was no room for a response. It
12 just says did -- did it happen, yes or no. So it gets kind of
13 misleading --

14 THE COURT: I don't -- I don't think either party
15 has a great handle on dates, so I don't know how far you want
16 to go with it. As I look at the documentation.

17 MR. KYNASTON: I -- that's fine.

18 BY MR. KYNASTON:

19 Q A couple more things. You testified that your --
20 that Rajwant married your brother; is that right?

21 A Yes.

22 Q And you went to India with her with she married your
23 brother, correct? You -- you went to India with her when she
24 went to marry your brother; is that correct?

1 A Yes.

2 Q Wasn't it upsetting to you that she was divorcing

3 you and marrying her (sic) brother?

4 A I -- I didn't have any objection.

5 Q So you went to their wedding?

6 A No, I didn't go.

7 Q Didn't your brother marry someone else a few days

8 before he married the Defendant?

9 A I don't know that.

10 Q Well, isn't your brother married?

11 A I don't know. I was here.

12 Q You don't know if your own brother's married?

13 MR. JAMES: Objection, argumentative.

14 THE COURT: Overruled.

15 THE PLAINTIFF: If he was taking some girlfriend

16 with him, how would I know if he is married or not?

17 BY MR. KYNASTON:

18 Q Well, doesn't he have a daughter with his wife?

19 MR. JAMES: Objection as to phrasing.

20 THE COURT: It's what?

21 MR. JAMES: Objection to phrasing. Mr. Kynaston --

22 THE COURT: Does he --

23 MR. JAMES: -- referred to --

24 THE COURT: -- have a daughter --

1 MR. JAMES: -- Defendant as wife.
2 THE COURT: -- with his wife?
3 MR. JAMES: It's ex-wife. As of right now, it's ex-
4 wife.
5 MR. KYNASTON: I don't know it's his ex-wife.
6 THE COURT: All right. Let me ask it this way to
7 clear it up, just make it easy. Did your brother have a child
8 with a women he was once married to?
9 THE PLAINTIFF: I have no information regarding
10 that. He married Rajwant.
11 THE COURT: What?
12 THE PLAINTIFF: He married Rajwant after we were
13 divorced.
14 BY MR. KYNASTON:
15 Q After Rajwant married your brother, didn't you and
16 Rajwant then go back to California and continue to live
17 together?
18 A I came back. And after that, when she came back,
19 she stayed there with her family. And I didn't or could
20 object to that.
21 Q Well, you -- you stated in your answers to
22 interrogatories that other than between June 13, 2004 and
23 mid-September 2004, that you and Rajwant have been together.
24 A I -- I have said that any distant memory is weak.

1 Q Now, is it true that your brother is, like, 12 years
2 younger than Rajwant?

3 A It's -- it's a privacy matter. I -- what does he do
4 or doesn't do, I have no concern with that. I, myself, am
5 being dragged in the courts.

6 Q Okay. How old is your brother?

7 A I don't know.

8 Q Isn't it true that you applied for a visa for your
9 brother after he married your wife?

10 A No, I didn't apply for his visa. Why should I do
11 that?

12 Q You've never applied for a visa or helped your
13 brother apply for a visa to come to the United States?

14 A No, I didn't do anything regarding that.

15 Q Okay.

16 MR. KYNASTON: No further questions.

17 THE COURT: I have a couple, and then you're free to
18 follow up.

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q Are you and your brother close?

22 A Yeah, we are -- we are --

23 Q Very --

24 A -- separate. We are distant.

1 Q Did your brother ever move to the United States?
2 A No, he didn't.
3 Q Do you know when the Defendant and your brother got
4 a divorce?
5 A No, I don't.
6 Q Do you know where they got a divorce?
7 A I -- I didn't go to India after that. I went there
8 only in the -- 2015.
9 Q Okay. Did you ever meet your brother's other wife?
10 A No, I have no relationship with him.
11 Q I didn't ask you that question. Please listen to
12 the question I ask. Did you ever meet your brother's other
13 wife?
14 MR. JAMES: I would object to assume that there was
15 another wife. I believe his testimony was he didn't know that
16 he was married before.
17 THE COURT: He said she (sic) got married. He
18 married someone else.
19 MR. JAMES: Said she (sic) got married -- okay.
20 THE COURT: You've already alleged they got a
21 divorce. You said it was his ex-wife, so I'm assuming you got
22 that information from your client.
23 MR. JAMES: That was the Defendant that got divorced
24 from him.

1 THE COURT: Let me ask my questions, Counsel.
2 BY THE COURT:
3 Q Did you ever meet the person with whom your brother
4 had a child?
5 A That -- that child is born after he divorced
6 Rajwant.
7 Q Did you ever meet that women with whom your brother
8 had a child? That's a yes or a no.
9 A I -- I went there in 2015. I didn't go there before
10 that.
11 Q Okay. And you met that person?
12 A I -- I met her in 2015.
13 Q Okay. Was she married to your brother?
14 A Yes, when he divorced, just once. After that, he
15 married --
16 Q Okay.
17 A -- another --
18 Q Now --
19 A -- woman.
20 Q -- the marriage he had to this other woman, was it
21 an arranged marriage?
22 A No, I don't know how he got married.
23 Q Did -- so you didn't attend the wedding?
24 A No.

1 Q Did your parents attend the wedding?
2 A Yes, the parents did attend the marriage.
3 Q Did your parents take part in selecting this woman
4 to marry your brother?
5 A I have no idea about that.
6 Q And your brother never came to the United States?
7 A No, he did -- he never came.
8 Q And he never got a visa?
9 A No, he didn't try.
10 Q How long was the Defendant married to your brother?
11 A I don't have any idea because after 2004, I went to
12 India in 2015.
13 Q Did the Defendant get a divorce from your brother?
14 A What happened? When did they get it? I --
15 Q That's a --
16 A -- have no --
17 Q -- yes --
18 A -- idea.
19 Q -- or a no, please.
20 A No, I don't know.
21 Q How long, after you and the Defendant went to India,
22 did the Defendant stay in India?
23 A Can you repeat the question, please?
24 Q How long, in 2004, did the Defendant stay in India?

1 A No, I don't know. I didn't go there.
2 Q You said you went to India in 2004.
3 A After 2004, I didn't go there.
4 Q In 2004 -- let's start this again -- did you go to
5 India?
6 A Yes.
7 Q And you went with the Defendant?
8 A The whole family went.
9 Q Okay. And it's your testimony that she married your
10 brother, right?
11 A Yes.
12 Q And how long did you stay in India in 2004?
13 A I stayed there for a couple of weeks.
14 Q And did -- when you returned to the United States,
15 did the Defendant come with you?
16 A Yes.
17 Q Okay.
18 A She came.
19 Q And how soon after this marriage did you and the
20 Defendant return to the United States?
21 A I came back after two or three weeks.
22 Q Let's try this again. You went to India with the
23 Defendant.
24 A I went with my parents as well.

1 Q The Defendant entered into a marriage ceremony with
2 your brother.

3 A Yes.

4 Q Were you present?

5 A Yes, I was there --

6 Q Okay.

7 A -- when the marriage --

8 Q How --

9 A -- took place.

10 Q -- many days after this wedding ceremony did the
11 Defendant return with you to the United States?

12 THE INTERPRETER: Can I repeat your question again
13 to her (sic)?

14 BY THE COURT:

15 Q How many days after this marriage ceremony did you
16 and the Defendant return to the United States?

17 A After two, three weeks.

18 Q Okay. So she married the -- your brother right
19 after you got there?

20 A I didn't stay there. Whatever they wanted to do,
21 they did.

22 Q All right. Now, after the Defendant married your
23 brother, did the Defendant and your brother stay in the same
24 house as you and your parents while in India?

1 A Yes, it was --
2 Q Okay.
3 A -- the same house.
4 Q Where did the Defendant sleep during this time after
5 the marriage?
6 A I stayed with my friends. I don't know the details
7 after that.
8 Q So you don't know if she ever had relations with
9 your brother after the marriage; do you?
10 A No, I don't know.
11 Q But when you left, she left?
12 A Yes. We came all together. My -- my parents and
13 she and me came together.
14 Q Okay. So you came with your wife -- with the
15 Defendant and your parents and you left with your Defendant --
16 with the Defendant and your parents after two to three weeks?
17 A Yes.
18 Q Was it your hope that your brother would be able to
19 move to the United States?
20 A I -- I don't know that.
21 Q Has your brother remained in India this whole time?
22 A Yes, he is there.
23 Q So he never came to the United States, even for a
24 visit?

1 A No.

2 THE COURT: I've got no further questions. Want to

3 take a lunch break, come back at -- what time do you want to

4 come back? It's a quarter-to-12:00.

5 MR. KYNASTON: I'm good with 1:00, if that works.

6 THE COURT: What about 1:15?

7 MR. KYNASTON: 1:15.

8 MR. JAMES: Sure.

9 THE COURT: You're excused, sir.

10 (COURT RECESSED AT 11:46 AND RESUMED AT 1:23)

11 THE COURT: All right. We're back on in case number

12 D323977. Before we get started, when I went back to chambers,

13 there was this on my desk. I don't even know if you're aware

14 of it.

15 MR. KYNASTON: The writ?

16 THE COURT: What?

17 MR. KYNASTON: The writ?

18 THE COURT: Yeah.

19 MR. KYNASTON: Yeah, I am.

20 THE COURT: Okay.

21 MR. KYNASTON: I got it yesterday or the day --

22 THE COURT: When did you get it?

23 MR. KYNASTON: It -- yesterday or the day before.

24 THE COURT: Okay. And in -- and in any event, I've

1 conferred with our presiding, and we both agree that it
2 doesn't divest me of jurisdiction. So let's proceed.

3 MR. JAMES: I would concur, Your Honor.

4 THE COURT: What?

5 MR. JAMES: I would concur. I agree --

6 THE COURT: Gee --

7 MR. JAMES: I agree.

8 THE COURT: -- thanks.

9 MR. JAMES: Okay. Just --

10 THE COURT: Would you staple that? Call your next
11 witness, Counsel.

12 MR. KYNASTON: All right. Your Honor, I call
13 Rajwant Kaur.

14 (Pause)

15 THE COURT: Are the services of the Interpreter
16 going to be needed for your client?

17 MR. KYNASTON: Yes.

18 THE COURT: Okay.

19 THE CLERK: Okay, ma'am, please raise your right
20 hand.

21 (OATH ADMINISTERED)

22 THE DEFENDANT: Yes, indeed.

23 THE CLERK: Thank you. Please be seated.

24 THE COURT: Proceed, Counsel.

1 MR. KYNASTON: Okay.

2 RAJWANT KAUR

3 called as a witness on behalf of the Defendant and having been

4 first duly sworn, did testify upon her oath as follows on:

5 DIRECT EXAMINATION

6 BY MR. KYNASTON:

7 Q Ms. Kaur, will you please state your name for the

8 record?

9 A Rajwant Kaur.

10 Q Okay. And where were you born?

11 A In India.

12 Q And how old are you?

13 A Sixty-one years.

14 Q Okay. When were you and Jaswinder married?

15 A In 1989.

16 Q Okay. And was this a marriage -- was this an

17 arranged marriage?

18 A Yes.

19 Q And who arranged the marriage?

20 A Our relatives.

21 Q Okay. When did you immigrate to the United States?

22 A In 1989.

23 Q Okay. And why did you come to the U.S.?

24 A My brother applied for my visa here.

1 Q Okay. Did you have a job lined up or why did --
2 what was the reason you came?
3 A No.
4 Q Okay. When you first came to America, where did you
5 live?
6 A In California.
7 Q Okay. Are you now a U.S. citizen?
8 A Yes.
9 Q And, approximately, when did you become a citizen?
10 A In 1994.
11 Q Okay. And your native tongue is Punjabi?
12 A Yes.
13 Q Do you speak English?
14 THE COURT: I'm sorry, what was that?
15 BY MR. KYNASTON:
16 Q Do you speak English?
17 A A little bit.
18 Q How would you describe your proficiency in English?
19 A A little bit.
20 Q Okay. Are you required to speak English at work?
21 A Yes.
22 Q Okay. Where do you currently reside?
23 A In California.
24 Q And what's your address?

1 A 15138 Hiawatha Street.
2 Q In what city?
3 A In Mission Hills.
4 Q Okay. And who else resides with you in that house?
5 THE COURT: I'm sorry, what?
6 BY MR. KYNASTON:
7 Q Who -- who else resides with you in that house?
8 A Jaswinder, his mother, his father, his sister,
9 sister's husband, and a teen-age girl.
10 Q And how long have you lived in that home?
11 A Since 2009.
12 Q Okay. And you and Jaswinder still reside in that
13 house together to this day; is that correct?
14 A Yes.
15 Q Okay. Prior to moving to that house in 2009, where
16 did you live before that?
17 A We lived in an apartment.
18 Q And what city was that apartment in?
19 A In Mission Hills.
20 Q Okay. And do you recall where you lived when you
21 were -- in 2004?
22 A We lived in an apartment.
23 Q And where was that apartment located?
24 A 969 -- 9969 Sepulveda Boulevard.

1 Q Okay. Are you presently employed?
2 A Yes.
3 Q And who's your employer?
4 A Sherman House. Sherman -- Sherman Oaks Hospital.
5 Q Okay. And what do you do at the hospital?
6 A I am a nursing assistant.
7 Q Okay. And where is the -- where is Sherman Oaks
8 Hospital located?
9 A In California.
10 Q Okay. And how long have you been employed by the
11 hospital?
12 A I've been working there for 18 years.
13 Q Okay, so approximately, what year did you start?
14 A In 2001.
15 Q Okay. Have you ever taken an extended leave of
16 absence from your job?
17 A No.
18 Q Have you ever lived in Nevada?
19 A No.
20 Q Have you ever had a job in Nevada?
21 A No.
22 Q You and Jaswinder have been together for how many
23 years?
24 A We have -- we were married in 1989, and we lived

1 together for some time. And then he came and joined me in
2 1993.

3 THE COURT: What?

4 THE PLAINTIFF: We were married in 1989. We lived
5 for some time together, and then he joined me in 1993.

6 MR. KYNASTON: I can ask some follow-up questions.

7 THE COURT: Yeah, please.

8 BY MR. KYNASTON:

9 Q Where -- where were you and your hu -- Jaswinder
10 married?

11 A In India.

12 Q Okay. And after you were married, you were -- had
13 already -- you had already been living in the United States;
14 is that correct?

15 A Yes, I was living here, and I went from here to get
16 married there.

17 Q Okay. And your -- and Jaswinder joined you in the
18 United States when?

19 A I had applied for him after marriage, and he joined
20 me in 1993.

21 Q Okay. And since the time that he came to join you
22 in 1993, you've been living together since that time?

23 A Yes.

24 Q So during the period of your marriage when you've

1 been living with Jaswinder, have you ever -- are you aware of
2 him ever living in Nevada?

3 A No.

4 Q Did he live in Nevada in the summer of 2004?

5 A Yes, he did.

6 THE COURT: I'm sorry --

7 MR. KYNASTON: The --

8 THE COURT: -- I didn't -- could you repeat the
9 question because I don't think --

10 MR. KYNASTON: No, I --

11 THE COURT: -- she understood it.

12 MR. KYNASTON: -- I don't think so.

13 BY MR. KYNASTON:

14 Q My -- let me repeat the question. Did -- did
15 Jaswinder live -- move to Nevada in 2004?

16 A No.

17 Q Okay. And you didn't reside in Nevada in 2004; is
18 that correct?

19 A No.

20 Q Okay. Do you know Balbinder Singh Pabla?

21 A No.

22 Q Have you ever met him?

23 A No. When we came to divorce, only at that time, I
24 saw him.

1 Q Okay. Did you ever go to his home?
2 A Yes.
3 Q And what did you go to his home for?
4 A I didn't know him. Jas -- Jaswinder took me to his
5 house.
6 Q And what did you do when you were at his house?
7 A We just had our meals and then went to bed.
8 Q Okay. And where did you go after you went to his
9 house?
10 A After that, we went to court and signed some
11 paperwork.
12 Q Okay. And do you remember, approximately, the date
13 you came to Nevada with him in 2004?
14 A No, I don't remember.
15 Q Was it sometime during the summer months of 2004?
16 A Yes.
17 Q Okay. How many times have you visited Las Vegas?
18 A I -- I came three times here.
19 Q And what --
20 A This is the third time.
21 Q Okay. What was the first time you came here?
22 A In 2004.
23 Q Okay. And how long did you stay?
24 A We didn't stay here.

1 Q So you came up on the same day and then back home on
2 the same day?
3 A Yes.
4 Q Okay. And when was the second visit to Las Vegas?
5 A We -- we came here on the 19th of September, 2019
6 for a deposition.
7 Q You mean the 18th of September? Or the 18th of
8 August, sorry. 19th of August? Let me correct.
9 A 19th of August, 2019.
10 Q For the deposition?
11 A Yes.
12 Q Okay. And then today is your third time coming to
13 Las Vegas?
14 A Yes.
15 Q Okay. What were the circumstances that brought you
16 to Las Vegas in 2004?
17 A We -- we need to call your (sic) brother, so
18 therefore, we need to divorce each other.
19 THE COURT: Huh? I didn't get that.
20 MR. KYNASTON: I didn't either. But why -- let me
21 ask the question again.
22 BY MR. KYNASTON:
23 Q Why did you come to Las Vegas in 2004?
24 A Jaswinder brought me here, saying that we need to

1 divorce so that he could get his brother here.

2 Q How was he planning to get his brother here by you
3 getting divorced?

4 A By marrying him to me.

5 Q Okay. Do you recall where you went when you came to
6 Las Vegas in 2004?

7 A No, I don't remember.

8 Q Okay. So you -- when you came here, did you sign
9 some papers?

10 A Yes.

11 Q All right. Did you read the papers before you
12 signed them?

13 A No, I didn't.

14 Q What did you believe the papers were?

15 A I didn't read them. I didn't know then.

16 Q Okay, so why did you sign them?

17 A Jaswinder asked me to sign, so I signed it.

18 Q Do you sign anything he asks you to sign?

19 A Yes, I did.

20 Q And why would you do that?

21 A He was my husband. He would say it, and I will do
22 it.

23 Q Did you ever receive a copy of the divorce papers
24 from Nevada at that time?

1 A No, I didn't.

2 Q Was there anybody present who read the papers to you
3 in -- and translated them into Punjabi?

4 A No.

5 Q When did you -- when did you find out what the
6 papers said?

7 A No, I didn't know.

8 Q But you -- you know what they say now, correct?

9 A Yes.

10 Q So when did you find out what they say?

11 A Ask the question again, please.

12 Q When did you find out what the papers said -- the
13 decr -- the Nevada decree of divorce, what it said?

14 A In 2018.

15 Q And what happened in two thous -- 2018 that caused
16 you to find out what these papers said?

17 A In -- in 2004, he took me to India, and got me
18 married to his brother, and said that between us there is a
19 divorce.

20 THE COURT: I'm sorry, what?

21 THE INTERPRETER: Between us -- Jaswinder and
22 Rajwant -- we are divorced.

23 THE COURT: I'm sorry, maybe my brain isn't working,
24 but I couldn't understand what you said.

1 THE PLAINTIFF: In 2004, he told me that the
2 paperwork that we filled (sic) for divorce was not a complete
3 divorce, it was just a paper divorce.

4 BY MR. KYNASTON:

5 Q Okay. Let me ask my question again. So when did
6 you find out what the decree of divorce actually said?

7 A In 2018.

8 Q And what happened in 2018 that caused you to find
9 out what these papers said?

10 A At -- in 2018, he went to India to get married, and
11 he told me that we are both divorced.

12 Q So he told you in 2018 that he'd gotten married in
13 India?

14 A No, he didn't tell me. I got to understand it from
15 his relatives.

16 Q Okay.

17 THE COURT: Sir, I'm going to ask you a question.
18 And this -- this has happened a lot during the Plaintiff's
19 testimony as well. There are these long responses in Punjabi.
20 Are you translating them word-for-word or giving me your
21 interpretation of what they -- what the witness said?

22 THE INTERPRETER: Okay. My respond to that question
23 would be that both the witnesses mumble a lot and repeat
24 themselves again and again. And the answer is the same that I

1 translate in English.

2 THE COURT: Okay. I just want to be sure because
3 I'm hearing -- and I heard it with the -- the Plaintiff's
4 testimony as well -- it goes on and on and then I get a ver --
5 relatively short translation. And so what I'm concerned about
6 is, there isn't a verbatim translation, which is what is
7 required in order for you to interpret.

8 THE INTERPRETER: Yes, indeed. Yes, indeed. And
9 the -- there's a lot of mumbling going on, a lot of repetition
10 going on and --

11 THE COURT: But if there's mumbling and repetition,
12 you have to actually translate the mumbling and repetition as
13 well.

14 THE INTERPRETER: Okay.

15 THE COURT: And that's just --

16 THE INTERPRETER: Okay, thank you.

17 MR. KYNASTON: Okay.

18 BY MR. KYNASTON:

19 Q After you signed the divorce papers in Nevada in
20 2004, what did you do next?

21 A Nothing happened after that. We lived in the same
22 house like husband and wife.

23 Q So did you immediately return back to California?

24 A Yes.

1 Q Okay. And when you got home, did anything change in
2 your household?

3 A No.

4 Q Did you continue to share a bedroom?

5 A Yes.

6 Q Did you continue to have sexual relations?

7 A Yes.

8 Q Did you change anything in the way you managed your
9 household finances?

10 A Yes, we were -- we were both together and arranged
11 the finances together.

12 Q All right. Well, was that the same way you did it
13 before you went to Nevada?

14 A Yes.

15 Q And what did your husband tell you about the
16 divorce?

17 A He -- he said that it would be a paper divorce, but
18 we will stay together.

19 THE COURT: A what?

20 THE PLAINTIFF: It will be a paper divorce, but we
21 will stay together.

22 MR. KYNASTON: Paper --

23 THE COURT: We will what? Schedule it?

24 MR. KYNASTON: Stay together.

1 THE INTERPRETER: Stay together.
2 THE COURT: Oh.
3 MR. KYNASTON: Paper divorce, but stay together.
4 MR. JAMES: That's what I heard.
5 THE COURT: What?
6 MR. JAMES: I -- that's what I heard as well, Judge.
7 That's what I heard as well.
8 THE COURT: That they will stay together?
9 MR. JAMES: Yes.
10 THE COURT: Okay.
11 MR. JAMES: Yeah.
12 THE COURT: Well, your hearing's better than mine
13 because you're younger than me, okay?
14 MR. KYNASTON: All right.
15 BY MR. KYNASTON:
16 Q Ms. Kaur, did you ever marry the Plaintiff's
17 brother?
18 A Yes.
19 Q And why did you marry his brother?
20 A He wanted to bring him here.
21 Q Bring him to the United States?
22 A Yes.
23 Q And after you marry -- when -- when, approximately,
24 did you marry his brother?

1 A In 2004.

2 Q And when you went to India to marry his brother, who
3 went with you?

4 A Jaswinder and his mom and dad.

5 Q And did -- did you have a wedding ceremony with his
6 brother?

7 A Yes.

8 Q Okay. And after you got married, did you live with
9 him?

10 THE COURT: You mean the brother?

11 MR. KYNASTON: With the brother, sorry.

12 BY MR. KYNASTON:

13 Q After you got married, did you live with his
14 brother?

15 A No.

16 Q When did you return to the United States?

17 A We stayed there for a month, and we came back.

18 Q And when you say we, you mean you and Jaswinder?

19 A Yes, me and Jaswinder.

20 Q Okay. Did you ever have sexual relations with his
21 brother?

22 A No.

23 Q When did you and his brother get a divorce?

24 A In 2008.

1 Q And between 2004 and 2008, are you aware of
2 Jaswinder ever making efforts to try and bring his brother to
3 the United States?
4 A Yes.
5 Q And do you know what efforts he made?
6 A He filed a petition for him.
7 Q Okay. And do you know if that petition was granted?
8 A No, I don't.
9 Q Okay. What's the age difference between yourself
10 and Jaswinder's brother?
11 A Twelve years.
12 Q All right. Who's older?
13 A I am the older.
14 Q So you're 12 years older than his brother?
15 A Yes.
16 Q Are you aware if his brother was married to anyone
17 else?
18 A We -- we went to attend his marriage. We had gone
19 there --
20 THE COURT: I'm sorry --
21 THE PLAINTIFF: -- to attend --
22 THE COURT: -- what?
23 THE PLAINTIFF: -- his marriage. We had gone there
24 to attend his marriage.

1 BY MR. KYNASTON:

2 Q And what -- who -- who did he marry?

3 THE COURT: Wait, wait, wait. Let me get this --
4 back up here. When did the brother get married to someone
5 else other than you?

6 BY MR. KYNASTON:

7 Q Okay. When -- when did you attend that wed --
8 marriage to someone else?

9 A Yes, we did.

10 Q But when did that happen?

11 A In 2004.

12 Q Was that before or after you married his brother?

13 A Yes.

14 Q What --

15 A Before that.

16 Q Before? So your testimony is that his brother was
17 already married to someone else when he married you?

18 A Yes.

19 Q Did you ever return to India after you married him
20 to live with him?

21 A No.

22 Q Did you have to go back when the divorce happened?

23 A Yes, we went in 2008.

24 Q And when you say we, who -- who went?

1 A No, I went by myself.

2 Q And how long were you there?

3 A About 20, 22 days.

4 Q And where did you stay when you went?

5 A It was at my nephew's marriage. I had gone there to
6 attend that marriage.

7 Q So you went in 2008 to attend the marriage of your
8 nephew, correct?

9 A Yes.

10 Q And while you were there, you also got a divorce
11 from his brother?

12 MR. JAMES: Objection, leading.

13 THE COURT: State the question again.

14 BY MR. KYNASTON:

15 Q Was there any other purpose for your trip in 2008 to
16 India?

17 A No.

18 Q Okay. Did you participate in any divorce
19 proceedings in India from his brother?

20 A No, just (indiscernible) --

21 THE COURT: Just what?

22 THE INTERPRETER: Jaswinder's brother's divorce vo
23 -- was --

24 THE COURT: You said just and then you said a word.

1 I'm asking you what that word was. You don't need to re --
2 restate everything she said. But you've been looking in a
3 different direction and lowering your head --

4 THE INTERPRETER: Okay.

5 THE COURT: -- and I don't catch a word.

6 THE INTERPRETER: Okay.

7 THE COURT: So what I want is the word.

8 THE INTERPRETER: Could you repeat the question
9 again so she answers?

10 BY MR. KYNASTON:

11 Q Did you participate in the divorce in 2008, from his
12 brother?

13 A No, I wasn't.

14 Q So how did you find out about the divorce?

15 A I don't remember that.

16 Q Do you know why the marriage was dissolved?

17 A No, I don't know.

18 Q Do you believe that Jaswinder has ever remarried?

19 A Yes, I do.

20 Q And why do you believe that?

21 THE COURT: I'm sorry, what did you say?

22 BY MR. KYNASTON:

23 Q Why do you believe that?

24 A He came back and told his relatives that, I have

1 married someone else.

2 Q That he had married someone else?

3 A Yes.

4 Q Okay. Want you to look at the exhibit book, the one
5 that's up there, Exhibit A.

6 THE INTERPRETER: Exhibit A?

7 MR. KYNASTON: A, as in apple.

8 (Pause)

9 BY MR. KYNASTON:

10 Q Do you recognize this document?

11 A Yes.

12 Q And you've previously testified you didn't know what
13 this said until 2018; is that correct?

14 (Pause)

15 THE WITNESS: I did not see this paper. I didn't
16 see this paper.

17 BY MR. KYNASTON:

18 Q So you don't re -- you don't recall seeing this dec
19 -- Nevada decree of divorce before?

20 A I -- I just signed some paperwork. Nobody showed me
21 any -- anything before.

22 Q So other than knowing that you had gotten a divorce
23 in Nevada, you never saw the decree?

24 A No.

1 Q Okay. Did you and Jaswinder have any joint -- joint
2 assets in 2004?
3 A Yes.
4 Q And what type of assets did you have?
5 A We had a joint bank account.
6 Q Anything else?
7 A We -- we had the same membership of Costco.
8 Q Okay. Did you have any other tangible assets, any
9 other property?
10 A Yes, we had cars.
11 Q Okay. And do you have a retirement account?
12 A Yes, I have.
13 Q And how long have you had an interest in a
14 retirement account?
15 A I can't say for sure in which year it started.
16 Q Okay. But you said you started --
17 THE COURT: Can I -- can we sidebar for just a
18 second?
19 MR. KYNASTON: Sure.
20 THE COURT: Out in the hall.
21 MR. KYNASTON: Uh-huh.
22 (COURT RECESSED AT 2:02 AND RESUMED AT 2:08)
23 THE COURT: Okay. Let's go back on the record. But
24 just to clarify the record, I conducted a short off-the-record

1 conference with Counsel in the hall. It was what I call one
2 of my lightbu -- bulb moments because I had some questions
3 about the Defendant's retirement. So we can continue on.

4 MR. JAMES: Okay. Does anyone else hear a buzzing?

5 THE COURT: Oh, who knows?

6 MR. JAMES: It's the light.

7 THE COURT: They've been banging and buzzing and all
8 kinds of stuff.

9 THE CLERK: They're working on the courtrooms.

10 MR. JAMES: Okay. I just didn't know if it was part
11 of the Court's, like, you know, private --

12 THE COURT: No --

13 MR. JAMES: -- thing.

14 THE COURT: -- it's not in here.

15 MR. JAMES: Okay.

16 THE COURT: If that's your question. Not yet
17 anyway.

18 MR. KYNASTON: All right.

19 BY MR. KYNASTON:

20 Q Did you file a divorce case in California?

21 A Yes.

22 Q And when -- when did you file a divorce in
23 California?

24 A In 2018.

1 Q And why did you file it?

2 A He married someone else, and he didn't tell me.

3 Q You heard the testimony from the Plaintiff that --

4 stating that the two of you lived for at least six weeks in

5 Mr. Pabla's house here in Las Vegas in 2004. Do you recall

6 that?

7 A No, I don't remember.

8 Q You don't remember the testimony?

9 A Yes, I do remember, but we didn't stay there.

10 THE COURT: Why don't you ask the question again?

11 MR. KYNASTON: Okay. I'll ask it a different way.

12 BY MR. KYNASTON:

13 Q Did you -- did you and the Plaintiff ever live in

14 Mr. Pabla's house?

15 A No.

16 Q And during the summer of 2004, did you ever live in

17 his house?

18 A No.

19 Q Okay. Where were you living in June, July, and

20 August of 2004?

21 A In California.

22 Q Okay. And was the Plaintiff living with you during

23 those months?

24 A Yes, he was.

1 Q And he -- was anyone else living in the house with
2 the two of you at that time?

3 A His father and mother lived there.

4 Q Okay. Was he going to work?

5 A Who?

6 Q Jaswinder. Was he going to work?

7 A Yes, he did.

8 Q And were you going to work?

9 A Yes.

10 Q Okay. How often did you see Jaswinder during that
11 period of time?

12 A We were living together.

13 THE COURT: I'm sorry, what?

14 THE PLAINTIFF: We were living together.

15 BY MR. KYNASTON:

16 Q So it would be fair to say you saw him everyday?

17 A Yes, I would cook for them and -- and did
18 everything.

19 Q When Jaswinder had surgery in 2012, who took care of
20 him?

21 A I did.

22 Q And how long was he bed-ridden?

23 A He -- he was in bed for two or three months. I had
24 taken time off from my job for two months.

1 Q Ms. Kaur, why -- why did you wait until now to try
2 to set aside the Nevada divorce?
3 A Ask again. I didn't understand it.
4 Q Okay. Let me -- let me lead you into it a little
5 bit. So you -- a Nevada divorce was entered in 2004, correct?
6 A Yes.
7 Q Okay. And now it's 2019.
8 A Yes.
9 Q Okay. So why did you wait for so many years to seek
10 to set aside the Nevada divorce?
11 A We had -- we have been living together all this
12 time. But when he married someone else in India, so I divorce
13 him.
14 Q The -- let me ask the question again. Why did --
15 why didn't you try to get rid of the Nevada divorce sooner?
16 A Before that, we were living together, and there was
17 no cause for that.
18 Q Well, did you believe you were divorced?
19 A No.
20 Q And why not?
21 A We were -- we were living together all the time.
22 (Pause)
23 MR. KYNASTON: Your Honor, I have no further
24 questions.

1 THE COURT: You're on, Counsel.

2 MR. JAMES: Actually, Your Honor, at this time, I'm
3 going to move for a directed verdict.

4 THE COURT: Well, we don't have a jury, so you're
5 not going to get a verdict.

6 MR. JAMES: Okay, directed --

7 THE COURT: It's called judgment on the evidence.

8 MR. JAMES: -- judgment on the evidence. Very good,
9 Your Honor. The Defendant has to show that my client forced
10 her to sign. That has not been shown.

11 THE COURT: Much -- and I -- and I'm going to make
12 this observation, and I -- it -- I think it's -- it's an
13 observation I think I share with some of my colleagues, but
14 I'm not going to tell you who. I question the vi -- the Vaile
15 case. It -- it seems to be illogical. It seems to say it's
16 okay to pull a scam and get away with it. Okay?

17 That -- that's how I read the Vaile case, but the
18 Vaile case is Nevada law. And the testimony of the Defendant
19 is not a far cry different from the facts in the Vaile case.
20 I want to hear your argument on it because I'm considering it.
21 I'm surprised a little bit.

22 MR. KYNASTON: Your Honor, I don't -- we -- we've
23 sat here for two days, and we've heard the Plaintiff lie and
24 lie and --

1 THE COURT: Absolutely.
2 MR. KYNASTON: -- and lie and lie. And we --
3 THE COURT: I -- you know --
4 MR. KYNASTON: -- know that --
5 THE COURT: -- what? His credibility --
6 MR. KYNASTON: -- this was a fraudulent --
7 THE COURT: -- isn't good.
8 MR. KYNASTON: -- divorce. That --
9 THE COURT: But your --
10 MR. KYNASTON: -- is -- it's --
11 THE COURT: -- client's --
12 MR. KYNASTON: -- unquestionable.
13 THE COURT: -- credibility, if it's good --
14 MR. KYNASTON: My client testified that she was
15 repeatedly told this is a paper divorce. It doesn't mean
16 anything. She didn't know. She didn't read the paperwork.
17 He doesn't even know what was in the paperwork.
18 THE COURT: But Counsel, that's not the standard.
19 MR. KYNASTON: So the Vaile -- the Vaile standard
20 talks about the idea that the Court has the discretion to
21 decide if this is a void -- a voidable divorce.
22 THE COURT: Would you agree --
23 MR. KYNASTON: She testified she had little --
24 THE COURT: -- it's an equitable -- I'm a little

1 Socratic, so --

2 MR. KYNASTON: She testified --

3 THE COURT: -- would you agree, it's an equitable
4 decision? It's a decision on eq -- equity, as opposed to law?

5 MR. KYNASTON: Well, I think it -- it -- I think
6 it's a highly discretionary decision. I think the Court has a
7 great deal of discretion in --

8 THE COURT: Well, I -- I call it a reasonable
9 exercise of discretion. And I still have the Vaile case,
10 whether I like it or not, that tells me how to rule.

11 MR. KYNASTON: Right, but the Vaile case -- the
12 holding in the Vaile case didn't say that, too late, so sorry,
13 you can't do it. What the holding in the Vaile case said is,
14 under the facts in that case, they decided they weren't going
15 to do it. And in this case --

16 THE COURT: So tell me --

17 MR. KYNASTON: But it --

18 THE COURT: -- how the facts of this case are
19 different from those in the Vaile case, such that it provides
20 sufficient cause for me to set aside this decree. Because
21 that is the ultimate question in the case. The penultimate
22 was the validity of the divorce, but there's a penal -- that
23 -- but that's only a penultimate question.

24 Now, you're -- you've got Vaile and whether -- and

1 let me throw something out. I don't mind if either one of you
2 appeal because I'd like to see our current Supreme Court
3 address the Vaile case. But I -- that's not my decision, you
4 understand. It's not my decision to make. I'm left with -- I
5 am guided by Vaile. So tell, please, how does this case
6 sufficiently differ from Vaile, that I can say that this
7 should be set aside?

8 MR. KYNASTON: I think the facts in the Vaile case
9 were such that the parties both fully cooperated. They knew
10 what they were doing. This is a case where, I think the
11 evidence shows that neither one of these guys knew what they
12 were doing. I mean, the Plaintiff testified repeatedly that
13 he had no clue what was in the paperwork. No one read it to
14 him, he -- everybody's just said, someone told me to sign. We
15 don't know who the mastermind is.

16 But somebody, at some point, convinced this guy that
17 he could come here, get a quick divorce. And the -- the
18 reality is, is that it -- you -- you -- that this Court
19 mentioned when we were in here in February that the real fraud
20 is on the state of Nevada and on this Court. That somebody
21 came here, they were not a legitimate resident of this state,
22 they obtained a divorce.

23 THE COURT: Same as Vaile.

24 MR. KYNASTON: They went back, and they lived

1 together. And they've been acting as if they were husband and
2 wife for the last 15 years. In the state of California, we
3 know that the date of separation is a key. I -- I mean, this
4 is something that is -- is critical. Because we know in
5 Nevada, we're different because it's the date of divorce that
6 is the key on the community property. So we're looking at --
7 THE COURT: Well --
8 MR. KYNASTON: -- potentially 15 --
9 THE COURT: -- why does --
10 MR. KYNASTON: -- years of --
11 THE COURT: -- your client describe the date of
12 separation in her California complaint as July of 2004?
13 MR. KYNASTON: Sorry? I didn't hear what you --
14 THE COURT: Why does your client, in her complaint
15 for divorce, describe the date of separation as two -- July of
16 2004?
17 MR. KYNASTON: I don't know. I didn't fill out the
18 paper.
19 THE COURT: Neither do I, but that's -- it is what
20 it is.
21 MR. KYNASTON: The --
22 THE COURT: I notice stuff.
23 MR. KYNASTON: I think that -- that it has to be --
24 I think the analysis should be based on -- driven by facts and

1 -- and by the consideration of the overall fairness of the
2 situation. So if we do to the conclusion of, okay, this
3 divorce in -- this fraudulent divorce in 2004, we can't do
4 anything about it because it's too late, so sorry. The net
5 result is this woman is 61 years old, is left, basically,
6 receiving no benefit from the last 15 years of being married
7 to this guy.

8 THE COURT: Other than her own retirement.

9 MR. KYNASTON: Which I don't know is substantial.

10 THE COURT: I don't either.

11 MR. KYNASTON: But it -- it's -- but the thing is,
12 is that's, ultimately, should be -- the California court
13 should be able to make that determination.

14 THE COURT: Okay.

15 MR. KYNASTON: Because I mean, we don't really have
16 jurisdiction over either of these parties, even today. I
17 mean, the only thing we have jurisdiction over is whether this
18 is a -- we're going to set aside or void this fraudulent
19 decree that was entered in 2004.

20 THE COURT: You're preaching to the choir my
21 preference, but I don't know if you're preaching to the choir
22 on the law. That's --

23 MR. KYNASTON: Well --

24 THE COURT: -- the problem.

1 MR. KYNASTON: -- the thing is, I -- like I said
2 before, the -- I think the Vaile case gives the Court
3 discretion to exercise --
4 THE COURT: It does give the Court discretion, but
5 it must be --
6 MR. KYNASTON: And I --
7 THE COURT: -- the exercise of reasonable
8 discretion. And it doesn't mean that I can willy-nilly
9 disregard what the Supreme Court has said --
10 MR. KYNASTON: Well --
11 THE COURT: -- if the case is --
12 MR. KYNASTON: -- it doesn't --
13 THE COURT: -- sufficiently similar --
14 MR. KYNASTON: -- it doesn't mean --
15 THE COURT: -- to the Vaile case.
16 MR. KYNASTON: -- you can willy-nilly disregard the
17 fraud that's happened in this case. I mean, this was --
18 THE COURT: But that's what the Vaile case was all
19 about. That's why I said I -- I question the merits. I -- I
20 -- like I said, I invited one of you, whoever I rule against,
21 to appeal. Because I would love to see the Supreme Court take
22 a second look at the Vaile case. It -- you -- it was odd, I
23 thought. It's an entirely different Supreme Court body now
24 than at the time the Vaile case became law. But it is the law

1 of the state of Nevada. All right. I --

2 MR. KYNASTON: I --

3 THE COURT: I understand your argument. And -- and
4 -- but I can't rule on sympathy, frankly.

5 MR. KYNASTON: Well, I'm not asking you to rule on
6 sympathy. I'm asking you to exercise your discretion, to look
7 at the overall facts of this case, look at the fraud that's
8 occurred, look at the lying, the cheating, the -- all the
9 stuff that's been going on, and just make a decision that's --
10 that's right.

11 THE COURT: Okay.

12 MR. KYNASTON: That's what --

13 THE COURT: And again --

14 MR. KYNASTON: -- I'm asking for, Judge.

15 THE COURT: -- I don't know what's right until the
16 Supreme Court tells me. Because I really don't. And I don't
17 know that either party, necessarily, is committed to an
18 appeal, but I think I have to rule on the law. And I don't
19 think -- you know, I don't rule on my feelings. Let's make
20 that perfectly clear. I never have.

21 Sometimes it annoys people to no end, but I can't
22 rule on my feelings about these kinds of issues. I -- I'm --
23 I have a boss. The boss is the law, and part of that law is
24 embodied in the cases from our Supreme Court. And Vaile is

1 one of them. Is there anything else you want to add? Either
2 -- either of you?

3 MR. KYNASTON: Just give me one second, Your Honor.

4 (Pause)

5 MR. KYNASTON: So it just -- just for the record, I
6 mean, we know Rule 60(B), it provides that the Court -- does
7 not limit the power of the Court to entertain an independent
8 action to relieve a party from a judgment, order, or
9 proceeding, or to set aside a judgment for fraud upon the
10 Court. I think there's clear evidence that there was fraud
11 upon the Court in this case.

12 And then we look at the Vaile case. And the Supreme
13 Court said, we realize that the posture of this case is
14 unusual and unique since we're refusing to void a decree that
15 was entered, as it turns out, by a court which had no
16 jurisdiction over the parties. However, we reiterate that the
17 decree was entered when the court believed it had
18 jurisdiction. Any person who might review the district court
19 filing would not re -- have reason to --

20 THE COURT: Speak up, please.

21 MR. KYNASTON: -- but trust the validity of the
22 court's decree. Under these circumstances, the law and
23 policies which support it permit no result other than the
24 decree as voidable, not void. As mentioned for the reasons

1 stated, we decline to declare the decree void. So in that
2 case, because of the specific facts in that case, they
3 declined to declare it void, but they certainly left open the
4 idea that the Court has the ability to do it.

5 THE COURT: Counsel, I'm asking, distinguish those
6 facts sufficiently for me.

7 MR. KYNASTON: Well, the testimony is that she had
8 no choice but to sign. She was told to sign. She had to re -
9 - she had to obey her husband.

10 THE COURT: When did she testify to that?

11 MR. KYNASTON: When she was -- when I asked her the
12 question, why did you sign, she said I was --

13 THE COURT: Because he asked me to. She didn't say
14 because he had a gun to my head or -- or that I had to do it
15 because I must obey my husband. She said because he asked me
16 to.

17 MR. KYNASTON: Well, I'm just asking the Court to --
18 to --

19 THE COURT: And I --

20 MR. KYNASTON: -- look at this.

21 THE COURT: -- I appreciate that. Mr. Kynaston, if
22 I rule the way I think I'm going to rule right now, it does --
23 it gives me no joy.

24 MR. KYNASTON: I understand that.

1 THE COURT: But you know, I -- I expected something
2 more from her testimony that didn't happen. And you -- you
3 rested.
4 MR. KYNASTON: Well, I --
5 THE COURT: And so you're stuck with your client's
6 testimony.
7 MR. KYNASTON: I know. I can't -- I can't --
8 THE COURT: You can't get her back --
9 MR. KYNASTON: -- testify for my client.
10 THE COURT: -- not if he doesn't ask any cross
11 examination. You don't get her back. All right.
12 MR. KYNASTON: The Court's going to what's it's
13 going -- what the Court can do. And what we can do and we'll
14 have to see what we're going to do --
15 THE COURT: And then --
16 MR. KYNASTON: -- about it. So --
17 THE COURT: -- I, you know --
18 MR. KYNASTON: -- I understand.
19 THE COURT: -- really, I mean, I frankly implore
20 that there be an appeal. I think Vaile should be revisited.
21 Happy to take it back if they send it back to me. But right
22 now, I would be exceeding my discretion as well as my ethical
23 obligations if I don't entertain Mr. James' motion.
24 MR. KYNASTON: Well, let me just point out one other

1 thing. We agreed by stipulation to the admission of both
2 parties' deposition transcripts.

3 THE COURT: I'm -- yeah, I know. But it has --
4 again, I go with the es -- the testimony that's presented
5 today. The evidence that's presented today. And the only
6 evidence --

7 MR. KYNASTON: Okay.

8 THE COURT: -- that has been admitted, as far as
9 depositions, is the Plaintiff's deposition.

10 MR. KYNASTON: Well, right, but I --

11 THE COURT: Neither party has admitted the
12 Defendant's deposition. So as far as I'm concerned, I don't
13 know what it says.

14 MR. KYNASTON: Well, it was admitted by stipulation.

15 THE COURT: No, it -- you have to -- there has to be
16 a reason to publish. You can't just throw a document into
17 evidence and say the Court has to consider it. If, in fact,
18 it has not been admitted by the Court and then the deposition
19 published -- well, published then admitted, then I can't
20 consider it.

21 And that's the rules of -- of civil procedure and
22 the rules of evidence. I can't publish a transcript that I --
23 nobody's asked me to publish. And if I haven't published, I
24 haven't read it. So I don't know what it says. And I can't

1 consider it after the fact. Do you have a response to his
2 argument?

3 MR. JAMES: I think the facts, as presented today,
4 are directly on-point with Vaile. I mean, forget about the --
5 the first part because Vaile had a defective affidavit of
6 resident witness. That's why they had a big issue with that.
7 But now going to once they established that he wasn't, then we
8 go to the second part, was the other party -- the party asking
9 for the set-aside -- coerced into signing? Didn't happen
10 here.

11 THE COURT: Okay. All right.

12 MR. KYNASTON: I --

13 THE COURT: Well, let --

14 MR. KYNASTON: I would dispute --

15 THE COURT: -- me start with some findings.

16 MR. KYNASTON: I believe the evidence does show
17 that, but the Court has to make the decision.

18 THE COURT: Let me start with some findings. I do
19 not find that the Plaintiff was cred -- credible in any
20 portion of his testimony. I want to make that perfectly
21 clear. I find, based on the evidence presented to the Court,
22 that, in fact, the Defendant was more credible. Therefore, I
23 do find that the parties perpetrated the fraud on the State of
24 Nevada by entering into a decree of divorce without the

1 requisite residency. Were that that would be the end of the
2 inquiry, but because of these Vaile versus Eight Judicial
3 District Court case, it is not the end of the inquiry.

4 If sufficient time has passed, then the Court is
5 obligated to make a decision on -- on the merits as to how the
6 fraudulent divorce was implemented. What were the parties'
7 roles? In the Vaile case, both spouses were willing
8 participants.

9 They both knew that they didn't have residency.
10 They both knew that they wanted a divorce sooner rather than
11 later. It is not uncommon -- unfortunately, because we have
12 such generous divorce laws -- that people take advantage of
13 those divorce laws.

14 And they come here thinking they'll get a quickie
15 divorce, and they pretend to be residents. And you know, we
16 see it on a regular basis in our courts. Sometimes they get
17 away with it. Sometimes they don't. But certainly, this inst
18 -- in this instance, the presiding judge at the time had no
19 reason to question the validity of the documents that were
20 submitted and therefore executed the decree. Although I don't
21 think it was the purpose -- the judge who was -- presided over
22 the case who actually signed it.

23 I think it was the then-presiding judge who signed
24 it because there are initials that don't match Judge Giuliani.

1 Or, no, it wasn't just Giuliani. Who would it have been?

2 MR. KYNASTON: It might have been Judge Del Vecchio
3 or something.

4 THE COURT: I can't remember. In any event, I
5 digress. What Vaile says, again -- if I were on the Supreme
6 Court, I might not have made that -- because they make a
7 distinction. Where there is a very old divorce and one party
8 seeks to set it aside based on fraud, the party who seeks to
9 set it aside must prove that they were free from fault, is
10 really what it boils down to. You've got two parties at
11 fault. And the court in Vaile applied an equitable standard
12 that they aren't going to reward a wrongdoer.

13 That's why there's a requirement of some equitable
14 reason why a co-wrongdoer shouldn't be permitted relief.
15 There has to be a reason -- or excuse me, a reason why that
16 wrongdoer would be permitted relief, even though they're
17 equally a wrongdoer as the other party.

18 That's really, the -- the teaching of Vaile. So
19 they set the standard that there had to be some kind of duress
20 or coercion or some equitable reason why that party is free
21 from fault. In the incident case, I did find the Defendant to
22 be very, very credible, unlike the Plaintiff.

23 However, what is missing from her testimony is that
24 she was forced to sign these papers. And in fact, in this

1 instance, she knew that there was a divorce in Nevada.
2 Whether he told her was a piece of paper or not, this is a
3 person who is a competent adult and, in fact, knew that there
4 was a divorce in Nevada.

5 Until such time as she became upset with the
6 Plaintiff upon his allegation that he had married someone
7 else, she's content to let sleeping dogs lie, and live
8 together, and be fine and dandy. And in fact, ironically,
9 they're still living together.

10 And ironically, the Plaintiff has not remarried.
11 But it requires, in this instance, evidence of an unequal
12 bargaining position at a minimum. There was nothing in the
13 Defendant's testimony that was evidence of an unequal
14 bargaining position between the Defendant and the Plaintiff.
15 He said we're going to Nevada.

16 He said we're going to sign some paperwork. It's
17 going to be a divorce. It's going to be a paper divorce.
18 We're going to continue to live together. This was not a
19 person with an im -- a mental defect or inability to
20 understand what's being told to her.

21 She knew it and, in fact, at his request -- again,
22 it's a request, not a demand, according to her own testimony.
23 She went back, went to India, and married his brother. Now,
24 is that a sham marriage? Of course it was. Did it assist the

1 parties in their end game? No, because the brother never got
2 a visa and never came to the U.S.

3 But at the end of the day, there is simply
4 insufficient evidence that the Plain -- Defendant acted under
5 duress. So much as I find the facts of this case offensive --
6 and I do -- I can't rule on me being offended. I have to rule
7 on what is law and precedent, and Vaile is still precedent in
8 this state.

9 Should the Supreme Court choose to take a second
10 look on appeal, I -- they're free to do so. And if, in fact,
11 they say that Vaile is not good law, I'm happy to have her
12 come back and -- and you know, I'll even set a second hearing.

13 But on the testimony today, on the evidence up to
14 this point, I am compelled to grant the motion for judgment on
15 the evidence. And therefore, I am compelled to deny the
16 motion to set aside. I further find, because neither party
17 comes to this Court with clean hands, that neither party will
18 receive an award of attorney's fees against the other.

19 The Plaintiff is not entitled to an award of
20 attorney's fees. He's equally, not greater, at fault than the
21 Defendant. So he may be the prevailing party, but I'm not
22 going to award somebody with extremely unclean hands any
23 attorney's fees.

24 Plaintiff -- the Defendant is not the prevailing party

1 here. And as much as there is some sympathy here, I don't
2 rule on sympathy. I must rule on the law. And insofar as the
3 Defendant is not the prevailing party, I cannot award her any
4 attorney's fees either. I will tell you, Mr. Kynaston -- I
5 don't know if you were watching me, I have a feeling that Mr.
6 James was. I was surprised when you rested.

7 I was kind of surprised. But you did at that point,
8 and you didn't get to what really is at the heart of the Vaile
9 case. That is not a criticism of you, so don't take it that
10 way. I know what a fine attorney you are, but I think that
11 your client was honest and candid with the Court.

12 And you're left with the case you get. Okay?
13 That's why I say this is no reflection on you. She knew what
14 her husband wanted her to do. She went ahead and did it.
15 There's no evidence that she said -- refused or that he
16 demanded or that he threatened her or anything else.

17 She went along with the ride, just like the parties
18 did in Vaile. So because of that and because of the Vaile
19 precedent, I am compelled to deny the motion to set aside. I
20 think it's a -- I think that there is an appealable issue with
21 -- there. I don't know what our Supreme Court would do.

22 So but you know, again, that's a decision parties
23 have to make because of the costs associated with appeals.
24 But I don't -- I -- it's a question that's been answered.

1 It's been answered in a way that most of us might not
2 appreciate, but it is the question that is answered.

3 And the testimony of the Defendant does not rise to
4 the level that I can set aside this decree of divorce. So
5 unfortunately, I'm denying the motion. Mr. James, would you
6 prepare the findings of fact, conclusions of law, and order I
7 issued and countersign? And then, again, decide what you want
8 to do because I do think there is an issue here. It's just
9 not one that I have the ability to jump over the Supreme Court
10 and decide.

11 MR. KYNASTON: Okay.

12 MR. JAMES: Very good, Your Honor. Thank you.

13 THE COURT: Let me know if they grant you judicial
14 review, Counsel.

15 MR. KYNASTON: It's moot.

16 (PROCEEDINGS CONCLUDED AT 02:39:12)

17 * * * * *

18 ATTEST: I do hereby certify that I have truly and
19 correctly transcribed the digital proceedings in the
20 above-entitled case to the best of my ability.

21 /s/ Shellie A. Callaway

22 Shellie A. Callaway
23
24