

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

EDWARD N. DETWILER, an
individual,

Petitioner,

v.

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR CLARK
COUNTY; THE HONORABLE
RICHARD SCOTTI, DISTRICT
JUDGE, DEPT. 2,

Respondent,

and

BAKER BOYER NATIONAL
BANK, a Washington corporation,

Real Party in Interest.

Supreme Court Case No.

District Court Case No.: A-17-760779-F

**PETITIONER'S APPENDIX IN
SUPPORT OF PETITION FOR
WRIT OF MANDAMUS OR, IN THE
ALTERNATIVE, FOR WRIT OF
PROHIBITION**

(Volume II; Pages PA00251-PA00500)

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PROOF OF SERVICE

I, the undersigned, hereby certify that, pursuant to NRAP Rule 25(d), I served the foregoing **PETITIONER'S APPENDIX IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, FOR WRIT OF PROHIBITION** on the following parties, via the manner of service indicated below, on May 22, 2020:

Via Electronic Service through E-Flex System:

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Lewis Roca Rothgerber Christie
3993 Howard Hughes Pkwy., # 600
Las Vegas, Nevada 89169
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Attorney for Real Party in Interest

***Via US Mail
(enclosed on a CD):***

The Honorable Richard Scotti
District Court, Dept. 2
Regional Justice Center
200 Lewis Ave.
Las Vegas, Nevada 89155
Phone No.: (702) 671-4318
Respondent

James Foust
8175 Arville St.
Las Vegas, Nevada 89139
Defendant

Harry Hildibrand, LLC
3011 American Way
Missoula, Montana 59808
Third Party

Dated: May 22, 2020.

By: /s/ Danielle Kelley
An Employee of
Hutchison & Steffen

1 THE COURT: All right. So, is it your intent to
2 call him to the stand?

3 MR. MAZUR: Yes, Your Honor.

4 THE COURT: All right, then. Mr. Foust? Step
5 forward and you'll be sworn in. Marshal, make sure you can
6 open the door for him. All right. The Court Clerk will
7 provide your oath.

8 **JAMES FOUST**

9 [having been first duly sworn, testifies as follows:]

10 THE CLERK: Okay. You may be seated. Can you
11 please state and spell your first and last name for the
12 record? You can sit.

13 THE WITNESS: James Foust, F-O-U-S-T.

14 THE COURT: All right. Mr. Mazur, you may
15 proceed.

16 MR. MAZUR: Thank you, Your Honor.

17 **DIRECT EXAMINATION OF JAMES FOUST**

18 BY MR. MAZUR:

19 Q Good morning, Mr. Foust.

20 A Good morning.

21 Q In this matter, you recall there was a list of --
22 actually, a few lists of vehicles that relate back to many
23 years in the past. Correct? Are you -- let me restart
24 that. Are you familiar with the list of 59 vehicles that
25 came up in this litigation?

1 A Yes.

2 Q Okay. And how long ago were those 59 vehicles
3 acquired, do you recall?

4 A Going back to maybe 1985, '86, some place in the
5 '80s.

6 Q Okay. And why were you acquiring vehicles? What
7 was the purpose of that?

8 A Well, many of them, going back into that period of
9 time, might have been for, you know, use, personal use.
10 The -- or a collection or something. I don't recall that.
11 That's a lot of years ago.

12 Q Okay. And were some of them for investment
13 purposes as well?

14 A Later on, some of them were. Yes.

15 Q Okay. And do you recall the time period when you
16 -- the loan was made with Baker Boyer National Bank?

17 A I'm sorry?

18 Q Do you recall the time when you took out a loan
19 with Baker Boyer National Bank?

20 A Yes.

21 Q Okay. And what was the purpose of that loan with
22 Baker?

23 A That was to buy 30 units that the Bank owned at
24 that time was in default.

25 Q Okay.

1 A Buy it from the -- that default debtor.

2 Q And, 30 units, was that housing?

3 A Yes.

4 Q Okay. And, at the time you made -- received the
5 loan from Baker, Baker Boyer --

6 MR. BRAGONJE: Your Honor?

7 THE COURT: Yes.

8 MR. BRAGONJE: I'm going to object just as to
9 relevance. We're getting into the underlying transaction
10 that happened years ago. I mean, we're here to talk about
11 --

12 THE COURT: Well, we are. But it's a drastic
13 remedy of incarceration which you're seeking and which I
14 have the authority under the contempt statutes to impose.
15 So, before I would do something drastic like that, I want
16 to make sure that the defendant would have a full
17 opportunity to be heard.

18 MR. BRAGONJE: Thank you, Your Honor.

19 THE COURT: Okay. Go ahead. Thank you.

20 MR. MAZUR: Thank you, Your Honor.

21 BY MR. MAZUR:

22 Q And, Mr. Foust, at the time you made the loan, did
23 you disclose -- received the loan, did you disclose to the
24 Bank that you had certain vehicles?

25

1 A There was a list prepared that showed the vehicles
2 that I had owned. Yes.

3 Q Okay. And do you recall how many vehicles were on
4 that list that was initially prepared?

5 A I think it was at 59.

6 Q Okay. And, on those vehicles, did you own those
7 free and clear or were they financed?

8 A Many of them were sold and that was noted on that
9 -- the application. The Bank knew that.

10 Q And you disclosed that to the Bank?

11 A Absolutely. They --

12 Q Okay.

13 A They listed one of them as my income, one of them
14 that was sold. Yes.

15 Q And was that on one of the bank reports where they
16 -- that you're recalling?

17 A I'm sorry?

18 Q You said that they listed the income when you sold
19 one of the vehicles?

20 A Yes.

21 Q Do you recall which vehicle that was?

22 A That was a Cobra.

23 Q Okay. And how much did that sell for?

24 A Originally, it was several million dollars and
25 ultimately settled out at about 900,000.

1 Q Okay. And you reported the income on your income
2 taxes?

3 A I did.

4 Q And you disclosed to the Bank the fact that you
5 sold that loan?

6 A Yes.

7 Q Or sold that vehicle?

8 A Yes.

9 Q Okay. And how did you disclose that to the Bank?

10 A The Bank noted on it that in the discussion of
11 that list of things, they noted that many of the cars that
12 were on that list had been sold at, you know, 10 years
13 prior to that. And that was something that they used
14 internally to go to the website and look at things like a
15 Mercedes Gullwing and stuff like that, which sold in like
16 1986 or something.

17 Q Okay. And out of that, the 59 vehicles, how many
18 of those vehicles had been sold?

19 A I think all of them, with the exception of the
20 ones that were owned by the Harry Hildibrand under the Vega
21 [phonetic] financing.

22 Q And what type of financing was in place? What was
23 the agreement?

24 A There was a -- that at some point in time to buy
25 automobiles, there was somebody that posted money in

1 exchange for selling the cars and taking a percentage of
2 the sale.

3 Q Okay. And, out of the 59 vehicles, how many of
4 them use that mechanism of financing?

5 A I'm sorry?

6 Q Out of the 59 vehicles that we're talking about,
7 how many of those use that mechanism of financing with
8 Hildibrand?

9 A Something like about -- there were 29 listed but
10 many of them were erroneous. They were also things like a
11 Prowler that was sold in 2000 that was a -- you know,
12 that's a car that I used personally.

13 Q And it -- that was sold in what year?

14 A That would have been 2000. There were some others
15 that -- again, this was all noted in the deposition that I
16 gave to the Bank.

17 Q Okay. And did you have an opportunity in the past
18 to go over with the Bank or the Bank's counsel the current
19 status of each of those 59 vehicles?

20 A In a deposition, they were all discussed. Yes.

21 Q Okay. And how were they discussed in the
22 deposition? The 59.

23 A This attorney asked me, you know, the condition of
24 them, where they were, and I told them the best I could.

25

1 Q Okay. And, out of those 59 vehicles, how many
2 remain in your possession as of today?

3 A None. Zero.

4 Q Okay. In addition, I believe there were four
5 other vehicles, three Mercedes and a Yukon. Is that
6 correct?

7 A Yes.

8 Q Okay. And can you tell me the status of those
9 four vehicles?

10 A They have been -- they have been -- they're -- at
11 one time, they were -- I think they're sold to the Harry
12 Hildibrand.

13 Q Okay. And what about your personal vehicle? Do
14 you have -- are -- is one of those your personal vehicles?

15 A No.

16 Q Okay. And, those four vehicles, the three
17 Mercedes and the Yukon, were those subject to any financing
18 agreement as well?

19 A No.

20 Q Okay. And let's walk --

21 A Excuse me. No. I don't think so.

22 Q Okay. And do you have a vehicle? Is that --

23 A Yes.

24 Q Okay. And what type of vehicle do you have?

25 A It's a 19-year-old Mercury Cougar.

1 Q Okay. And do you know the value of that vehicle?
2 A I really don't.
3 Q Okay. And that's the only vehicle that you have?
4 A Yes.
5 Q Okay. And is that registered in your name?
6 A No. It's not. Not at this point.
7 Q Okay. Is that vehicle financed?
8 A No.
9 Q Okay. So, going back to those four vehicles, the
10 three Mercedes and the Yukon, are any of those vehicles in
11 your possession?
12 A No.
13 Q Okay. Do you know where any of those vehicles are
14 located?
15 A Yes.
16 Q Okay. Where are they located?
17 A Well, they would be at that -- my wife's house.
18 And that Yukon -- I still drive the Yukon.
19 Q Okay. And where is your wife's house? Is that in
20 Nevada or in California?
21 A That's in California.
22 Q Okay. And what city is that in?
23 A Palos Verdes.
24 Q And does she drive that vehicle?
25 A I'm sorry?

1 Q Does she drive that vehicle?

2 A Does she drive it? Yes.

3 Q Okay.

4 THE COURT: Which -- is it the three Mercedes that
5 are at your wife's house or something else? You said
6 there's something about three Mercedes and a Yukon were at
7 your wife's house. And, then, you said you still drive the
8 Yukon. Will you clarify for me?

9 THE WITNESS: There's three cars, 2007. One is
10 driven by each of my daughters and those were the -- at
11 UCLA or at school.

12 THE COURT: Okay.

13 THE WITNESS: And the other one would be at my
14 wife's house.

15 THE COURT: Okay. Thank you.

16 BY MR. MAZUR:

17 Q And what are the model years of those three
18 Mercedes?

19 A There's a 2007 SUV that's driven by my wife,
20 there's a 2007 CLK that's driven by one of my daughters,
21 and a 2007 550 that's driven by one of my daughters.

22 Q Okay. And, with the 2007 SUV driven by your wife,
23 do you know what the value of that vehicle is, the Blue
24 Book value?

25

1 A I don't know. It's got 200,000 miles on it or
2 something. And, so, I don't really know. But --

3 Q Do you have an estimate of what that value would
4 be?

5 A Just taking a guess on it?

6 Q An estimate if you have it. If you know. But not
7 a guess.

8 A Fifteen thousand.

9 Q Okay. And have you ever received a Notice of
10 Execution regarding the 2007 Mercedes?

11 A No.

12 Q You were never served with a notice of -- that you
13 may have a claim of exemption that you could file on a
14 vehicle?

15 A No.

16 Q Okay. With the -- what about the 2007 CLK? How
17 many miles on that vehicle?

18 A I'm sorry?

19 Q The 2007 CLK?

20 A Yes.

21 Q How many miles on that vehicle?

22 A One hundred and fifty thousand.

23 Q And where's that vehicle located as far as state?

24 A I believe that would be at UCLA, that they're at
25 for school.

1 Q And that's out in Los Angeles, California?

2 A Yes.

3 Q Okay. And is that vehicle, is the title and
4 registration in your name on that vehicle?

5 A No.

6 Q Do you know how the vehicle is registered?

7 A Well, I think that's registered to Harry
8 Hildibrand.

9 Q And have you ever received a Notice of Execution
10 for the 2007 CLK?

11 A No.

12 Q Counsel has never provided you a notice of what
13 your rights may be as far as filing the claim of exemption?

14 A No.

15 Q And do you know what the fair market value is of
16 the 2007 CLK?

17 A Eight thousand. Nine thousand.

18 Q And, then, you also mentioned there was a 2007 550
19 as well?

20 A Yes.

21 Q And is that a Mercedes?

22 A Yes.

23 Q Okay. And where is that vehicle located?

24 A That's at school, at San Diego.

25 Q And which school is that located at?

1 A I'm sorry?

2 Q Which school?

3 A University of San Diego.

4 Q Okay. And who drives that vehicle?

5 A That would be one of my daughters.

6 Q And do you know what the value of that vehicle is?

7 The fair market value?

8 A Nine thousand.

9 Q And have you ever received from plaintiff's
10 counsel a Notice of Execution for the 2007 550?

11 A No.

12 Q Have you ever received any notices regarding your
13 rights that you may have a right to file a claim of
14 exemption on that vehicle?

15 A No.

16 Q And, the 2007 550, is that subject to any type of
17 financing agreement?

18 A No.

19 Q And, with the 2007 550, is that registered in your
20 name individually?

21 A No.

22 Q And whose name is that vehicle registered in?

23 A The 550?

24 Q Correct.

25 A That's Harry Hildibrand.

1 Q And do you know whether or not plaintiff's counsel
2 was provided with the information that the vehicle was in
3 San Diego? Was that provided to counsel prior?

4 A I can't recall. There were -- all 59 cars were
5 discussed at the time that I gave him the deposition. I
6 don't recall what was said on that where they were.

7 Q Okay. And, with the other 59 vehicles, have you
8 ever received a Notice of Execution on any of those
9 vehicles?

10 A No.

11 Q Okay. And have any of the 59 vehicles, had any of
12 those been seized by plaintiff or plaintiff's counsel?

13 A Had been seen?

14 Q Seized. Did they actually go --

15 A Oh, seized.

16 Q -- and try and repossess or seize?

17 A No.

18 THE COURT: That's what they've been trying to do
19 the last two years. All right. Go ahead.

20 BY MR. MAZUR:

21 Q And, with those vehicles, are any of those in your
22 possession, any of the 59 vehicles in our possession?

23 A No.

24 Q Are any of the 59 vehicles registered in your
25 name?

1 A No.

2 Q Is -- do you have a lien on any of the 59
3 vehicles, yourself personally?

4 A Do I personally have a lien?

5 Q Correct.

6 A No.

7 Q Okay. Do you know of any parties that do have a
8 lien on any of those 59 vehicles?

9 A I believe that some of those had -- do have a lien
10 on them placed. I know the coach that was one of those
11 listed is a lien with Santander. And I think that the
12 others, the 29 some, if -- or, not all of them, have a lien
13 against that with the Ronald Vega [phonetic].

14 Q What type of lien is that with Ron -- Ronald Vega?

15 A Mr. Larkin is here to -- who could answer that.
16 But I don't know. It's just financing.

17 Q Okay. Is there a company associated with Ronald
18 Vega?

19 A Yes. I think so.

20 Q Is that Stardust?

21 A I don't think -- I don't think Stardust was part
22 of it. I think it was that the money that -- the loan on
23 it was made by Vega to Harry Hildibrand for acquisition of
24 it.

25

1 Q Okay. And do you know when they -- Vega started
2 making loans to Hildibrand?

3 A I believe it was like 2009, 2010.

4 Q Okay.

5 A So --

6 Q And do you know how many loans were made under
7 that agreement?

8 A Not specific. I don't. I --

9 Q Okay. You just mentioned a motor coach that's
10 financed through Santander. Which -- what's the motor
11 coach we're talking about?

12 A It's a 19 -- I forget what the name of our coach
13 is. But it's a Marathon coach.

14 Q Okay.

15 A And it was financed by me originally. I bought
16 the coach and it was financed by a company called Gannis
17 [phonetic]. And they were sold to a company called
18 Santander. And Santander, at the time it was seized, was
19 owed about 130,000 or something.

20 Q Okay. And did you -- this is -- what is it?
21 Prevost, Provost?

22 A It is. Prevost. Yes.

23 Q Prevost Marathon coach. With the motor coach,
24 what year did you acquire that?

25 A Two thousand -- 2001, 2002.

1 Q Okay. And do you know how much he paid for the
2 motor coach?

3 A I don't recall specifically. But it might have
4 been close to \$1 million.

5 Q And, at the time you took out the loan with Baker
6 Boyer, did you disclose the fact that you owned a Provost
7 or the motorhome?

8 A Yes.

9 Q The motor coach. And were they aware of the lien
10 that was on the motor coach?

11 A Yes. They were.

12 Q And you informed them that the lien was by
13 Santander?

14 A Yes.

15 Q And were they aware of the amount of the monthly
16 payments that were on that vehicle as well?

17 A Yes. They were.

18 Q Okay. Do you know what the current balance due to
19 Santander is, approximately?

20 A Approximately 130,000.

21 Q Okay. And, that \$130,000 loan, whose name was
22 that loan in?

23 A That was in my name.

24 Q Okay. And is that loan with Santander still in
25 your name?

1 A Yes.

2 Q Okay. And do you know whether or not plaintiff's
3 been making the monthly payments on that?

4 A No. I don't think they have.

5 Q Okay. And what's your understanding? Did they
6 seize that vehicle?

7 A I'm sorry?

8 Q Did they seize the motor coach?

9 A Yes.

10 Q Okay. When did they seize the motor coach?

11 A That would have been 2016.

12 Q Would it be 2018, maybe? February 2018. Does
13 that sound --

14 A I'm sorry. Yes.

15 Q -- sound more fair?

16 A Yes, yes.

17 Q Okay.

18 A Yes.

19 Q Okay. And when they seized that, was that taken
20 from a -- let me strike that.

21 Where did they seize that from?

22 A It was a resort park in Las Vegas on property that
23 was and is owned by my wife.

24 Q Okay. And, after they seized that asset, did they
25 provide any Notice of Execution to you?

1 A No.

2 Q They provide any notice that you may be able to
3 file a claim on that?

4 A No.

5 Q Okay. And it's my understanding that the
6 Constable's Office did go through the interior of the motor
7 coach as well. Is that correct?

8 A Yes.

9 Q Okay. And they found, I believe, mail that was
10 addressed to you inside the motor coach?

11 A Yes.

12 Q Okay. And I think they made a determination on
13 that. Did you have an opportunity to file a claim or a
14 homestead on that vehicle as of yet?

15 A No.

16 Q Have you filed a claim that may be exempt from
17 attachment as a residence?

18 A No.

19 Q Okay. And the current balance is \$130,000
20 approximately on the Santander loan. Right?

21 A Correct.

22 Q Okay. And have you been contacted by Santander to
23 make the payments or that you're in default?

24 A Yes.

25

1 Q Okay. And did they say how much is past due on
2 that vehicle?

3 A I don't recall -- that I personally made the
4 payments to keep from another lawsuit. I have been making
5 the payments up until recently. I just can't do it.

6 Q Okay. And do you know whether or not Santander
7 has been paid in full by plaintiff after they seized the
8 vehicle?

9 A I don't know that. No. But I don't think so.

10 Q Okay. Do you know if that vehicle has been sold
11 or is still in plaintiff's possession?

12 A It's still in plaintiff's possession.

13 Q Okay. Have you had any discussions with plaintiff
14 or plaintiff's counsel about when they're going to pay off
15 the mortgage that's due on the vehicle?

16 A No.

17 Q Have they ever informed you that they intend to
18 pay it off?

19 A No.

20 Q And, the fact that they haven't been making
21 payments on it, has that been harming your credit at all?

22 A Yes.

23 Q And how has that been harming your credit?

24 A It's late payments that affects the credit.

25

1 Q Okay. And had Bank offered any explanation to you
2 or anything to help relieve that type of bad credit you're
3 receiving?

4 A None.

5 Q And with -- what type of bad credit marks do you
6 know that are being made on your credit?

7 A At the time this began, I had a credit score of
8 about 800 and 830. And I now have a credit score of about
9 650.

10 Q And that's because of late payments being
11 reported?

12 A Late payments. Yeah.

13 Q Okay. And --

14 A Well, late payments and every month the Bank gets
15 a credit report --

16 Q Okay.

17 A -- and that affects it.

18 Q And do you know why the Bank would want to harm
19 your credit like this?

20 A I -- only speculation. But, no. Not really.

21 Q Okay. And have you applied for any type of
22 financing recently or are you able to apply for any type of
23 financing under the current situation?

24 A No. Financing is nonexistent to me.

25 Q And why is that?

1 A I -- you know, the -- my credit score is, you
2 know, is below par. Late payments. It's -- no. I can't -
3 - the credits -- any loans is unobtainable to me.

4 Q Okay. And has the Bank notified you that they
5 intend to pay you a deficiency once they sell it at a
6 public auction?

7 A No.

8 Q Have they notified you of their plans or if
9 they're going to sell it at all?

10 A No.

11 Q Have they offered to sell it back to you?

12 A No.

13 Q Have you had any contact with the Bank at all ever
14 since they repossessed the vehicle?

15 A There was a motion made by counsel that said that
16 I had to make sure that I have no interference with the
17 coach. I can't attend the coach. If it's for sale, I
18 can't attend.

19 Q All right. And who stated that you cannot attend
20 the public sale?

21 A That was plaintiff that did that.

22 Q From Baker Boyer or plaintiff's counsel?

23 A Counsel.

24 Q Do you know why they say -- said that you wouldn't
25 be able to attend a public sale?

1 A Only speculation. But, no.

2 Q And have you been made aware of any sale date for
3 the motorhome?

4 A No.

5 Q And do you know how many months late you've been
6 reported on the motorhome?

7 A I don't. But I've been making the payments. The
8 -- after the last payments were made by Harry Hildibrand, I
9 -- several months went by and I had notices from Santander.
10 And, then, I made the -- started making the payments again.

11 Q Okay. And, after three missed payments, does
12 Santander consider that as a repossession or a foreclosure?

13 A I don't know. I think that their attorneys are
14 looking at this. I wrote them a letter about the entire
15 thing several months ago and that was -- that went to their
16 legal department. And, so, I don't know what they're doing
17 on it right now.

18 Q Okay. And, the motor coach, that wasn't security
19 that was put up for the loan you took out from Baker Boyer.
20 Was it?

21 A It absolutely was not.

22 Q Okay. And, with the Santander loan itself, when
23 did you disclose that to the Bank?

24 A At the time that this loan was in process.

25 THE COURT: So, hold on.

1 MR. MAZUR: Okay.

2 THE COURT: When did you first notify Santander
3 that Baker Boyer was seeking to seize or attach the motor
4 coach?

5 THE WITNESS: Well, I think, several months ago, I
6 -- it wasn't that they were attempting, it was that they
7 had.

8 THE COURT: Okay. Well, these proceedings here
9 started almost two years ago. Right?

10 MR. BRAGONJE: 2017.

11 THE COURT: And, at the very commencement of these
12 proceedings, that's when I first learned that the Bank was
13 seeking to seize the motor coach. You didn't give
14 Santander notice at that point in time?

15 THE WITNESS: I did not. No.

16 THE COURT: All right. And, so, it was just a few
17 months ago?

18 THE WITNESS: It -- at that time, Harry Hildibrand
19 was making the payments.

20 THE COURT: Okay.

21 THE WITNESS: Or sometimes shortly thereafter.
22 And, at some point, they stopped on that and that's when
23 Santander contacted me --

24 THE COURT: All right. You mean Harry Hildibrand,
25 LLC?

1 THE WITNESS: Yeah.

2 THE COURT: Okay. And, then, Santander contacted
3 you when Harry Hildibrand stopped making those payments.

4 THE WITNESS: They contacted me and said that the
5 payment is in arrears.

6 THE COURT: Who was it? Because I know there's
7 been some discussion here in the past in this proceeding
8 about who were the officers and directors of Harry
9 Hildibrand. You recall all of that?

10 THE WITNESS: I sure do.

11 THE COURT: We spent a lot of time on that.

12 THE WITNESS: I sure do.

13 THE COURT: Who was actually cutting the checks
14 for Santander from Harry Hildibrand all this time, until a
15 few months ago?

16 THE WITNESS: I'm not really sure about that. I
17 don't know.

18 THE COURT: Okay. All right.

19 THE WITNESS: But the check was paid to Santander.

20 THE COURT: But you had nothing to do with it?

21 THE WITNESS: No.

22 THE COURT: You're right.

23 THE WITNESS: And I know that the Bank had
24 subpoenaed all the records from Santander.

25 THE COURT: Okay.

1 THE WITNESS: So, they knew -- you know, they had
2 a list of all the checks and --

3 THE COURT: Okay.

4 THE WITNESS: -- and all of that.

5 THE COURT: All right.

6 THE WITNESS: And, then, --

7 THE COURT: So, they would have known about
8 Santander since the date of the subpoena.

9 THE WITNESS: Yeah.

10 THE COURT: Okay. Thank you for clarifying some
11 of that for me. Appreciate that. What else?

12 MR. MAZUR:

13 Q And the Bank was aware of the Santander loan.
14 They actually put it on one of the reports that they
15 provided to you. Didn't they?

16 A Yes.

17 Q Okay. And do you recall what they put on the
18 report regarding Santander?

19 A They put it as an obligation -- at the time of the
20 loan we're talking about?

21 Q Yes.

22 A That was listed as an asset. And, then, the
23 liability.

24 Q Okay. And did it also list what the monthly
25 payments were or the annual debt service?

1 A Yes. Yes. It did.

2 Q Okay. And do you know why the Bank needed that
3 information from you?

4 A The entire loan was -- I bought it from a -- from
5 one of their clients. I signed a contract with one of
6 their clients to manage it. And I think that there was
7 something under the FDIC about a loan on something called
8 predatory loan that they did that. And they also required
9 that I open a CD savings account and post \$100,000 or
10 something in cash as an asset of the Bank.

11 Q And you did that as one of their requirements?

12 A Yes. That was one of their requirements.

13 Q Okay. And, Mr. Foust, what is your current age?

14 A Pardon me?

15 Q What is your current age?

16 A I'm 79.

17 Q And, at the time the Bank made the loan to you,
18 were they aware of your age?

19 A Yes.

20 Q And where did they make the -- how did you find
21 out about the Bank in order to get the loan from the Bank?

22 A Somebody had -- and I don't recall what the
23 person's name, told me about the units that were in
24 default. And he -- I think he was friends -- a doctor that
25 owned them was in default on the loan with Baker Boyer

1 Bank. And I heard about that and I talked to somebody at
2 the Bank and asked and inquired about that. And that's --
3 the relationship began with that. I -- and I agreed after
4 looking at the -- you know, the thing -- the driving thing
5 about that was that they had mandated a -- one of their
6 companies that they -- that was a Bank customer, give me a
7 contract, a seven year contract, that was for \$45,000 a
8 month for seven years. And that was -- that -- the Bank
9 payment, if I bought the units, would be about 18,000. And
10 I -- in order to get into that, I put a -- like another
11 \$400,000 into the thing to bring down the LTV [[phonetic]].
12 So, for \$400,000 cash investment, I had a contract that
13 basically netted me \$25,000 a month for seven years.

14 Q And, at the time you entered into this investment
15 with the Bank, that investment was in default with the
16 other borrower. Is that correct?

17 A Yes.

18 Q And you -- so, the Bank sold you a defaulting
19 asset that was on their books?

20 A Yes.

21 Q Okay. And, then, they mandated that you deposit
22 \$100,000 in cash with their bank as well?

23 A Yes.

24

25

1 Q Okay. And at the time that they did this, they
2 made the loan to you, what type of cashflow did you have at
3 that point in time?

4 A It was -- I had zero income and I had the \$900,000
5 capital gain from selling a car. And they also made a note
6 on it. They noted the cars and they noted in that that the
7 \$900,000 sale and that Foust could continue to sell the
8 cars for income.

9 Q And is that how you were generating your income
10 from that point forward?

11 A No. The income was coming from the contract.
12 That was just their note on it in their internal report.

13 Q Okay. And -- but you were making personal income
14 by selling -- buying and selling vehicles as well?

15 A Well, the -- and, so, that's how I got the loan on
16 it is to sell that Cobra for \$900,000, the capital gain.
17 There was \$600,000 that was about \$300,000 of net capital
18 gain off of that. And that's what they put on the thing to
19 justify the income.

20 Q And they actually listed that on one of the
21 reports, internal reports, that you have?

22 A They did.

23 Q Okay. And, at a later date in the deposition, did
24 they claim that you own that vehicle still?

25 A Yes.

1 Q Okay. Even though they were well aware that the
2 vehicle had been sold and it was on one of their reports?

3 A Yes.

4 Q Okay. Do you know why they would do such a thing?

5 A I think that all this had to do with the FDIC
6 requirements on this thing. It's that they were concerned
7 about that. And I think that's why I had to deposit the
8 money into that CD.

9 Q Okay. And have you filed the lawsuit for elder
10 abuse or lender liability against the Bank yet?

11 A No.

12 Q Okay. Are you able to get financing on a new
13 vehicle as of right now?

14 A No.

15 Q Okay. And why can't you get financing on -- to
16 get a new vehicle?

17 A It's 650 with no income. It's -- the creditors
18 don't want to talk to you.

19 Q Okay. And that's a result of the Bank failing to
20 make the payments for the financing on the motor coach like
21 they're required to do under NRS. Correct?

22 A Yes.

23 Q And do you know why they would do that to you?

24 A I don't. There was an incident that happened in
25 part of this loan process. I received a letter from the

1 Bank -- from the loan officer that said the loan could not
2 be made. And in that same e-mail they said that there
3 would be a declanation [sic] letter sent. Six days later,
4 I received another e-mail that said that they could make
5 that loan. And I learned two years later what that was all
6 about. The Bank officer took that to the head of the
7 finance and said that he's going to turn the loan down and
8 the guy said: Are you crazy? He said: The Foust balance
9 sheets will cover the bad loan. We don't care if that
10 company's going broke. We don't care. We'll use his
11 balance sheet for that loan. That was six days. And,
12 then, they -- all of a sudden, they could make that loan.

13 Q And when did -- when was there a default on the
14 loan with Baker Boyer -- the Bank?

15 A Twenty -- I think that the last payment that was
16 made on that contract was, like, 2014. And, then, after
17 that, I made personal thing. So, 2015, maybe? Twenty --
18 yeah, 2015, maybe.

19 Q And why did -- why was there a default on that
20 loan?

21 A There was zero money coming from the contract that
22 25 -- the \$45,000 a month contract. Zero. So, the \$18,000
23 a month that was being paid by me personally.

24 Q And why did the revenue stop on that contract?

25 A They were broke. And Bank -- Baker Boyer Bank

1 knew they were broke at the time that they --

2 THE COURT: Who is they when you use the term --
3 the pronoun they?

4 THE WITNESS: I'm not aware that I used it. What
5 did --

6 THE COURT: The word they. You said they. They
7 were broke. Who is they?

8 THE WITNESS: The contract G -- it was called
9 Greenplex Housing was that -- the contract was with them.

10 THE COURT: Okay.

11 THE WITNESS: That was one of the Bank customers.

12 THE COURT: All right. So, we're not going to
13 relitigate, you know, --

14 MR. MAZUR: Yes, Your Honor.

15 THE COURT: -- whether there was a default, when
16 there was a default, or there -- whether there was anything
17 improper with the original loan.

18 MR. MAZUR: I understand. I'm just going to
19 provide a little background on the reason why we cannot get
20 a vehicle financing currently.

21 Now, looking at the -- there was a court order
22 from January of this year --

23 THE COURT: Well, we're not here to determine
24 either any damages, too, --

25 MR. MAZUR: Right.

1 THE COURT: -- that might have been suffered by
2 Mr. Foust. So, I want you to move on from that issue.

3 MR. MAZUR: Yeah. I'm going to go right to the
4 order --

5 THE COURT: All right.

6 MR. MAZUR: -- and what is required to do and seek
7 compliance here.

8 BY MR. MAZUR:

9 Q I'm looking at page 21 of the Findings of Fact and
10 Conclusions of Law that was filed January 10th of 2019. I'm
11 looking at paragraph 18. It says: Mr. Foust is the owner
12 of all cars over which HH, Harry Hildibrand, claims an
13 interest, including those cars identified in bankruptcy.
14 So, that was a court determination stating that -- made by
15 this Court that you are the owner of all cars. Out of
16 those cars that are listed on the bankruptcy or identified
17 by HH -- Hildibrand made a claim, how many of those are
18 still in your possession, other than the four that we
19 discussed?

20 A Those four aren't in my possession either. But
21 none of them.

22 Q Okay.

23 THE COURT: Well, they're in your daughters'
24 possession --

25 THE WITNESS: Yes.

1 THE COURT: -- and your wife's possession. Right?

2 THE WITNESS: Yes.

3 MR. BREGONJE: Are they in the --

4 THE COURT: All right. Let's don't mince words
5 here. All right. How many of those cars remain in the
6 possession of Harry Hildibrand?

7 THE WITNESS: All of them. Like --

8 THE COURT: Okay. And how many are in Harry
9 Hildibrand's -- are titled in Harry Hildibrand's name? Or
10 the LLC's name?

11 THE WITNESS: I'm not really sure --

12 THE COURT: If you know. If you don't know,
13 that's okay.

14 THE WITNESS: Huh?

15 THE COURT: If you don't know, that's okay.

16 THE WITNESS: I don't know the answer to that.

17 THE COURT: Okay. All right. Thank you. Go
18 ahead.

19 BY MR. MAZUR:

20 Q And do you know how many vehicles Harry Hildibrand
21 have titled? Just ballpark that there's titles on.

22 A I would say probably, of the 29, maybe 20, 15-20.

23 Q And when did those vehicles -- when did the title
24 go into Hildebrand's name, Harry Hildibrand, LLC's name?

25 A I think that the first batch of cars that were

1 brought was in 2011.

2 Q Okay. And they were in Hildibrand's name in 2011?

3 A Yes.

4 Q Okay. And prior to the loan actually being made
5 with the --

6 A Way far before the loan has been made. Yes.

7 Q Okay. Paragraph 19 states: Mr. Foust is the
8 owner of all cars over which Stardust Classic claims an
9 interest.

10 Do you know which cars Stardust Classic is
11 claiming an interest?

12 A I don't know that -- I think it's the same cars
13 that were listed, the 29.

14 Q And are those the vehicles that were listed in the
15 bankruptcy?

16 A Yes.

17 Q And, of those vehicles that were listed in the
18 bankruptcy, how many of those cars or vehicles are in your
19 possession?

20 A None.

21 Q And, in the bankruptcy, I believe it stated total
22 value for Harry Hildibrand was ballpark of 380,000 plus the
23 Marathon coach. Is that correct?

24 A Yes.

25 Q Okay. And, also, it was disclosed in the

1 bankruptcy that Stardust was a lender for those vehicles.

2 Is that correct?

3 A I don't know that it was Stardust that was the
4 lender on that bankruptcy. And I can't recall but I think
5 that that was Vega that was probably -- was probably the
6 lender. I'm sure it was.

7 Q Okay. And do you know how many vehicles Stardust
8 Classic owns that are the subject of this lawsuit?

9 A I don't think they own any.

10 Q Okay. Next paragraph, 20: Mr. Foust is the owner
11 of all the cars that HH contends or has contended that it
12 obtained from Mr. Foust and transferred to some third
13 parties. Do you know which vehicles are being referred to
14 in that paragraph?

15 A There was a 1956 Mercedes Gullwing that was sold
16 in an auction in 2006.

17 Q Okay. And --

18 A With a Lamborghini. There's several of them at
19 that time.

20 Q Let's go to the 2006 Gullwing. What auction was
21 that sold to?

22 A Russo and Steele.

23 Q And where are they based out of?

24 A Phoenix.

25 Q Okay. And the vehicle was actually transferred

1 over there and sold by -- at auction?

2 A Yes. And readily obtainable do -- if it -- if
3 somebody went on the Google and did a Foust Cars, it would
4 show all of those cars that were sold at that auction.

5 Q Well, that didn't happen. So, we get to go
6 through them today. So, do you know who the purchaser was
7 for that 2006 Gullwing?

8 A I have no idea.

9 Q And had -- have you received any notices from the
10 purchaser about that vehicle?

11 A No.

12 Q Have you received any notices since 2006 from the
13 auction house regarding that vehicle?

14 A No.

15 Q Okay. So, you do not know where that vehicle is,
16 the 2006 Gullwing?

17 A I have no idea.

18 Q Okay. You said there was another vehicle as well,
19 a Ferrari?

20 A There was a number of them. There was a
21 Lamborghini Miura that was sold that day. There was a
22 California GT 500 -- or, a Shelby GT 500. There was about
23 a half a dozen cars that were sold that day.

24 Q Okay. And --

25 THE COURT: Which day are we talking -- where you

1 said 2006. Some day in 2006.

2 THE WITNESS: Two thousand six.

3 THE COURT: Okay.

4 BY MR. MAZUR:

5 Q And these are part of the vehicles that the Bank
6 still claims that you own. Is that correct?

7 A Yes.

8 Q Okay. And have you provided the Bank with the
9 auction house information?

10 A They looked at -- I looked at it personally with
11 the Bank manager on the website.

12 Q Okay. Do you know what website is? It's --

13 A Yes. It's a -- it's just Foust Cars. And it will
14 show it that -- and that the auction would have been Russo
15 and Steele, Monterrey.

16 Q Russo and Steele, Monterrey?

17 A Yes.

18 Q Okay. And what city are they in?

19 A The auction -- the Russo and Steele is in Phoenix.

20 Q Okay.

21 A And they have different auctions across the
22 country.

23 Q Okay. Any other cars on that 59 list that went to
24 an auction house?

25 A Yes. I think -- yes. I --

1 THE COURT: So, now I'm confused. Because I
2 thought you said all the 59 were in the possession of Harry
3 Hildibrand. And now you're --

4 THE WITNESS: No, no, no. That --

5 THE COURT: -- talking about one after another
6 that's somewhere else.

7 THE WITNESS: No, no, no. I didn't say the 59
8 were Harry. I said the 29.

9 THE COURT: The 29. Because we had divided it up
10 into a couple of groups.

11 THE WITNESS: Yeah.

12 THE COURT: So, there's a group of 29 that are in
13 possession of Harry Hildibrand presently.

14 THE WITNESS: Right.

15 THE COURT: And, then, now you're talking about
16 some other cars that --

17 THE WITNESS: That were sold way before Harry
18 Hildibrand, --

19 THE COURT: Okay.

20 THE WITNESS: -- way before the --

21 THE COURT: All right. I got it.

22 MR. MAZUR: But those remain --

23 THE COURT: I just want to understand your
24 position.

25 THE WITNESS: Pardon me?

1 THE COURT: I just wanted to understand your
2 position.

3 THE WITNESS: Okay.

4 THE COURT: So, all right.

5 BY MR. MAZUR:

6 Q But those -- the Bank still believes you have
7 possession of those vehicles? Is that your understanding?

8 A I don't know what they believe about that. I mean
9 --

10 Q Okay. Next is paragraph 21 --

11 THE COURT: Because I don't remember you bringing
12 up any of this about the auction house in the prior
13 proceedings we've had here.

14 THE WITNESS: I was never asked about it.

15 THE COURT: So, you weren't asked?

16 THE WITNESS: No, sir.

17 THE COURT: That's why you didn't tell us.

18 THE WITNESS: No.

19 THE COURT: Because, the whole time, we've been
20 here for two years, we've been trying to find out where
21 these cars are. Right?

22 THE WITNESS: The car --

23 THE COURT: All right. Now, hold on. All right,
24 guys --

25 THE WITNESS: Well, Your Honor --

1 THE COURT: -- this is what we're going to do.
2 No. Hold on. This is what we're going to do. We're going
3 to suspend this. I want to hear argument for five minutes
4 from each of you on why Mr. Foust should not be held in
5 contempt. And, then, we're going to continue this for
6 further hearings. Mr. Bragonje, five minutes of argument.

7 MR. BRAGONJE: Thank you, Your Honor. And you --

8 THE COURT: I'm not cutting him off, he's still
9 going to have a right. But we're just -- I need to hear
10 some argument on where we are and where we're going to go
11 on this. Because I got a -- I didn't think it was going to
12 take this long and I got a jury trial starting.

13 MR. MAZUR: Understand.

14 THE COURT: That's why I'm --

15 MR. MAZUR: No.

16 THE COURT: That's why I'm trying to rush it. It
17 has nothing to do with, you know, my wanting to cut Mr.
18 Foust off because I don't.

19 MR. MAZUR: No. Thank you, Your Honor.

20 THE COURT: Okay.

21 MR. BRAGONJE: Thank you, Your Honor.

22 We're here today -- you know, I think there's a
23 universe of cars out there that we're still trying to learn
24 about. But we have a few concrete leads. We know about
25 the cars that were identified in the bankruptcy and we know

1 about the cars that Mr. Foust and his family are using.

2 THE COURT: Okay.

3 MR. BRAGONJE: I'm talking about those cars here
4 today. This Court has had years of proceedings and trials
5 and the conclusion was that Harry Hildibrand and Mr. Foust,
6 for purposes of enforcing this Judgment, are one person,
7 they've got control over these cars that --

8 THE COURT: Well, that was the position that we
9 had. That was the position the Court took in the Findings
10 of Fact. But now I'm hearing that there was some -- you
11 know, there was 2006 -- you know, for sale through an
12 auction house of many of these cars. I thought that --

13 MR. BRAGONJE: I don't --

14 THE COURT: -- your client would have known that
15 because you had subpoenaed from Harry Hildibrand and Mr.
16 Foust all of these records. And I -- we've been spending a
17 lot of time on --

18 MR. BRAGONJE: Right.

19 THE COURT: -- where the cars, who owns the cars,
20 and somebody, whether it's the Bank or Mr. Foust, somebody
21 should have brought those facts to my attention.

22 MR. BRAGONJE: Right. And I think the answer to
23 that is here today, the contempt proceedings are focused on
24 the family -- on the cars that his family has and the cars
25 that were identified in the bankruptcy.

1 THE COURT: Well, those were the Harry Hildebrand
2 cars, --

3 MR. BRAGONJE: Right.

4 THE COURT: -- not the other cars.

5 MR. BRAGONJE: Right.

6 THE COURT: Because if he doesn't have possession
7 of all these other cars, I can't hold him in contempt --

8 MR. BRAGONJE: I agree.

9 THE COURT: -- for cars he doesn't have.

10 MR. BRAGONJE: I agree and I'm not asking --

11 THE COURT: Because he can't --

12 MR. BRAGONJE: I'm not asking for that.

13 THE COURT: Okay.

14 MR. BRAGONJE: Yeah. I agree.

15 THE COURT: So, your order was a little bit
16 unclear -- or, your Order to Show Cause didn't say --

17 MR. BRAGONJE: Well, I think it did.

18 THE COURT: Did it?

19 MR. BRAGONJE: I think it said -- I think it said
20 we're after the cars that are in his possession and the 20
21 cars that were identified in the bankruptcy.

22 THE COURT: Okay. And, so, the whole reason why
23 we're here, then, is to find out why he hasn't turned over
24 the cars that are in the possession of Harry Hildibrand
25 where we've previously indicated -- or, the Court's

1 previously indicated that basically they're alter egos.
2 And he controls or has influence over Harry Hildibrand. We
3 heard from Mr. Detwiler, we heard from Mr. Foust, I think
4 we heard from another witness.

5 MR. BRAGONJE: Right.

6 THE COURT: Those are the conclusions.

7 MR. BRAGONJE: Right.

8 THE COURT: I don't want to change those
9 conclusions unless there's been something new that I
10 haven't heard. And, so, I guess, you know, going forward,
11 I want to focus on not what happened to all those other
12 cars.

13 Mr. Mazur, you're probably hearing -- you probably
14 didn't realize coming into today that we're only talking
15 about the 29 at this point, not all the 59.

16 MR. BRAGONJE: I'll just interject --

17 MR. MAZUR: I think it's in the group of the
18 entire universe. And, as we go through it, we -- this --

19 THE COURT: Because I don't want to waste time on
20 all those other -- the non 29, then.

21 MR. MAZUR: Right. But --

22 MR. BRAGONJE: May I interject? I think it's 20.

23 THE COURT: Or, 20.

24 MR. BRAGONJE: I think Mr. Foust said 20. I just
25 --

1 MR. MAZUR: Okay.

2 THE COURT: All right. Twenty.

3 MR. BRAGONJE: I think this is important.

4 THE COURT: All right.

5 MR. BRAGONJE: Twenty were identified in the
6 bankruptcy --

7 THE COURT: Yeah.

8 MR. BRAGONJE: -- four are in the possession of
9 here in his family. So, I guess it's 24 total.

10 THE COURT: Yeah. Twenty. So --

11 MR. MAZUR: That's the universal vehicle -- the 20
12 plus --

13 THE COURT: So, let's hear from Mr. Mazur. The --
14 look, I've made a decision that those cars have to be
15 turned over by Harry Hildibrand and/or Mr. Foust. They
16 haven't been turned over. And it sounds like the defense
17 is not that Harry Hildibrand doesn't have possession, it's
18 because there wasn't a Notice of Execution with an
19 advisement of the rights as to the claims of exemptions
20 that might exist.

21 MR. MAZUR: It's actually two-fold, Your Honor.

22 THE COURT: Okay.

23 MR. MAZUR: And vehicles on the list have been
24 sold and that's where we were going through as far as --

25 THE COURT: The 20.

1 MR. MAZUR: The 20 have been sold and they have
2 been identified. It was actually -- there was --

3 THE COURT: He just said three times -- Mr. Foust
4 said three times that they're in the possession of Harry
5 Hildibrand.

6 MR. MAZUR: Right. But some of them have been
7 sold. There are documents provided in --

8 THE COURT: You mean after that this proceeding
9 started, there was some?

10 MR. MAZUR: No. I believe it was --

11 THE COURT: Before.

12 MR. MAZUR: -- prior. And it was provided in --
13 there was a list provided in one of the depositions of the
14 transferred vehicles, where they went to. And there was
15 testimony on it as well but there wasn't specifics on who
16 the current owner was of that vehicle.

17 THE COURT: But that was another -- there was
18 another set of cars that we know were sold.

19 MR. MAZUR: Right.

20 THE COURT: We had divided this up into three
21 different sets.

22 MR. MAZUR: Okay.

23 THE COURT: Those cars that were sold to third
24 parties and we were trying to determine if there were, you
25 know, fraud on creditors to sell these, those cars --

1 MR. MAZUR: Right.

2 THE COURT: -- which were in the possession of
3 Harry Hildibrand. And, then, those cars that Harry
4 Hildibrand had that perhaps sold to others.

5 MR. MAZUR: Okay.

6 THE COURT: So, that's -- but, then, that left us
7 with 20 that we thought Harry Hildibrand had that hadn't
8 been disposed of.

9 MR. MAZUR: Right. And those are the ones that I
10 was going through as well, we were hitting as we were
11 talking, 2000 Plymouth Prowler that's been sold, it was on
12 the list.

13 THE COURT: Okay.

14 MR. MAZUR: But if the lists -- our universe is
15 just the 20 plus 4. And I think we've addressed the four
16 as far as the location, who has them, and where they're at
17 --

18 THE COURT: Right. You addressed those --

19 MR. MAZUR: -- I'm trying to go through and hit
20 right to the point. And, you know, we're trying to make
21 good faith attempt here and if this is my five minutes --

22 THE COURT: No. You are.

23 MR. MAZUR: -- then I cut you off.

24 THE COURT: No. You are. No. I mean, you're --

25 MR. MAZUR: We're trying to make a good faith

1 attempt to get to the bottom, cut to the chase, and find
2 out, okay, which of the assets are still in possession,
3 where are they at, or who's on title.

4 THE COURT: So, this is what we're going to do
5 going forward. Because I understand what you're doing. I
6 appreciate that. A lot of this that I'm hearing now, after
7 a couple rounds of testimony here in front of me and in the
8 Bankruptcy Court and several affidavits, this is the first
9 I'm hearing that any of those 20 were sold to other
10 parties. So, I think what we need to do in order not to
11 have unfair surprise to the Bank is I need an affidavit
12 before the -- before we come back from Mr. Foust stating as
13 to each of those cars. Number one, does Harry Hildibrand
14 still have possession? And, if so, where they're located.
15 Number two, if Mr. Hildibrand doesn't have the -- if the
16 company doesn't have those cars, --

17 MR. MAZUR: Okay.

18 THE COURT: -- where did they go? And I think you
19 were covering some of that. When were they sold and/or
20 transferred? And to whom to the extent it's known. If
21 it's not known, then who was the broker that was selling
22 them? And you were indicating -- you were describing the
23 cars by -- you know, by make and model. So, do that.

24 MR. MAZUR: What I'll do then is I have the list
25 from the bankruptcy --

1 THE COURT: And --

2 MR. MAZUR: -- if that's the --

3 MR. BRAGONJE: Yeah. That's fine.

4 MR. MAZUR: -- same list? Okay.

5 THE COURT: And, then, we need to know if those

6 sales were conducted by the LLC of the company or Mr. Foust

7 directly.

8 MR. MAZUR: Okay. Very good.

9 THE COURT: So, I think that's what you were going

10 to get at today.

11 MR. MAZUR: Yes.

12 THE COURT: It would probably streamline some of

13 this proceedings if you could get that affidavit, turn it

14 over to Mr. Bragonje, and then we can resume.

15 MR. MAZUR: We can do that.

16 THE COURT: Mr. Bragonje, anything else that you

17 think would be fair under the circumstances? Other than I

18 know you want relief today.

19 MR. BRAGONJE: No, no. Well, I was going say,

20 concerning the four cars that are in the possession of he

21 and his family, I don't think there's any confusion. And,

22 so, --

23 THE COURT: Those are part of the 59 -- or, the 59

24 originally. Is that what you're saying?

25 MR. BRAGONJE: Well, no. It's that those are in

1 his possession and his family's possession. I don't see
2 why those couldn't be turned over immediately.

3 THE COURT: Well, were those part of the original
4 59 in this case?

5 MR. BRAGONJE: I don't know that. I'm not sure.

6 THE COURT: These are new cars that we haven't
7 discussed.

8 MR. BRAGONJE: Well, no. They've been discussed,
9 for sure.

10 MR. MAZUR: Actually, they're on the list of 20, I
11 believe, Your Honor.

12 THE COURT: They're on the list of 20.

13 MR. MAZUR: Yeah. Correct.

14 THE COURT: Which is the -- so, if they're on the
15 list of 20, they're on the broader list of 59. The 20 is a
16 subset of the 59.

17 MR. MAZUR: Okay.

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 MR. BRAGONJE: Yeah.

21 THE COURT: So, they were discussed. They were
22 discovered. They were a subject of these proceedings.

23 MR. BRAGONJE: Right.

24 THE COURT: They're still -- I think if he says
25 that -- Mr. Foust says that they're not titled in his name,

1 I think the -- right? They weren't -- they're not in your
2 name on the title?

3 THE WITNESS: No.

4 THE COURT: Not in your wife's name, not in your
5 daughter's name?

6 THE WITNESS: No.

7 THE COURT: They're in the LLC's name.

8 THE WITNESS: Harry Hildibrand.

9 MR. MAZUR: And, Your Honor, there's a legal
10 separation. They -- I did file for divorce and there is a
11 separation agreement that the court -- from Family Court in
12 Los Angeles, California --

13 THE COURT: Okay.

14 MR. MAZUR: -- and that's been filed with the
15 court over a year ago. But the --

16 THE COURT: Okay.

17 MR. MAZUR: -- divorce was finalized.

18 THE COURT: These -- so, these Mercedes, in whose
19 name are they titled? The three Mercedes.

20 MR. MAZUR: I believe he testified it was Harry
21 Hildibrand, LLC.

22 THE COURT: That's what I thought so, too.

23 MR. MAZUR: But I can verify it with the divorce
24 order as well and see how that handled. Because the
25 vehicle that -- if it's in the ex-wife's possession and we

1 don't have -- and we don't have the right to go grab it
2 from her, I mean -- so, I mean, it does create some issues
3 being in California.

4 THE COURT: The difference between title and
5 possession, of course.

6 MR. MAZUR: Right.

7 THE COURT: But you're saying he doesn't have
8 title and he doesn't have possession of the three Mercedes.

9 MR. MAZUR: Correct -- is that correct? I mean --

10 THE WITNESS: That's correct.

11 MR. MAZUR: Yes.

12 THE COURT: All right. That's -- okay. That -- I
13 understand the position. And, then, as to the Yukon, he
14 does have it in his possession but it's in the title of the
15 LLC. The title.

16 MR. MAZUR: Right. And we do -- can make a claim
17 for up to 15,000 in equity. And one vehicle under the
18 claim of exemption.

19 THE COURT: All right. All right. And, then, as
20 to the motor coach, I guess it's your position from what
21 I'm hearing, it's starting to be developed, is that it's
22 subject to a lien --

23 MR. BRAGONJE: Yeah.

24 THE COURT: -- owned by Santander.

25 MR. MAZUR: Right. And that was --

1 MR. BRAGONJE: And I'll --

2 THE COURT: Is that new information?

3 MR. BRAGONJE: No. No.

4 THE COURT: Okay.

5 MR. BRAGONJE: And it -- there's no problem with
6 them. I mean, we've had possession of the motor coach for
7 over a year a year.

8 THE COURT: Okay. All right.

9 MR. BRAGONJE: We've been talking to Santander.

10 THE COURT: And you're in possession and you're
11 not seeking contempt with respect to the motorhome?

12 MR. BRAGONJE: The motorhome's gone.

13 THE COURT: Okay. All right.

14 MR. BRAGONJE: We gave it back to Santander.

15 THE COURT: So, let's just focus when we come back
16 on those 20, the ones that you haven't covered yet, Mr.
17 Mazur.

18 MR. MAZUR: A question for Your Honor on this --
19 the RV, though. That was given back to -- it should have
20 been done by a public sale or a public auction, rather than
21 given back. Or the lender had to be paid.

22 THE COURT: Well, if there was an improper sale,
23 that's not before me today.

24 MR. MAZUR: Okay. Very good.

25 THE COURT: All right. That's -- I don't like to

1 -- I'm not giving --

2 MR. MAZUR: I understand.

3 THE COURT: -- an advisory opinion --

4 MR. MAZUR: No. I understand.

5 THE COURT: -- on whether something was done right
6 or wrong as to the motor coach.

7 MR. MAZUR: May I inquire as to the date of --
8 ballpark date of --

9 THE COURT: When you come back, I need to know how
10 many witnesses you're going to have, Mr. Mazur. And is Mr.
11 Detwiler back there? I'm trying to -- there you are. I'm
12 sorry. I knew -- my eyes -- sometimes I have trouble
13 seeing that far. You're Mr. Detwiler.

14 MR. DETWILER: Yes, Your Honor.

15 THE COURT: I figured you would be here.

16 MR. DETWILER: Yeah. I do not want to go to jail,
17 sir.

18 THE COURT: Well, I know. I appreciate that.
19 Well, everyone gets a full chance to be heard before I
20 would do anything like that. All right? So, but I have
21 other remedies. You know? Monetary sanctions. So, we'll
22 see.

23 All right. So, how much time -- are you going to
24 put on -- finish with Mr. Foust, then Mr. Detwiler. Any
25 other witnesses after that.

1 MR. MAZUR: We do have Tom Larkin from --

2 THE COURT: Tom Larkin. Okay. Sure.

3 MR. MAZUR: And, I think, in the affidavit we may
4 be able to very short circuit the whole process, whittle it
5 down a little bit. So --

6 THE COURT: I think so. All right.

7 MR. MAZUR: Okay.

8 THE COURT: And, so, how much time, Mr. Bragonje,
9 will you need for cross-examination of Mr. Foust and Mr.
10 Detwiler?

11 MR. BRAGONJE: I doubt it's more than a morning
12 like we were having now.

13 THE COURT: All right. So, you guys think total I
14 should block out two full hours?

15 MR. BRAGONJE: I think --

16 MR. MAZUR: Yes. That should be -- that should be
17 plenty.

18 THE COURT: and that'll give you guys each 10 more
19 minutes to argue.

20 MR. BRAGONJE: Sounds good.

21 MR. MAZUR: Perfect.

22 THE COURT: All right. So, let me see. I don't
23 know when I can do the two hours. I don't know if I can
24 give you a time right now, guys. Who's -- Mr. Foust,
25 you're from L.A. Right? You have to come in here special?

1 MR. FOUST: Well, San Diego. I live there.

2 THE COURT: San Diego. And, Mr. Detwiler, where
3 does he come in from?

4 MR. DETWILER: Local, sir.

5 THE COURT: You're local. Very good. So, it's
6 just Mr. Foust's schedule. And what I'm going to have to
7 do, gentlemen, is look at my schedule and try to find some
8 available dates and have my JEA get in touch with both of
9 you. And, then, we're going to have to coordinate. I'd
10 like to get it done -- I really would like to get this done
11 within the next two or three weeks. We really need to move
12 on this.

13 To the extent it's not crystal clear to everybody,
14 though, whether Mr. Foust owns or possesses any of these
15 vehicles, or Harry Hildibrand, LLC, owns or possesses any
16 of these vehicles, or Mr. Detwiler owns or possesses any of
17 these vehicles, they are absolutely not to be transferred,
18 sold, encumbered, or in any way transferred to anybody
19 else's possession, custody, or control, or title until I've
20 finished resolving the current Order to Show Cause.

21 MR. MAZUR: Okay.

22 THE COURT: Is that clear?

23 MR. MAZUR: Yes, Your Honor.

24 THE COURT: All right. Mr. D -- while you're back
25 there, is that clear to you, sir?

1 MR. DETWILER: Yes.

2 THE COURT: All right. Let's -- how long will it
3 take you, Mr. Mazur, to get in this affidavit?

4 MR. MAZUR: If I could actually -- I still have
5 some --

6 THE COURT: I mean, you were going through it all
7 today. It shouldn't be more than a few business days.
8 Right?

9 MR. MAZUR: If I could have one week that would be
10 perfect until next Monday? That would be --

11 THE COURT: That's fine.

12 MR. MAZUR: -- perfect.

13 THE COURT: Not a problem. So, a week from today
14 would be what date?

15 THE CLERK: April 8th.

16 THE COURT: All right. April 8th is the court-
17 imposed deadline for Mr. Foust to provide this Court with
18 an affidavit regarding the location, possession, and
19 transfer in the past of the 20 vehicles that are the
20 subject of this current contempt proceeding. All right.
21 So, sometime after that receipt of the affidavit, we'll
22 hold a hearing, a continued hearing. Understood?

23 MR. MAZUR: Very good. Thank you, Your Honor.

24 MR. BRAGONJE: Sounds good.

25 THE COURT: All right. My JEA or Law Clerk will

1 get in touch with you about availabilities. All right.

2 MR. MAZUR: Thank you, Your Honor.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: You are excused, Mr. Foust. All
5 right. All right. Thank you. We're going to go ahead and
6 take a 15-minute recess. Okay?

7 All right. What are you here for?

8 MR. LARKIN: I'm Mr. Vega -- representing Mr. Vega
9 as the --

10 THE COURT: Okay.

11 MR. LARKIN: -- power of attorney on the vehicles
12 that he has the lien on.

13 THE COURT: Okay. Very good. I understand. All
14 right. All right. So, you're not going to testify, you're
15 just appearing as a possible interested party?

16 MR. LARKIN: I am -- I'm willing to indicate what
17 I have as proof of our lien.

18 THE COURT: Well, some --

19 MR. BRAGONJE: Well, I'd like to see these
20 documents, too.

21 THE COURT: Pardon me? Are some cars in your --
22 or you just have the lien, you don't have possession or
23 title of the cars?

24 MR. LARKIN: I think Mr. Vega has several of the
25 cars. I don't --

1 THE COURT: Why don't you step forward for a
2 second --

3 MR. LARKIN: Certainly.

4 THE COURT: -- and just identify yourself because
5 you're talking and --

6 MR. LARKIN: Okay. Tom --

7 THE MARSHAL: Right here.

8 MR. LARKIN: Tom Larkin. I represent for power of
9 attorney on the vehicles for Mr. Ronald Vega.

10 THE COURT: All right. Why don't you come back at
11 the date that we're going to set in the future, then?
12 Would that be convenient for you, sir?

13 MR. LARKIN: Yes, sir. I come from San Diego.
14 With just notice, I can get here.

15 THE COURT: All right. Very good. I'll tell you
16 what, when we go off the record, why don't you give your
17 contact information to my Law Clerk so we can coordinate
18 with your schedule as well in trying to set the new date?

19 MR. LARKIN: Yes, Your Honor.

20 THE COURT: Does that work for you, sir?

21 MR. LARKIN: Yes, sir.

22 THE COURT: All right.

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MR. LARKIN: Thank you.

THE COURT: Thank you. Appreciate it. All right.
Court's adjourned.

PROCEEDING CONCLUDED AT 10:14 A.M.

* * * * *

1 **CERTIFICATION**

2

3

4 I certify that the foregoing is a correct transcript from

5 the audio-visual recording of the proceedings in the

6 above-entitled matter.

7

8 **AFFIRMATION**

9

10 I affirm that this transcript does not contain the social

11 security or tax identification number of any person or

12 entity.

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20 KRISTEN LUNKWITZ

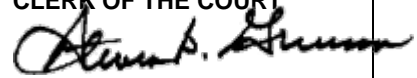
21 INDEPENDENT TRANSCRIBER

22

23

24

25



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12 *Also known as James P. Foust, Jr.*

13 **EIGHTH JUDICIAL DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 BAKER BOYER NATIONAL BANK, a
16 Washington corporation,

17 Plaintiff/Judgment Creditor,

18 vs.

19 JAMES PATTERSON FOUST, JR., also
20 known as James P. Foust, Jr., individually
21 and his marital community, if any,

22 Defendant/Judgment Debtor.

Case No.: A-17-760779-F
Dept. No.: II

**DECLARATION OF JAMES PATTERSON
FOUST, JR.**

23 **STATE OF CALIFORNIA**

24 **COUNTY OF LOS ANGELES**

25 **DECLARATION OF JAMES PATTERSON FOUST, JR.**

26 I, JAMES PATTERSON FOUST, JR., declare that I am over the age of eighteen (18)
27 years of age and I am competent to give the testimony set forth below. Testimony is given from
28 my own personal knowledge. If called as a witness, I could and would competently and truthfully
testify as to the facts set forth herein.

1 I am the Defendant in the above captioned matter, and I am familiar with the
2 transaction(s) which forms the basis of this claim. I have first-hand knowledge of the events as
3 they occurred, and I am the custodian of my books and records which are kept in the ordinary
4 course of business. This Declaration is made concerning the following vehicles pursuant to the
5 Order to Show Cause Hearing held on April 1, 2019 in the above matter:

6 1. 2007 Mercedes S550, VIN No. WDDNG71X57A075860. I am not in personal
7 possession of this vehicle. The last known location of the 2007 Mercedes S550 was in Rancho
8 Palos Verde, California. The last known address was 7 Avenida de Magnolia, Rancho Palos
9 Verde, California 90275. I am informed and believe that this vehicle was registered to Harry
10 Hildebrand, LLC in April 2014 in the State of Montana and subject to a security interest by
11 StarDust Classics LLC and/or Ronald Vega. It is my understanding that Vega is either attempting
12 to enforce its security interest or has already enforced its security interest and repossessed this
13 vehicle. It is my understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald
14 Vega at the hearing held on April 1, 2018.

15 2. 1998 Marathon Coach, VIN No. 2PCM3349XV1026183. I am not in personal
16 possession of this motor coach. It is my understanding that Plaintiff's attorneys of record
17 acquired possession of this vehicle in 2018. Further, it is my understanding that Plaintiff's
18 transferred the motor coach to Santander at some point in time thereafter. Further, Plaintiff's
19 failed to provide me a notice of execution, notice of my rights to file a claim of exemption, and
20 failed to hold a public auction. I have been informed that in lieu of the holding a public auction,
21 that Plaintiff fraudulently transferred the motor coach to Santander without receiving reasonably
22 equivalent value. Plaintiff claimed that the motor coach had a fair market value exceeding
23 \$100,000.

24 3. 2000 GMC Yukon, VIN No. 1GKEK13T9YJ1740142. I am not in personal
25 possession of this vehicle. The last known location of the 2000 GMC was in Rancho Palos
26 Verde, California. The last known address was 7 Avenida de Magnolia, Rancho Palos Verde,
27 California 90275. I am informed and believe that this vehicle was registered to Harry Hildebrand,
28 LLC in December 2014 in the State of Montana and subject to a security interest by StarDust
Classics LLC and/or Ronald Vega. It is my understanding that Vega is either attempting to
enforce its security interest or has already enforced its security interest and repossessed this
vehicle. It is my understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald
Vega at the hearing held on April 1, 2018.

1 4. 1955 Ford T-Bird (Chev), VIN No. P5FH240647. I am not in personal possession
2 of this vehicle. The last known location of the 1955 Ford was with Harry Hildebrand LLC. To
3 the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo,
4 Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by
5 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
6 vehicle was registered to Harry Hildebrand, LLC in May 2011 in the State of Montana and
7 subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my
8 understanding that Vega is either attempting to enforce its security interest or has already
9 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
10 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

11 5. 2016 Kawasaki KR10, VIN No. JKAZX2A13FB505e. I am not in personal
12 possession of this vehicle. The last known location of the 2016 Kawasaki was with Harry
13 Hildebrand, Jr. in Missoula, Montana.

14 6. 2007 Mercedes CLK 550, VIN No. WDBTK72F271081009. I am not in personal
15 possession of this vehicle. The last known location of the 2007 Mercedes was in Rancho Palos
16 Verde, California. The last known address was 7 Avenida de Magnolia, Rancho Palos Verde,
17 California 90275. I am informed and believe that this vehicle was registered to Harry Hildebrand,
18 LLC in January 2012 in the State of Montana and subject to a security interest by StarDust
19 Classics LLC and/or Ronald Vega. It is my understanding that Vega is either attempting to
20 enforce its security interest or has already enforced its security interest and repossessed this
21 vehicle. It is my understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald
22 Vega at the hearing held on April 1, 2018.

23 7. 2007 Mercedes M50 SUV, VIN No. 4JGBB75E07A222537. I am not in personal
24 possession of this vehicle. The last known location of the 2007 Mercedes was in Rancho Palos
25 Verde, California. The last known address was 7 Avenida de Magnolia, Rancho Palos Verde,
26 California 90275. I am informed and believe that this vehicle was registered to Harry Hildebrand,
27 LLC in May 2011 in the State of Montana and subject to a security interest by StarDust Classics
28 LLC and/or Ronald Vega. It is my understanding that Vega is either attempting to enforce its
security interest or has already enforced its security interest and repossessed this vehicle. It is my
understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald Vega at the
hearing held on April 1, 2018.

1 8. 2007 Chevy Corvette Z06, VIN No. G1YY26E375121069. I am not in personal
2 possession of this vehicle. The last known location of the 2007 Chevy was with Harry
3 Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto
4 Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it
5 was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and
6 believe that this vehicle was registered to Harry Hildebrand, LLC in January 2012 in the State of
7 Montana and subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is
8 my understanding that Vega is either attempting to enforce its security interest or has already
9 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
10 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

11 9. 1940 Ford Coupe, VIN No. AZ162601. I am not in personal possession of this
12 vehicle. The last known location of the 1940 Ford Coupe was with Harry Hildebrand LLC. To
13 the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo,
14 Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by
15 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
16 vehicle was registered to Harry Hildebrand, LLC in May 2011 in the State of Montana and
17 subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my
18 understanding that Vega is either attempting to enforce its security interest or has already
19 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
20 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

21 10. 1957 Chevy Bel Air Conv (FI), VIN No. VC57014164. I am not in personal
22 possession of this vehicle. The last known location of the 1957 Chevy Bel Air was with Harry
23 Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto
24 Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it
25 was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and
26 believe that this vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of
27 Montana and subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is
28 my understanding that Vega is either attempting to enforce its security interest or has already
enforced its security interest and repossessed this vehicle. It is my understanding and belief that
Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

11. 1957 Chrysler 300 C Conv, VIN No. 3N571810. I am not in personal possession of this vehicle. The last known location of the 1957 Chrysler was with Harry Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of Montana and subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my understanding that Vega is either attempting to enforce its security interest or has already enforced its security interest and repossessed this vehicle. It is my understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

12. 1957 Ford Fairlane 500, VIN No. D7LV16223. I am not in personal possession of this vehicle. The last known location of the 1957 Ford was with Harry Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of Montana and subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my understanding that Vega is either attempting to enforce its security interest or has already enforced its security interest and repossessed this vehicle. It is my understanding and belief that Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

13. 1966 Ford Thunderbird – red VIN No. 6Y85Z104010. I am not in personal possession of this vehicle. The last known location of the 1966 Ford was with Harry Hildebrand LLC. I have not been in personal possession of this vehicle as it was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this vehicle was registered to Harry Hildebrand, LLC in the State of Montana and sold in January 2017, I am unable to recall the name of the purchaser.

14. 1971 Ford Panteria, VIN No. THPNLY0162. I am not in personal possession of this vehicle. The last known location of the 1971 Ford was with Harry Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of Montana and

1 subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my
2 understanding that Vega is either attempting to enforce its security interest or has already
3 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
4 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

5 15. 1973 Ford Panteria, VIN No. THPNU05291. I am not in personal possession of
6 this vehicle. The last known location of the 1973 Ford was with Harry Hildebrand LLC. To the
7 best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo,
8 Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by
9 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
10 vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of Montana and
11 subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my
12 understanding that Vega is either attempting to enforce its security interest or has already
13 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
14 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

15 16. 1951 Jaguar XL 120 Race Car, VIN No. S671966. I am not in personal possession
16 of this vehicle. The last known location of the 1951 Jaguar was with Harry Hildebrand LLC. To
17 the best of my recollection, the vehicle was purchased from Mecum Auto Auctions in Marengo,
18 Illinois 60152. I have not been in personal possession of this vehicle as it was purchased by
19 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
20 vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of Montana and
21 subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is my
22 understanding that Vega is either attempting to enforce its security interest or has already
23 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
24 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

25 17. 1957 Oldsmobile 98 Rocket, VIN No. 579M27665. I am not in personal
26 possession of this vehicle. The last known location of the 1957 Oldsmobile was with Harry
27 Hildebrand LLC. To the best of my recollection, the vehicle was purchased from Mecum Auto
28 Auctions in Marengo, Illinois 60152. I have not been in personal possession of this vehicle as it
was purchased by Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and
believe that this vehicle was registered to Harry Hildebrand, LLC in April 2011 in the State of
Montana and subject to a security interest by StarDust Classics LLC and/or Ronald Vega. It is
my understanding that Vega is either attempting to enforce its security interest or has already

1 enforced its security interest and repossessed this vehicle. It is my understanding and belief that
2 Mr. Thomas Larkin appeared on behalf of Ronald Vega at the hearing held on April 1, 2018.

3 18. 1966 Plymouth Belv Race Car Body & Shell. I am not in personal possession of
4 this vehicle. The last known location of the 1966 Plymouth was with Harry Hildebrand LLC. I
5 have not been in personal possession of this vehicle as it was purchased by Harry Hildebrand,
6 LLC with the intent to resell at a profit. I am informed and believe that this vehicle was
7 registered to Harry Hildebrand, LLC in the State of Montana and sold in May 2011 to Mr. Kuck
in Iowa.

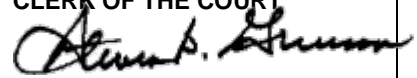
8 19. 2000 Plymouth Prowler VIN No. 1P3EW6561YV603597. I am not in personal
9 possession of this vehicle. The last known location of the 2000 Plymouth was with Harry
10 Hildebrand LLC. I have not been in personal possession of this vehicle as it was purchased by
11 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
12 vehicle was registered to Harry Hildebrand, LLC in the State of Montana and sold in April 2011
to Mr. Kuck in Iowa.

13 20. 1963 Chevy 425/409 S/S, VIN No. 31847L144085. I am not in personal
14 possession of this vehicle. The last known location of the 1963 Chevy was with Harry
15 Hildebrand LLC. I have not been in personal possession of this vehicle as it was purchased by
16 Harry Hildebrand, LLC with the intent to resell at a profit. I am informed and believe that this
17 vehicle was registered to Harry Hildebrand, LLC in the State of Montana and sold through an
18 auction on June 2016 at Russo & Steele in the State of Arizona.

19
20 I declare under penalty of perjury under the laws of the State of CALIFORNIA that the
21 above is true and correct.

22 Executed on April 8, 2019, in LOS ANGELES, CALIFORNIA

23
24 
25 JAMES PATTERSON FOUST, JR.
26 Declarant
27
28



TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

BAKER BOYER NATIONAL BANK,)

Plaintiff,)

vs.)

JAMES PATTERSON FOUST, JR.,)

Defendant.)

CASE NO. A-17-760779

DEPT. NO. II

Transcript of Proceedings

BEFORE THE HONORABLE RICHARD F. SCOTTI, DISTRICT COURT JUDGE

EVIDENTIARY HEARING

WEDNESDAY, APRIL 24, 2019

APPEARANCES:

For the Plaintiff: JOHN E. BRAGONJE, ESQ.

For the Defendant: MICHAEL MAZUR, ESQ.

RECORDED BY: DALYNE EASLEY, DISTRICT COURT

TRANSCRIBED BY: KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording; transcript
produced by transcription service.

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WEDNESDAY, APRIL 24, 2019 AT 1:14 P.M.

THE COURT: All right. *Baker Boyer versus James Patterson*, A760779.

MR. MAZUR: Good afternoon, Your Honor. Michael Mazur on behalf of defendant.

MR. BRAGONJE: Good afternoon, Your Honor. John Bragonje from the Lewis Roca law firm on behalf of the plaintiff and judgment creditor, Baker Boyer National Bank.

THE COURT: Very good. I don't see any witnesses so I'm assuming you guys want to continue this.

MR. BRAGONJE: I'd like to.

MR. MAZUR: Yes, please, Your Honor. My client's halfway through Barstow or Baker right now. And he was here at 9 o'clock this morning. I think there was some confusion on the dates. We received an e-mail this morning at 8:30 trying to confirm if the hearing was on for today or not. And I think John Bragonje said, I assume it's going to be held on Friday, and my client saw that and he started driving back. So, we would request a continuance if we could.

THE COURT: What dates are you available? Well, I can tell you the dates that -- the only dates that I have to fit this in.

MR. MAZUR: Perfect.

1 THE COURT: Ready?

2 MR. MAZUR: Yes.

3 THE COURT: All right. So, it's got to be one of
4 these dates. April 26th, that's a Friday, that's this
5 Friday at 8:30 a.m. Now, I'm assuming you guys will need
6 about two hours for this evidentiary hearing.

7 MR. MAZUR: Yeah.

8 MR. BRAGONJE: At the most. Yeah.

9 MR. MAZUR: Maximum.

10 THE COURT: Okay. Then we have May 10th, that's
11 another Friday at 9 a.m. All right. Then we have
12 Thursday, May 16th at 10:30. And, then, Friday, May 17th at
13 9 a.m.

14 MR. BRAGONJE: So, I mean, I would rather proceed
15 today. I think I've got some things I could offer that
16 counsel could deal with. But I guess I don't know if the
17 Court is willing to hear it. So --

18 THE COURT: Well, it's an Order to Show Cause in
19 re Contempt so it's really the burden on the -- on Mr.
20 Foust and --

21 MR. BRAGONJE: Sure.

22 THE COURT: -- and Harry Hildibrand, LLC, and Mr.
23 Detwiler come forward and present their evidence why they
24 shouldn't be held in contempt of court and punished
25 accordingly. So, I want to hear from them.

1 MR. BRAGONJE: Okay.

2 THE COURT: But if there's some information. Mr.
3 Bragonje, that you think would be helpful for the Court
4 and, also, to give notice to the judgment debtors, we could
5 do that.

6 MR. BRAGONJE: Yeah. I think I've got just a --
7 you know, probably 10 minutes worth. I've got the response
8 to a subpoena that I'd like to share with the Court. I've
9 disclosed it, you know, I think three weeks ago. They've
10 seen it before today.

11 THE COURT: All right.

12 MR. BRAGONJE: It's not really anything -- it's --
13 you know, it's from a third party so no one's going to come
14 here to testify about it or anything like that. It's just
15 the documents themselves. So, we could do that --

16 THE COURT: Well --

17 MR. BRAGONJE: -- and it might speed things along.

18 THE COURT: Well -- right. I'm waiting for
19 attorneys in a jury trial where the jury is out right now.
20 And I have a jury question that I need to answer. I don't
21 want to delay that.

22 MR. BRAGONJE: Okay.

23 THE COURT: But I'm waiting for one of the
24 attorneys to show up. Let's see, we have one side here
25 already. We're waiting for the other side. Maybe we can

1 go ahead and begin, then, since I don't know how long it's
2 going to take him to get here.

3 MR. BRAGONJE: Okay. Yeah.

4 THE COURT: So, give me a moment to get my notes
5 out.

6 All right. Mr. Bragonje, I did see that you had
7 proof of service for Mr. Detwiler and Mr. Foust. What
8 would you like to explain to the Court?

9 MR. BRAGONJE: Yeah. If I could approach, Your
10 Honor, and just provide the Court with the copy of what I'd
11 like to discuss?

12 THE COURT: All right. Very well.

13 [Colloquy in the courtroom]

14 THE COURT: While we're waiting, could you hand
15 this to Mr. Doyle so he could at least see what the
16 question is?

17 MR. BRAGONJE: This is a demonstrative evidence,
18 which I've handed to opposing counsel. And this is a copy
19 of my most recent disclosure.

20 THE COURT: Right. I have that disclosure.

21 MR. BRAGONJE: Okay.

22 THE COURT: Thank you.

23 MR. BRAGONJE: So, I want --

24 THE COURT: Let me take a look at what you handed
25 me.

1 MR. BRAGONJE: So --

2 THE COURT: All right. Very good.

3 MR. BRAGONJE: -- maybe if I could start with the
4 demonstrative evidence, the timeline? I think what we've
5 heard from Mr. Foust in the prior hearing and what we'll
6 hear when he ultimately testifies is that he's got no
7 involvement with Harry Hildibrand -- it's really nothing
8 new. He says he's got no involvement with Harry
9 Hildibrand. He disassociated with Harry Hildibrand in 2008
10 and, consequently, he's got no involvement with the cars
11 that Harry Hildibrand identified in the bankruptcy. I
12 think there were approximately -- there were approximately
13 20, I think.

14 I sent a subpoena to an insurance company that
15 specializes in insuring classic cars, expensive cars like
16 that. It's a company called Hagerty. And I got a response
17 back that indicated that while these proceedings were going
18 on -- so, kind of between the first hearing that we had and
19 the second hearing, Mr. Foust reached out to this insurance
20 company to try to get insurance for all the cars identified
21 in the bankruptcy.

22 And if you could refer -- so, the first
23 evidentiary hearing was February 15th. And, you may
24 remember, there was a bankruptcy that happened on July 30th.
25 This was all last year. And, then, on August 22nd, we have

1 a telephone log from this insurance company. And Mr. Foust
2 told a Hagerty representative that he, quote: Has a
3 collection that needs fire and theft insurance. But most
4 of the cars are in Bowman, North Dakota and California and
5 that he will e-mail a list.

6 So, if we could look at the -- it's -- I guess I
7 would -- I guess I'd offer this into evidence if there's no
8 objection. I could go through the name of the Custodian of
9 Record. It's their -- there is a Custodian of Record
10 certificate that's notarized. It is on page 374 of the
11 disclosure. It is a response from a Mr. Mark Cuzma, II
12 [phonetic]. He has the title of senior counsel at Hagerty
13 Insurance Agency. And he --

14 THE COURT: Do you have the original of this
15 certificate of custodian? I have a copy here.

16 MR. BRAGONJE: I don't think I have the original.

17 THE COURT: All right. Well, how did you --

18 MR. BRAGONJE: I -- this was an out of state
19 subpoena. So, we went through a service. I think this was
20 --

21 THE COURT: I see.

22 MR. BRAGONJE: This was served in Delaware,
23 actually. So, I think our company may have the original in
24 its files. I don't know the service that we went through.
25 But it's notarized there. It's dated February 14th, 2019.

1 And by the --

2 THE COURT: Well, let's see what Mr. Mazur says
3 about this.

4 MR. BRAGONJE: Yeah. By the way, I did --

5 THE COURT: But let him have a chance to review
6 it.

7 MR. BRAGONJE: I did have -- I did give this to --
8 notice of the subpoena went out to prior counsel before
9 they withdrew.

10 THE COURT: Right.

11 MR. BRAGONJE: There was no objection.

12 MR. MAZUR: And, Your Honor, if I could request
13 time to review the document before agreeing to
14 admissibility? But I will definitely --

15 THE COURT: That's fine. You can just --

16 MR. MAZUR: -- inquire with the client as -- and
17 hopefully we can speed things along.

18 THE COURT: Right. We don't need to decide that
19 right now. But you're on notice of the request.

20 MR. MAZUR: Okay.

21 THE COURT: Okay.

22 MR. MAZUR: Thank you, Your Honor.

23 MR. BRAGONJE: Yes. So, there on page 374,
24 there's the statements regarding authenticity are -- the
25 document's authentic because this senior attorney said that

1 he was familiar with the documents and he made the
2 response. And, then, in his affidavit as well, there is a
3 statement that indicates that the subpoena response
4 constitutes business records. It says that the original --
5 the records were made at or near the time of the act,
6 event, condition, opinion, or diagnosis recited therein.
7 So, my position is these are authentic business records
8 that ought to be taken into evidence.

9 And, then, if people could direct their attention
10 to page 398 of this proposed exhibit? I'll just call it
11 Proposed Exhibit 1. Page 398. This is a telephone -- I
12 guess I'll let everyone have a chance to get there.

13 MR. MAZUR: And, Your Honor, if I may inquire a
14 question? As far as all the documents attached, were all
15 these produced in the same order or is there --

16 MR. BRAGONJE: Yes.

17 MR. MAZUR: Okay. Because I see in here --

18 MR. BRAGONJE: This is the order --

19 MR. MAZUR: -- there some discovery questions and
20 --

21 MR. BRAGONJE: Yeah. I think it's a copy of the
22 subpoena.

23 MR. MAZUR: Okay.

24 THE COURT: I'm looking at 398.

25 MR. BRAGONJE: So, this is a telephone log. I'm

1 looking at kind of the top half of the page. And this is
2 the language I refereed to earlier that I quote in my
3 demonstrative exhibit. It's an entry from August 22nd,
4 2018, which is, again, right in the middle of our
5 proceedings before this Court. And it says here:

6 Mr. Foust, 80 years old, has a collection that
7 needs fire and theft. Most cars -- most are in Bowman,
8 North Dakota and California. Vehicles all registered
9 in Montana. He will e-mail list and, then, we can
10 review.

11 And, then, in fact, if you go down a few lines
12 further, there's a entry that talks about some of the cars
13 that, in fact, we've been discussing in these proceedings,
14 a 1957 Chevy, for example.

15 And, then, if everyone could flip over a few pages
16 to page 407? Page 407, I would submit, is the list of cars
17 that Mr. Foust submitted to the Hagerty Insurance Company.
18 There would be no other way for this company to acquire a
19 list like this. It is similar to but not identical to the
20 list offered in the bankruptcy, that there's a date at the
21 top of the list that says 8-22-2018. I assume that's the
22 date it was printed. These are the cars that were
23 identified in the bankruptcy. Although, the only
24 difference that I can tell is they're listed in a different
25 order for some reason. But it's the same make and model

1 numbers, the same serial numbers, the same description.

2 And, so, where does all of that lead us? I mean,
3 I think that we've heard -- or -- you know, many points
4 now. And I suspect that whenever Mr. Foust does testify,
5 he's going to say: I've got nothing to do with Harry
6 Hildibrand, I've got nothing to do with these cars. And --

7 THE COURT: I've already made rulings on that in
8 my Findings of Facts and Conclusions of Law in January
9 2019. But I'm certainly willing to entertain more argument
10 and evidence on that since this is a different context --

11 MR. BRAGONJE: Absolutely.

12 THE COURT: -- in Order to Show Cause for
13 Contempt.

14 MR. BRAGONJE: Absolutely. I guess I would just
15 leave the Court with this thought.

16 THE COURT: Okay.

17 MR. BRAGONJE: This Hagerty Insurance has got no
18 dog in this fight. They didn't suspect that any of this
19 would ever show up in a courtroom.

20 THE COURT: Right.

21 MR. BRAGONJE: And I think this is a snapshot of
22 Mr. Foust being candid and he says that he wants insurance
23 for these cars. So, I think that shows that he controls
24 them, despite what he'll undoubtedly testify to.

25 That's all I wanted to offer, Your Honor. Thank

1 you.

2 THE COURT: Give me one moment and, then, we'll
3 hear from Mr. Mazur.

4 MR. MAZUR: And, Your Honor, and not having --

5 THE COURT: Well, why don't you give me just one
6 minute? I wanted to find something.

7 MR. MAZUR: Okay.

8 THE COURT: I just -- I can't, like, listen and
9 look at the same time.

10 [Pause in proceedings]

11 THE COURT: I'm trying to find --

12 [Pause in proceedings]

13 THE COURT: Well, okay, Mr. Mazur.

14 MR. MAZUR: All right. Yes, Your Honor. And, in
15 some of the documents we just looked at, it says the owner
16 is HH. It's another assumption and that would be Harry
17 Hildibrand. And it doesn't state that the insurance for
18 Mr. Foust ownership of the vehicle, it just said he had a
19 telephone call with them. But I think that we could have
20 testimony on that as well and he can explain exactly the
21 conversations and what was sent out to them as well. And,
22 then, we'll review each of them with the client as well.
23 But I think a lot of assumptions have been made reading
24 into these documents of what they actually mean.

25 THE COURT: All right. I mean, I am going to

1 entertain argument and if you want to put Mr. Foust back on
2 the stand. But I -- I'm going to view any argument that's
3 intended to persuade me that my Findings of Fact and
4 Conclusions of Law in January of this year are erroneous,
5 if that's what you're going to try to do, then I'm going to
6 have to construe that as a Motion for Reconsideration or a
7 Motion for a Rule 59 or Rule 60 Relief. And, then, we have
8 the issue as to whether that's timely or untimely and/or
9 clearly erroneous and whatever standard applies there.
10 Because I already did make some findings that -- to Mr.
11 Foust controls Harry Hildibrand, either directly or
12 indirectly.

13 So, yes, I certainly will give you an opportunity
14 to further argue that. And, of course, you're coming in
15 late for, was it Marquis Aurbach? Or, no. Marquis Aurbach
16 --

17 MR. MAZUR: Yeah. They were in prior.

18 THE COURT: Right.

19 MR. MAZUR: Were prior. Yeah.

20 THE COURT: All right. What else did you want to
21 say, then?

22 MR. MAZUR: And that's everything. Some of the
23 notations, I want to say, created in 2011 and closed in
24 2018. But we can take a look at that when he's here to
25 testify.

1 If I may step out? I may inquire with the client
2 and see when they're available in the dates that we have
3 listed so that --

4 THE COURT: So, you're going to call the client,
5 then?

6 MR. MAZUR: Yeah. Can --

7 THE COURT: Yeah. Okay.

8 MR. MAZUR: That way we can set the date and --

9 THE COURT: So, talk to him about when he's
10 available.

11 MR. MAZUR: Okay.

12 THE COURT: Because, Mr. Bragonje, were you
13 available one of those days or all of them?

14 MR. BRAGONJE: Yeah. I think all of those work
15 for me at this point.

16 THE COURT: All right. Given the seriousness of
17 this matter and the extensive delay that has transpired on
18 a collection matter, I'm going to insist that Mr. Foust
19 make himself available one of those four dates.

20 MR. MAZUR: Yeah. And that's why I'd like to --

21 THE COURT: Very good. Thank you.

22 MR. MAZUR: -- provide it to the Court. I'll come
23 back and provide it to the Court and to the firm.

24 THE COURT: So, I'm going to turn to a different
25 matter. And, then, when you guys come back in, I'll recall

1 your case. All right?

2 MR. MAZUR: Great. Thank you, Your Honor.

3 MR. BRAGONJE: Thank you.

4 THE CLERK: Are those exhibits admitted?

5 THE COURT: Not admitted. Yeah. The exhibits are
6 not admitted at this time. I'll just hold on to them and,
7 then, we'll decide what to do at the next hearing. Okay?

8 [Case trailed at 1:29 p.m.]

9 [Hearing resumed at 1:38 p.m.]

10 MR. BRAGONJE: Well, opposing counsel says May 17th
11 at 9 a.m. works. I mean, I'd rather do something sooner
12 but if that's --

13 THE COURT: All right.

14 MR. BRAGONJE: -- that's what it is, that's what
15 it is.

16 THE COURT: All right. Very good. So, our
17 hearing will be May 17th, 2019, 9 a.m. The Court is
18 ordering Mr. Foust's appearance. And we'll proceed with a
19 hearing on the Order to Show Cause. And I will allow, Mr.
20 Mazur, you to present additional argument if you want.
21 And, then, we'll hear from Mr. Foust. Any other witnesses
22 that you want to put on, I'll leave that up to you, with
23 cross-examination by Mr. Bragonje. And, then, Mr.
24 Bragonje, you can put on any witnesses at this evidentiary
25 hearing on the Order to Show Cause. And that will decide

1 where we go from there.

2 MR. MAZUR: Thank you, Your Honor.

3 THE COURT: All right, counsel.

4 MR. BRAGONJE: I assume Mr. Detwiler should
5 appear, also.

6 THE COURT: Well, I'm trying to think if the Order
7 to Show Cause has his name on it.

8 MR. BRAGONJE: It does. It does.

9 THE COURT: All right. Yes. And, so, the Court
10 will also order that Harry -- that Mr. Detwiler appear in
11 this individual capacity and as a representative of Harry
12 Hildibrand also appear. The Court's ordering that. All
13 right?

14 MR. BRAGONJE: Thank you.

15 MR. MAZUR: Very good. Thank you, Your Honor.

16 THE COURT: Thank you, counsel. See you on that
17 date, May 17th at 9 a.m.

18 MR. BRAGONJE: Thank you, Your Honor.

19 THE COURT: All right.

20

21 PROCEEDING CONCLUDED AT 1:39 P.M.

22 * * * * *

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1 **CERTIFICATION**

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4 I certify that the foregoing is a correct transcript from

5 the audio-visual recording of the proceedings in the

6 above-entitled matter.

7

8 **AFFIRMATION**

9

10 I affirm that this transcript does not contain the social

11 security or tax identification number of any person or

12 entity.

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20 KRISTEN LUNKWITZ

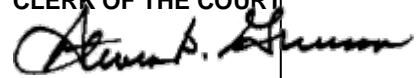
21 INDEPENDENT TRANSCRIBER

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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL
BANK,

Plaintiff(s),

vs.

JAMES FOUST, JR.,

Defendant(s).

Case No. A-17-760779-F

DEPT. II

BEFORE THE HONORABLE RICHARD F. SCOTTI,
DISTRICT COURT JUDGE

FRIDAY, MAY 17, 2019

**TRANSCRIPT OF PROCEEDINGS RE:
EVIDENTIARY HEARING
VOLUME I**

APPEARANCES:

For the Plaintiff(s):

JOHN E. BRAGONJE, ESQ.

For the Defendant(s), James
Patterson Foust, Jr.:

MICHAEL D. MAZUR, ESQ
(Via Court Call)

RECORDED BY: DALYNE EASLEY, COURT RECORDER

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WITNESSES Page #

FOR THE PLAINTIFF:

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1 **LAS VEGAS, NEVADA, FRIDAY, MAY 17, 2019**

2 [Proceeding commenced at 9:04 a.m.]

3
4 THE COURT: All right. Please be seated. All right. I think
5 we have somebody on Court Call.

6 Mr. Mazur, are you on Court Call?

7 MR. MAZUR: [Indiscernible.]

8 THE COURT: Good morning. Thanks for being present by
9 Court Call. Appreciate that.

10 Mr. Bragonje, good morning.

11 MR. BRAGONJE: Good morning, Your Honor.

12 THE COURT: And then Mr. Detwiler?

13 MR. DETWILER: Yes, sir.

14 THE COURT: All right. Good morning, to you, sir.

15 MR. DETWILER: Good morning, sir.

16 THE COURT: All right. Mr. Mazur, I forget, do you represent
17 Mr. Detwiler also?

18 MR. MAZUR: I represent, yeah, Mr. Foust only.

19 THE COURT: Mr. Foust. Okay.

20 And Mr. Foust is not present, I understand.

21 MR. MAZUR: Correct. I did receive a communication from
22 him end of last week. A very dear friend of his passed away and the
23 funeral, I believe, was yesterday. We did submit a declaration that he
24 did sign last night, authorized us to sign electronically, did state that the
25 funeral was in Texas. He's booking a flight to come home, but it was a

1 very dear friend and his family's home, and he won't be in attendance
2 today because of that.

3 But he will make himself available as soon as he can
4 beginning on Monday when he returns.

5 THE COURT: I haven't seen that declaration. Was it filed this
6 morning or late last night?

7 MR. MAZUR: It was late last night. I believe that Diana from
8 my office copied the JEA, Melody.

9 THE COURT: Okay.

10 MR. MAZUR: Got a copy of it. But it was late last night when
11 we had received it from him.

12 THE COURT: All right. Let me just see if I can pull it up and
13 read it.

14 MR. MAZUR: And, Your Honor, in that declaration, he does
15 provide facts as it relates to the evidence that was submitted by
16 Plaintiffs' counsel at the last hearing, prior to the last hearing. And also
17 some of the other information, as well.

18 THE COURT: Anybody get a courtesy copy over to
19 Mr. Bragonje, do you know?

20 MR. BRAGONJE: Yeah, I did receive it.

21 MR. MAZUR: We also put it in the mail --

22 THE COURT: You did -- you saw it?

23 MR. MAZUR: -- but it was --

24 MR. BRAGONJE: About 10:00 last night. I didn't look at it
25 closely, because it was --

1 THE COURT: All right. So you got a copy.
2 MR. BRAGONJE: I was going to bed, but, yeah.
3 THE COURT: Okay. Well, I'm the only one who hasn't seen it
4 then. Give me a moment.
5 [Pause in proceedings.]
6 THE COURT: Yeah, my computer's still not working. I
7 mentioned it to somebody, it hasn't been fixed yet. I need somebody to
8 print that declaration off for me.
9 THE CLERK: I'm doing that right now.
10 THE COURT: Okay. Thanks.
11 [Pause in proceedings.]
12 THE COURT: All right. I read the declaration. I haven't had
13 time it look at the attachments thereto.
14 Comment, Mr. Bragonje. Any comments on this?
15 MR. BRAGONJE: Yes, thank you, Your Honor.
16 You know, this is not a deposition or a routine hearing. I --
17 you know, I don't believe a lot of what Mr. Foust says, but I think even if
18 we accept this excuse on its face, I don't think it matters. This is not a
19 immediate relative or anything like that. And I believe the evidence
20 shows that this death occurred some time ago, and I feel like we heard
21 about it 10:00 last night. I really think --
22 THE COURT: I think he said the 11th, right? Which would
23 be --
24 MR. BRAGONJE: Yeah.
25 THE COURT: -- Saturday. Last Saturday. And hear about it

1 on Monday.

2 MR. BRAGONJE: The truth is --

3 THE COURT: Today's Thursday.

4 MR. BRAGONJE: Yeah.

5 THE COURT: Or Friday, the 17th.

6 MR. BRAGONJE: You know, I did have some discussions
7 with Mr. Mazur and I told him I'd be willing to move this hearing, but only
8 move it up, not continue it. If we were to continue it again, that would be
9 the fourth continuance. The fourth continuance.

10 THE COURT: I know.

11 MR. BRAGONJE: This was originally scheduled for April 1st.
12 I think we've got enough record to make the decision. So I really think
13 that this is just another in a series of demonstration to the Court that
14 Mr. Foust doesn't take this proceeding seriously. This is not a
15 deposition. This is a hearing to determine whether or not he's going to
16 jail for contempt.

17 I really think that if they had been serious about this problem,
18 we would have heard about it sooner, and like I said, I don't think it even
19 matters, because it wasn't his child, heaven forbid, that died or
20 something like that. It was an acquaintance.

21 And while that might be an excuse to move a deposition, I
22 don't think it's an excuse to move a contempt hearing. These are
23 extraordinary proceedings.

24 Now, I recognize that we, you know, we need to hear from
25 the -- from Mr. Foust, but I think we have. He's already been on the

1 stand once. And at a minimum, Mr. Detwiler's here, so I think we can go
2 forward with that portion.

3 THE COURT: Mr. Mazur, would you like to respond?

4 MR. MAZUR: Yes, Your Honor.

5 This is not another delay tactic by Mr. Foust. I don't know if
6 the Court was aware, Mr. Foust did state a few months back to me that
7 he was given the diagnosis that left him six months. He had very severe
8 cancer. And they'd given him six months from a couple of months back
9 to live.

10 THE COURT: Who has six months?

11 MR. MAZUR: He didn't -- pardon?

12 THE COURT: Who has six months? This friend who just
13 passed?

14 MR. MAZUR: No, Mr. Foust does. And his friend just passed
15 and he's very close to the family. And it hit him very severely. And I
16 was able to speak to him quite a bit last night, you know, to get the
17 declaration. And he noticed the urgency and he just said, I can't leave
18 the family right now. I have to be with them. I'll be back this weekend.

19 But, you know, his mental state, because of that, because it
20 was his own diagnosis as well, it's not an intent [indiscernible] he said he
21 could make himself available as soon as he gets back, whatever the
22 Court's schedule is, he will be there to answer questions.

23 And, you know, it provides some of the information in the
24 declaration last night as well. But I would request -- my request in this --
25 a continuance, but we will make ourselves available, my client will make

1 himself available as soon as he returns. And it's not an attempt to delay,
2 what I'm trying to say, Your Honor.

3 THE COURT: Why -- I still don't understand why he couldn't
4 have been here. Even if he attended the funeral -- well, knowing that he
5 attended the funeral yesterday, there's tons of flights that go from Dallas,
6 a major international hub, to Las Vegas, also a major international hub.
7 He could have flown in last night or taken a early morning flight to -- he
8 could have been here if he really wanted to. I mean I --

9 MR. MAZUR: I understand --

10 THE COURT: -- you probably don't have any response to
11 that. I understand. I'm just -- I'm thinking out loud why he couldn't be
12 here knowing that, you know, he knew about the passing on Monday.
13 He would have -- sounds like the 13th -- I'm sorry, he attended the
14 visitation on Wednesday. He probably knew about the visitation the day
15 before the Wednesday, which was the Tuesday. He could have made
16 travel plans to be out here. I -- and he didn't explain any of that. Like,
17 why isn't he here?

18 It's just very troubling, given all the prior continuances that
19 we've had in this case. I know it's not your fault, Mr. Mazur. It's just it's
20 very troubling here.

21 And I'm not -- Mr. Bragonje, I'm not sure -- I'm not really sure
22 what to do. Because this is a contempt proceeding to determine
23 whether appropriate punishment, including incarceration --

24 MR. BRAGONJE: Right.

25 THE COURT: -- should be imposed for contempt. And --

1 MR. BRAGONJE: Right.

2 THE COURT: -- and it's a serious matter, basically --

3 MR. BRAGONJE: It is.

4 THE COURT: -- to throw someone in jail without him -- having

5 him present to have an opportunity to be heard.

6 MR. BRAGONJE: I agree.

7 THE COURT: So I --

8 MR. BRAGONJE: He has been on the stand.

9 THE COURT: -- this is a very --

10 MR. BRAGONJE: He's been on the stand an hour and a half

11 already. I mean, we did have one session.

12 THE COURT: Right.

13 MR. BRAGONJE: It's not like -- I understand what Your

14 Honor's saying. But I think that -- my opinion here is I don't believe

15 anything that Mr. Foust says. If he's really so sick from cancer, why is

16 he jetting across the country? I mean, he either traveled from --

17 presumably from California or Nevada.

18 THE COURT: Yeah.

19 MR. BRAGONJE: I really don't believe that. And I think that --

20 I think we're dealing here with a defendant that wants to flout the system

21 and I think at some point, even if they're not willing to show up, justice

22 must happen.

23 THE COURT: Yeah. I'm wondering if -- I can't access -- guys,

24 this is what happens when I try and access my calendar. This is really

25 annoying.

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[Pause in proceedings.]

THE COURT: Monday I have a bench trial, it doesn't start until 10:30. I don't have any summary judgment motions. I have -- let's see, Motions in Limine that are going to take an hour and a half. Let me check Tuesday.

I could do this -- I mean, if I were inclined not to hold him in contempt right now and then add this failure to appear as additional grounds for contempt punishment, if I were not going to do that, then I could have this hearing Tuesday beginning at 8:30.

MR. BRAGONJE: That could work. Although I would say this --

THE COURT: And certainly, he would have to pay costs --

MR. BRAGONJE: That's what I was going to --

THE COURT: -- for you to show up here, because, you know, the funeral and the death of his friend, even -- assuming that did happen and me taking Mr. Foust at his word there, it's still required you to attend through no fault of your own.

MR. BRAGONJE: Right.

THE COURT: So you should have to be compensated for your time to show up here today.

MR. BRAGONJE: I think so.

THE COURT: And I'm sure Mr. Foust would understand that and wouldn't have a problem with that. But we'll deal with that. So I'm thinking Monday at 8:30.

Mr. Mazur --

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MR. BRAGONJE: I think --

THE COURT: I'm sorry, Tuesday at 8:30.

Mr. Mazur?

MR. MAZUR: Yes, Your Honor.

THE COURT: So you're going to have to make that work.

He's got to fly out here over the weekend or Monday. We need to proceed with this hearing. You know, I'm giving him a great leniency here in, you know, in moving this to Tuesday at 8:30.

MR. MAZUR: I appreciate that, Your Honor. And I'm sure he can be very thankful of that. I will make sure that he is here Tuesday at 8:30 at the courthouse [indiscernible] the State. But he said that he will be returning this weekend, so I will make sure he's here. And I'm sure he's very appreciative and thankful as well.

THE COURT: No, I appreciate that. You don't foresee any conflicts in your schedule, do you?

MR. MAZUR: Your Honor, I have a mediation at 10:00. But I can reschedule that.

THE COURT: Yeah, I think --

MR. MAZUR: Foreclosure mediation.

THE COURT: Okay. Do you want me to make a call to the mediator or is that something you feel comfortable doing to get your mediation moved on Tuesday?

MR. MAZUR: Your Honor, I am the mediator.

THE COURT: Oh.

MR. MAZUR: So I'll go ahead and make the change

1 [indiscernible].

2 THE COURT: Oh, you are the mediator. Ah, good.

3 MR. MAZUR: Yes, sir.

4 THE COURT: Then that works out.

5 MR. MAZUR: Okay. Makes that easy.

6 THE COURT: Well, thank you. Thank you for
7 accommodating us, Mr. Mazur. I appreciate that.

8 MR. MAZUR: Yes, Your Honor.

9 THE COURT: So I'm wondering if we should not hear from
10 Mr. Detwiler, then, because it -- because what he says might relate to
11 what --

12 MR. BRAGONJE: Well --

13 THE COURT: -- Mr. Foust --

14 MR. BRAGONJE: I've got a couple thoughts on that. I think it
15 would be a witness exclusion rule anyway. I mean, I think these guys
16 would need to be separated anyway. So I would like to proceed with
17 Mr. Detwiler today.

18 THE COURT: Might be kind of difficult with --

19 MR. BRAGONJE: And I'm worried about the timing of it all
20 too. I mean, we've got to finish Tuesday morning also. So, I mean, to
21 the extent we could advance it.

22 THE COURT: Well, I indicated that we get it -- we're doing a
23 total of two hours. Isn't that what I said?

24 MR. BRAGONJE: Oh, yeah.

25 THE COURT: Each side shall have one hour for its --

1 MR. BRAGONJE: Okay.

2 THE COURT: I could give a little bit more time if we need to.
3 We -- but we've got to get it done Tuesday morning.

4 MR. BRAGONJE: Yeah. Yeah, I mean, it's --

5 THE COURT: I --

6 MR. BRAGONJE: Obviously, we'll defer to the Court, but my
7 feeling is --

8 THE COURT: I do agree that the exclusionary rule should
9 apply. And that's what I'm going to impose, that one witness cannot
10 be -- well, since it's a separate contempt proceeding, technically, against
11 each individual. All right. I can require that one witness be out of the
12 room when the other witness is being exempt. All right. And that's what
13 I'm going to do.

14 The only issue here is whether we proceed with Mr. Detwiler --

15 MR. BRAGONJE: Yeah.

16 THE COURT: -- this morning.

17 MR. BRAGONJE: I wonder what he thinks about it.

18 THE COURT: Well, I -- it doesn't matter what he thinks.

19 MR. BRAGONJE: Oh, okay.

20 THE COURT: It's -- because he complied with my order to be
21 here.

22 MR. BRAGONJE: He did.

23 THE COURT: I appreciate that.

24 MR. BRAGONJE: He did.

25 THE COURT: The only thing I'm concerned about, Mr. Mazur,

1 you're not available -- you're -- in person, you're on the phone.

2 MR. MAZUR: Correct.

3 THE COURT: How do you -- can you hear me okay? I hear
4 some --

5 MR. MAZUR: I can -- I've got four puppies, Your Honor. I
6 apologize.

7 THE COURT: Okay. So, I mean, I really want to proceed with
8 examination of Mr. Detwiler and to hear his story. He's here and, you
9 know, he took time out of his day. Would you be able to hear sufficiently
10 on the phone for -- I mean, if we have a half an hour of testimony, is that
11 something that you'd be able to hear from the witness? He has a
12 microphone up here.

13 MR. MAZUR: Yes, Your Honor. I believe that'll be okay. And
14 what I request is if we can recall him as well on Tuesday, potentially.
15 But I'm okay proceeding, moving forward today.

16 THE COURT: See, this gets us into the structural problem,
17 Mr. Bragonje. Mr. Detwiler is, of course, entitled to speak on his own
18 behalf --

19 MR. BRAGONJE: Sure.

20 THE COURT: -- in connection with the contempt proceedings
21 against him. But Mr. Foust, in connection with the contempt
22 proceedings against him, is entitled to have Mr. Detwiler be presented
23 as a witness.

24 MR. BRAGONJE: Sure. Yeah.

25 THE COURT: So I don't know if you want to do it all at once --

1 MR. BRAGONJE: Your Honor, I --

2 THE COURT: -- or together.

3 MR. BRAGONJE: Yeah. I mean, I've made my position clear.
4 I defer to the Court. I think there's no reason not to go ahead today, but,
5 you know, I'm a officer of the Court and we're here at your pleasure. So
6 it's --

7 THE COURT: Yeah. But here's the other --

8 MR. BRAGONJE: -- as you wish to proceed.

9 THE COURT: Here's the other logistical structural issue.

10 Mr. Foust would not be entitled to be present in the room
11 when Mr. Detwiler is testifying in connection with Mr. Detwiler's contempt
12 proceedings.

13 MR. BRAGONJE: Right.

14 THE COURT: However, in connection with Mr. Foust's
15 contempt proceedings, he's entitled to call Mr. Detwiler as a witness
16 there and to be present.

17 MR. BRAGONJE: Yeah.

18 THE COURT: Because it's his own contempt proceedings.

19 MR. BRAGONJE: Right.

20 THE COURT: So the way to do this properly would be to have
21 the contempt proceedings with respect to Mr. Detwiler first. All right.
22 And outside the presence of Mr. Foust and then proceed to the next
23 phase.

24 MR. BRAGONJE: Yeah. Yeah.

25 THE COURT: Why don't we do this.

1 Mr. Detwiler, since you're here --

2 MR. DETWILER: Yes, sir.

3 THE COURT: -- why don't you take the stand and we'll see --
4 we may not need a lot out of you. We will see how far we get. Since
5 you are here, you took time out of your day. I appreciate that.

6 MR. DETWILER: Yes, sir.

7 THE COURT: And then whether Mr. Foust subpoenas you to
8 be here on Tuesday or requests your presence on Tuesday, that's
9 between you and him. Okay?

10 MR. DETWILER: Would I be able to know before I leave
11 today if I need to be here on Tuesday so that I can schedule accordingly,
12 as well?

13 THE COURT: Well, I'm not going to require you to be here.

14 But Mr. Mazur, you're on the line. Is this something that you
15 need to talk to Mr. Foust first, whether he wants Mr. Detwiler as a
16 witness.

17 Mr. Mazur, are you still on the line, sir?

18 MR. MAZUR: Yes, Your Honor.

19 THE COURT: Yes. Does Mr. Foust want Mr. Detwiler as a
20 witness? And if so, is Mr. Detwiler, at your request, going to voluntarily
21 appear? Or do you need to get a subpoena on him?

22 MR. MAZUR: I believe Mr. Foust would like him to appear as
23 a witness. And I'm not sure if Mr. Detwiler would be able to voluntarily
24 appear on Tuesday. Maybe we inquire as to if you will? If he states that
25 he'll voluntarily appear, then we don't need a subpoena.

1 MR. DETWILER: I will be here on Tuesday.

2 THE COURT: All right.

3 MR. MAZUR: Great.

4 THE COURT: Very good. Otherwise, Mr. Mazur could jump
5 through hoops to get a subpoena served on you today.

6 MR. DETWILER: Not necessary.

7 THE COURT: And -- all right. Well, I appreciate -- we'll take
8 you at your word that you're going to be here as a witness for
9 Mr. Detwiler Tuesday morning at 8:30.

10 All right. Why don't you come take the stand now, though.

11 MR. DETWILER: Yes, sir.

12 THE COURT: Thank you.

13 One second. So hold on, if you don't mind.

14 So this is the trial on the contempt pursuant to the Court's
15 order to appear and show cause why Defendant Edward Detwiler should
16 not be held in civil contempt of court as indicated in the order filed
17 February 21st, 2019.

18 And we will have Mr. Detwiler sworn in as a witness at this
19 point in time.

20 **EDWARD DETWILER,**

21 [having been called as a witness and first duly sworn, testified as
22 follows:]

23 THE CLERK: Okay. You may be seated. And then can you
24 please state and spell your first and last name for the record.

25 THE WITNESS: Yes. My name is Edward Detwiler,

1 E-D-W-A-R-D D-E-T-W-I-L-E-R.

2 THE CLERK: Thank you.

3 THE COURT: So here's how we technically are supposed to
4 proceed. Since it's an order to show cause hearing, Mr. Mazur, since
5 this is an order to show cause hearing, Mr. Detwiler has the right to
6 proceed first in explaining his position and the facts and reasons why he
7 should not be held in civil contempt.

8 And under the circumstances, I would be willing to either allow
9 you to ask questions of Mr. Detwiler, or I would allow him to express to
10 us initially his position. Or what we could do is, Mr. Detwiler, you have
11 the right to simply defer to Mr. Bragonje, he can go first and ask
12 questions, and then you can have the last word and explain at the end.

13 So which -- so Mr. Mazur, I'll give you the choice here. Do
14 you want to go first? Do you want your client to go first or Mr. Bragonje
15 go first?

16 MR. MAZUR: I would defer to Mr. Detwiler to allow him to
17 testify or provide explanation first, and then we can allow questioning by
18 Mr. Bragonje and then myself.

19 THE COURT: All right. We could do it that way.

20 Why don't you -- you give us your position and then
21 Mr. Bragonje will ask questions. And then we'd have Mr. Mazur proceed
22 to ask questions.

23 So your statement will be, in essence, your direct testimony.
24 Mr. Bragonje is going to then to direct examination, and then Mr. Mazur
25 will ask questions that will be deemed the redirect examination.

1 Does that work for you, Mr. Bragonje?

2 MR. BRAGONJE: That's fine. Thank you, Your Honor.

3 THE COURT: All right.

4 THE WITNESS: Okay.

5 THE COURT: Mr. Detwiler, why don't you tell us why the cars

6 haven't been turned over? That's basically the question. Go ahead and

7 explain it --

8 THE WITNESS: Okay.

9 THE COURT: -- in the way you feel comfortable.

10 THE WITNESS: Yes, sir. Thank you.

11 I have no access to the cars. As I shared with Mr. Bragonje at

12 a deposition in his office some time ago, my role as coming in as being a

13 manager of Harry Hildibrand was to be involved in real estate. That was

14 in 2008. The market spiraled down. Real estate never got off the

15 ground with them. And basically, I've been a figurehead as a manager

16 of that company ever since.

17 I've also shared with Mr. Bragonje that I don't know anything

18 about cars, I don't know about remodeling. Well, I guess it would be

19 restoring cars. I know where the key goes, I know where the gas goes

20 in a car, and that's it.

21 I don't know how they're financed. I don't know how auctions

22 work. It's not anything that I was ever involved in on a basis whatsoever

23 relating to Harry Hildibrand. I have a resort that I'm building on the

24 island of Roatan where the U.S. Government OPIC, O-P-I-C, has agreed

25 to finance \$20 million of it. I've gone through extensive background

1 searches with them and the Honduran government. I've passed all
2 requirements that they have to know about my background.

3 Do have something like a contempt charge would have it all
4 go away. Okay. So I have nothing to hide. I have a lot to lose.
5 Unfortunately, I don't know anything about the cars. I was never
6 involved with the cars. I wasn't involved -- and I don't even know the
7 bank that is suing Mr. Foust. I was never a part of that bank or anything
8 to do with them.

9 I sold Jim Foust houses in the '90s and I was recommended to
10 the Hildibrand family to be a manager so that I could acquire, remodel,
11 and sell assets for a profit that never came to be. My extent as a
12 manager, I have no day-to-day operations knowledge of the company. I
13 don't know the structure outside of the document that was shown that
14 the Hildibrand children own 99 percent of the company. Mr. Foust
15 owned 1 percent of the company that was established the day I was --
16 the last time I was here to testify.

17 Outside of that, I know nothing about the operations of Harry
18 Hildibrand, nor should I as I -- I don't even have a -- I don't have a
19 financial interest in the company either.

20 I'm brought into this because I filed a police report on the
21 motor home.

22 THE COURT: Apparently you filed something in the
23 bankruptcy proceedings, also.

24 THE WITNESS: Yes, I did. Yes, I did.

25 THE COURT: Okay.

1 THE WITNESS: But outside of that --

2 THE COURT: Yeah.

3 THE WITNESS: -- those two instances, I've had nothing to do
4 on an operation standpoint with this company.

5 THE COURT: When was the last time you saw any of
6 those 52 cars that have been the subject of these proceedings?

7 THE WITNESS: Oh, my gosh, 52 cars.

8 THE COURT: Any of them, including the Mercedes that
9 Mr. Foust's family apparently has?

10 THE WITNESS: I haven't, sir. I haven't.

11 THE COURT: Okay.

12 THE WITNESS: I haven't seen any of them.

13 THE COURT: All right.

14 THE WITNESS: And I know that at the -- when I was at the
15 bankruptcy, the gentleman that held the meeting, that chaired the
16 meeting, asked if I knew where the cars were. Before I could answer,
17 the attorney that had prepared the bankruptcy for Harry Hildibrand
18 answered for me. And then the gentleman holding the -- I don't want to
19 call him the judge, because he wasn't, but whoever the --

20 THE COURT: Magistrate?

21 THE WITNESS: I don't even know --

22 THE COURT: Referee?

23 THE WITNESS: -- what the title would be.

24 THE COURT: Okay.

25 THE WITNESS: But the gentleman conducting the hearing

1 said that he asked me that and not the attorney. The attorney that filed
2 the bankruptcy put -- he was sitting next to me. He put his hand on me
3 and he said, Yes, we know where the cars are. And so I answered yes,
4 I know where the cars are.

5 THE COURT: Okay. You must have at least seen the GMC
6 Yukon that -- which I think Mr. Foust himself drives, I think.

7 THE WITNESS: I have seen that car in Nevada within the last
8 two years, yes, sir.

9 THE COURT: Understood. All right.

10 THE WITNESS: But I don't have a relationship with any of the
11 owners or people of Harry Hildibrand. On the converse, I have very little
12 interacting with them.

13 THE COURT: What relationship do you still have with
14 Mr. Foust at this point in time?

15 THE WITNESS: Former -- he was a former client of mine. In
16 fact, I have recently learned that he -- they -- his wife owns a piece of
17 property, and I wasn't even asked to market or list the property. So I
18 guess I've been fired --

19 THE COURT: Okay.

20 THE WITNESS: -- as his realtor.

21 THE COURT: So you don't have any current business
22 partnership, corporate or social interest with him at this point in time?

23 THE WITNESS: No, sir.

24 THE COURT: Okay.

25 THE WITNESS: None whatsoever. Nor do I have -- the only

1 relationship I have is manager of tis company that as far as I know he
2 owns 1 percent of. Outside of that --

3 THE COURT: Right.

4 THE WITNESS: -- I have no business relations with him at all.

5 THE COURT: Anything else currently going on with Harry
6 Hildibrand Company other than -- do you know of any business that's
7 going on that you have a role in?

8 THE WITNESS: Oh, no, sir.

9 THE COURT: Okay.

10 THE WITNESS: And I have no role in any business --

11 THE COURT: Okay.

12 THE WITNESS: -- in that company.

13 THE COURT: So you still consider yourself just a figurehead
14 in that company.

15 THE WITNESS: Yes, sir, I am.

16 THE COURT: Well, why are you continuing to serve as that
17 figurehead?

18 THE WITNESS: When Mr. Bragonje called me I don't know
19 how long ago, I had talked about wanting to resign this position. But it
20 would not absolve me of being here. And I would very much like to
21 resign as the managing member of this company as soon as is practical,
22 because this has been a toll on my time and I was also a little bit
23 intimidated when the call -- when Mr. Bragonje said to me, I've seen
24 crazy things happen in court, and you could be going to jail.

25 THE COURT: All right.

1 THE WITNESS: So it's -- and I don't have any counsel for
2 this. I don't have any representation, because from what I understand,
3 and this is just looking up the word contempt and trying to understand
4 what it is, is that is -- I'm not withholding anything, because I don't have
5 any knowledge. So I can't be a blockade or a roadblock to his client
6 getting these vehicles, because I don't know where they are and I don't
7 have access to them and I don't own them.

8 THE COURT: Okay.

9 THE WITNESS: So --

10 THE COURT: You -- are you comfortable with us turning over
11 the questions to Mr. Bragonje now --

12 THE WITNESS: Yes, sir.

13 THE COURT: -- and we'll see where that leads?

14 THE WITNESS: Yes, sir, I am.

15 THE COURT: Thank you.

16 Mr. Bragonje.

17 MR. BRAGONJE: Yes, Your Honor.

18 If I can approach, I'd like to look at a transcript from the
19 bankruptcy that was referenced earlier. I've got a copy, if I can
20 approach?

21 THE COURT: Sure.

22 He's going to show you a transcript.

23 MR. BRAGONJE: Here's one for Your Honor too.

24 THE COURT: Okay.

25 MR. BRAGONJE: And I know that this is already in evidence.

1 This is something we put into evidence back in our November hearing.
2 And if you'll indulge me just a minute, I can let you know exactly where
3 I'm looking here. So it'll be under Tab 2 of this -- your Tab 2.

4 THE COURT: All right. I'm looking.

5 MR. BRAGONJE: And there's a few things I want to go over
6 in this. And this is just for context, this is not a question, but just by way
7 of explanation.

8 This is just a standard 341(a) hearing that occurred in
9 connection with the bankruptcy. The bankruptcy occurred in the Los
10 Angeles area, it was in the central district of California. So this is the,
11 you know, the United States Trustee is the person conducting this
12 hearing. And it was the chance for creditors to come and ask questions.
13 The IRS came. My client was there. The trustee was there. And they
14 asked Mr. Detwiler a series of questions.

15 THE COURT: So this isn't the actual deposition, these are
16 document -- or these are exhibits to the deposition?

17 MR. BRAGONJE: No, it's a transcript.

18 THE COURT: I -- you know, you must have --

19 MR. BRAGONJE: I'm sorry. I didn't give you --

20 THE COURT: You must --

21 MR. BRAGONJE: -- the right page yet. This starts --

22 THE COURT: You must --

23 MR. BRAGONJE: -- at page 80.

24 THE COURT: You must have given me the wrong thing,
25 because there's no transcript here, right? Or where is it?

1 MR. BRAGONJE: Page -- should be starting at page 2.
2 Sorry, may I approach?
3 THE WITNESS: I -- is it Exhibit 2 or Tab 2?
4 MR. BRAGONJE: Tab 2.
5 THE COURT: Because I'm looking under Exhibit 2 and I don't
6 see any --
7 MR. BRAGONJE: Oh, I apologize. It's Exhibit 3. Apologies.
8 THE COURT: Okay. All right. So Exhibit 3.
9 MR. BRAGONJE: I apologize.
10 THE COURT: Go ahead.
11 MR. BRAGONJE: Tab 3. And we're starting here at page 80.
12 THE COURT: Got it.
13 MR. BRAGONJE: I apologize. Thank you. That was a lot of
14 paperclipping. Okay.
15 So I'd like to direct everyone's attention to page 80. And the
16 question -- AM is the -- are the initials for the trustee. And about halfway
17 through the page -- and ED, of course, is just abbreviation for Ed
18 Detwiler. So we're going to be looking at any statements that Ed
19 Detwiler, abbreviated ED, made.
20 It says here about halfway through the page:
21 Are you -- and you represent the debtor in what capacity?
22 ED, next line: I'm the managing member. I'm the manager.
23 THE WITNESS: What page is this, sir? I'm sorry.
24 MR. BRAGONJE: 80.
25 THE WITNESS: Okay. I'm on 29.

1 THE COURT: It's the bottom right-hand corner.
2 MR. BRAGONJE: Yes. Sorry. The bottom right-hand corner
3 is where you'll see those page numbers.
4 THE COURT: Those are the document identification
5 numbers.
6 Under Tab 3, sir?
7 THE WITNESS: Yes, I'm in Tab 3, but I'm on --
8 THE COURT: Okay. Looks like it's about eight pages in.
9 Looks like this. Are you in Tab 3?
10 THE WITNESS: Oh, it ends in 80.
11 THE COURT: Okay.
12 THE WITNESS: That's 90, 89, now I know where to look.
13 Okay.
14 THE COURT: Okay. Thank you.
15 THE WITNESS: Okay. I'm there, sir.
16 THE COURT: You were looking at the other numbers in the
17 middle, right?
18 THE WITNESS: Yes, sir. Yes. I --
19 THE COURT: Okay. Not a problem.
20 Go ahead, Mr. Bragonje.
21 MR. BRAGONJE: Thank you.

22 **DIRECT EXAMINATION**

23 BY MR. BRAGONJE:

24 Q So do you see the question there?
25 I'm the managing member, I'm the manager.

1 A Yes, sir.

2 Q Okay. And that's accurate, right?

3 A Yes.

4 Q Do you --

5 A As stipulated in that --

6 Q You are the only manager of Harry Hildibrand LLC, correct?

7 A That I'm aware of, yes.

8 Q Okay. All right. Could you please direct your attention to

9 page 92 now.

10 A [Witness complies.] Okay.

11 Q Isn't it true that you know about the insurance for these

12 vehicles?

13 A I was --

14 Q You were involved in insuring the vehicles, weren't you?

15 A No, I wasn't. The company was involved in insuring the

16 vehicles.

17 Q Okay.

18 A Okay? And as -- and I had been assured by counsel, who

19 was JL, and I forget his last name to be honest with you, but he assured

20 the Court that there was insurance on those vehicles and by his saying

21 that, I may have indicated that the vehicles were insured, as well.

22 Q Okay. Let's look at that. It says -- you're -- I'm looking about

23 halfway up the page. AM -- AM is the initials for the trustee, his name is

24 Adam Moore.

25 He says: Yeah, the Jaguar. I understand. Before I appeared

1 for this examination that there's a motion by the U.S. Trustee out
2 there and I assume it's a compliance motion. So let me ask you this,
3 because when I looked at these files, I didn't see what we referred to
4 as the seven-day requirements insurance documents. Do you have
5 insurance documents on these vehicles?

6 Then the next line, JL: Some do and we're getting it on the
7 remainder of them.

8 Next line, ED -- that's you, correct?

9 A Uh-huh.

10 Q And you say: The ones that do not, sir, are not operational as
11 far as being on the street so -- but yes, sir, we're in the process of
12 getting that done.

13 So you were involved in insuring these vehicles; isn't that
14 true?

15 A No. When I say we, that is not -- that is I was referencing we
16 are Harry Hildibrand, not as me.

17 Q Okay. Next page, please.

18 A [Witness complies.]

19 Q You know who uses these vehicles; isn't that correct?

20 A I know of them, but I don't know them, sir. I do not know
21 them.

22 Q Okay. Let's see what you said at the hearing here. I'm about
23 two-thirds of the way down the page.

24 A Okay.

25 Q AM again: Does anyone regularly use these vehicles, any of

1 them, regularly use them?

2 Next line, your statement: Some of them fairly regularly will
3 drive, yes.

4 A And that would be Jim Foust's family. And that's how I
5 referenced that.

6 Q And the next line --

7 A Uh-huh.

8 Q No, does someone regularly drive the vehicle, any of them, on
9 a routine basis?

10 Next line, your statement: Yeah, the ones in Los Angeles will
11 be, you know, alternated just to keep them, you know, operational.

12 That's not talking about Mr. Foust's family's cars, is it? There
13 would be no reason to alternate Mr. Foust's family's cars, they're being
14 used all the time; isn't that correct?

15 A No, sir. The ones that I was referencing in Los Angeles were
16 his family's cars.

17 Q What use would a family have of alternating vehicles or not?
18 If they're in family use, they're being used all the time. Isn't it true that
19 this statement refers to the vehicles that aren't being used all the time,
20 the classic vehicles --

21 A Oh, no, sir.

22 Q -- the --

23 A No, sir. I wouldn't have any knowledge of that, sir.

24 Q Then why did you say it, sir?

25 A I was -- it says the ones in Los Angeles. And those were the

1 ones that Jim's daughters and wife drove or were driving.

2 Q But it makes no sense, does it, that a family would alternate or
3 not alternate the vehicles it's using? A family simply uses vehicles; isn't
4 that right?

5 A Yes. But my wife and I alternate cars quite regularly, I'd say a
6 couple, two, three times a week she'll drive my car and I'll drive her car.
7 So that's what I was referencing, sir. I wasn't trying to be anything other
8 than I know in the past those sisters trade cars, they drive each others'
9 cars. Sometimes they'll be in San Diego, sometimes they'll be in -- at
10 UCLA. So yeah, they do change cars. So I don't know who drives what
11 car.

12 Q Can -- let me put it this way, then: Can you understand why
13 someone would draw the conclusion that you weren't talking about the
14 Foust family cars when I read this statement, when you say:

15 You know, alternate it, just to keep them, you know,
16 operational.

17 You can understand how someone would conclude that that
18 would refer to some kind of a car collection?

19 A Guess I'm not that smart. Because, no, sir, I don't.

20 Q Okay. Page 95, please.

21 A [Witness complies.]

22 Q You have described today your role as that of a figurehead,
23 correct?

24 A Yes, sir.

25 Q On page 95, let's see what you said at the time of the hearing.

1 The very top quarter of the page.

2 AM says: Okay. Why does Junior have a secured debt on the
3 motorcycle? I don't know.

4 And then your response: I don't know. Honestly, like I said,
5 I'm the head guy in charge of getting stuff done. I'm not always privy
6 to what Junior and Ron do. I take direction, not given them.

7 So isn't it true that you're the head guy?

8 A Absolutely not. This -- I'm the head guy on paper to go to file
9 the police report, to go to the bankruptcy hearing. I was the head guy
10 because I was the manager. So that was probably too strong of a word
11 to use. But I'm not the head guy from the extent as I make decisions. I
12 don't.

13 Q If you can go to the bankruptcy hearing, if you can be involved
14 in insurance, if you have knowledge --

15 A But I already said --

16 Q You can answer --

17 A -- I was not involved in insurance.

18 Q -- when I'm done -- I'm done asking my question.

19 A Yes, sir.

20 Q If you're involved in going to the bankruptcy hearing, if you
21 know about the insurance, at the very least, if you know about the status
22 of the cars, isn't it true that you can affect the transfer of the cars to the
23 bank to satisfy this judgment?

24 A No, sir.

25 THE COURT: Well, any cars that are certainly in the name of

1 Harry Hildibrand, you, as being the sole managing member on paper,
2 you have the legal ability to have those transferred.

3 THE WITNESS: I don't know where they are, sir.

4 BY MR. BRAGONJE:

5 Q Have you made it -- have you made any efforts to try and
6 comply with this order? Have you called anyone to say that the Court is
7 ordering these vehicles delivered? I'm the guy who's responding for
8 Harry Hildibrand in court, I need you guys to do something, whoever
9 these guys are, whoever's really running things; have you even tried to
10 do that?

11 A Yes, sir. I have. And I've gotten no response.

12 Q Who did you call?

13 A I called Harry Jr. And here I am here by myself, no counsel, I
14 have no help from them. They're not helping me.

15 Q Why --

16 A I -- but I can't give you what I don't know.

17 Q Why do these people refuse?

18 A I don't know, sir.

19 Q They've never said anything to you?

20 A No, sir.

21 Q So they talked to --

22 A I have not --

23 Q They asked you to represent them in the bankruptcy, correct?

24 A And that's the last I've heard from them.

25 Q And they won't give you the courtesy to say, you know, why

1 we won't comply with the order from a court of the state of Nevada?
2 They just won't say anything on that?

3 A No, sir.

4 Q Does that strike you as odd?

5 A Strikes me as -- I don't know what to make of that, is if it's --

6 THE COURT: Well, they're holding you out to take the fall.

7 THE WITNESS: But how can I take the fall for something that
8 I can't do? I --

9 THE COURT: You kind of got yourself in this position by
10 agreeing to be the member manager of the company.

11 THE WITNESS: To do real estate.

12 THE COURT: Well, no, I understand that. I took notes on
13 that. And I'm trying to put this all together. Don't have any opinions yet,
14 but I'm trying to figure out -- you know -- you understand we're trying to
15 figure out where the cars are, right? And you're saying you have no
16 knowledge of that.

17 THE WITNESS: That's correct.

18 THE COURT: But the people that put you in charge of this
19 company, they certainly know and under the circumstances, it -- from
20 what I've seen so far, it would seem that you would either know that or
21 you know who to contact to find out where they are, right? Or the people
22 that have them are trying to keep things concealed from you and expect
23 you to take the fall for this. I don't know. Anyway, I'm trying to piece all
24 this together.

25 THE WITNESS: Yeah, I'm just asking, is that right? Is that

1 justice? Is that fair?

2 THE COURT: I don't know --

3 THE WITNESS: If things are being concealed --

4 THE COURT: Yeah.

5 THE WITNESS: -- from me? I'm not an attorney.

6 THE COURT: I don't know what's fair -- yeah, I don't know
7 what's fair yet until I hear all the evidence. But I just wanted you to know
8 that some of the inquiry I would like to see explored more. So.

9 Anyway, Mr. Bragonje.

10 MR. BRAGONJE: Thank you, Your Honor.

11 BY MR. BRAGONJE:

12 Q Thank you, Mr. Detwiler, for your answers so far.

13 Page 103, please.

14 A Oh, I closed it. Sorry.

15 Q No problem.

16 A [Witness complies.]

17 Q And this is something I think we talked about before, but I'm
18 looking at the bottom of the page now. Again, a question from MK, and I
19 will tell everyone -- well, let me ask this way:

20 Mr. Detwiler, do you recall that someone from my law firm, not
21 me, but one of my colleagues, was present at this 341 meeting?

22 A I do. He sat to my right facing the gentleman indicated as AM.

23 Q Thank you. And if I tell you that his initials -- his name is
24 Michael and his initials are MK, do you accept that? Does that sound
25 right?

1 A Well, there were four people there. So you've got AM, JL, ED,
2 I would say yes, sir, I'm going to use that as a -- as correct.

3 Q Thank you.

4 Okay. So I'm looking at the bottom, you know, really, the
5 bottom probably quarter of the page, maybe even fifth of the page. I
6 think this is something we've discussed before.

7 It says: And, Mr. Detwiler, were you compensated for your
8 work with the company over the years?

9 Your answer: No.

10 Is that accurate?

11 A That's correct.

12 Q And that's what you said at the time?

13 A Yes, sir, that's correct.

14 Q Is it unusual that you would do so much work for no
15 compensation?

16 A Well, I didn't do any work. If we go down to the bottom.

17 It says: Approximately how much time per week were you
18 spending on month with the company?

19 My response: I would say, except -- since February --

20 Which was when the motor coach was taken, repossessed or
21 what have you.

22 -- since February, prior to that, about 0.0. None.

23 Okay. So, yeah.

24 Q You've been -- who paid for --

25 A I mean, none.

1 Is what I -- okay.

2 I mean, none. And it hasn't been since the theft of the coach I
3 have been involved at all.

4 Q Thank you. And I appreciate your answers. I know these are
5 difficult questions and we're trying to get at the truth. So thank you
6 sincerely.

7 Since this lawsuit started, you've been very active, would you
8 agree?

9 A Yeah, out of a sense of loyalty that I feel is probably very
10 misplaced, where I was doing something for Junior to help him, because
11 I know -- what I do know is those assets I believed were his, not Foust's.
12 So I don't know, sir. I have no idea. So a sense of loyalty, I was on the
13 thing, I've always been someone to live up to my word and do what I say
14 I'm going to do. So I agreed to help him.

15 Q Thank you.
16 You traveled to L.A. for this meeting of creditors; is that
17 correct?

18 A It's correct.

19 Q From here, correct?

20 A Yes.

21 Q Did you fly?

22 A I did.

23 Q Who paid?

24 A I did.

25 Q You didn't ask anyone if they would pay?

1 A I did not.

2 Q Why? How many times have you been to L.A. in connection
3 with this lawsuit?

4 A I think just the one time.

5 Q Okay. You've seen these cars in person, correct?

6 A No, sir.

7 Q Okay. Page 109, please.

8 A Yeah. [Witness complies.] Well, let me take -- when you say
9 cars, the first thing that popped in my head were 52 cars.

10 Q Okay.

11 A Okay. I have seen the Yukon, I have seen a Mercedes sedan,
12 and not having that list of 52 cars in front of me, Mr. Bragonje, I don't
13 want to say yes or no unless they were each asked, have I ever seen
14 this car? Because I do not want to misspeak or say something that isn't
15 correct.

16 Q Thank you. Thank you. We appreciate the -- being accurate.
17 We appreciate that.

18 Are you aware that -- and this was mentioned extensively in
19 the bankruptcy filings and in this meeting of creditors that we're
20 discussing, you're aware, aren't you, that some of the vehicles, I
21 believe 10, that were on the bankruptcy schedule, were in a warehouse
22 in Compton in Los Angeles County; are you aware of that?

23 A Yes.

24 Q Have you been to that warehouse?

25 A I have not. But I did -- I was told by JL, and like I said, I forgot

1 his last name --

2 Q Uh-huh. It's -- that's the attorney, just for the record. That's
3 the --

4 A Yes, sir. That's the attorney --

5 Q -- attorney?

6 A -- that was the attorney for the bankruptcy. I did not speak
7 with that attorney in preparing that bankruptcy. That was all done by the
8 owners of Harry Hildibrand, not the manager. I did not involve myself --
9 zero time spent preparing that bankruptcy, sir.

10 Q Mr. Foust asked you to file that bankruptcy, didn't he?

11 A No. I was --

12 Q Who asked you? Who called you up and said --

13 A Junior. Junior said, Will you sign as manager? I said, yeah,
14 I'll do that.

15 Q Okay. Page 109, please.

16 A [Witness complies.]

17 Q Looking at the top quarter of the page. The question that
18 starts MK again. We agreed earlier that that MK represents Michael,
19 who's an attorney, a colleague of mine at my law firm. So he represents
20 the bank. And he says:

21 And does the --

22 And I will just -- for a little bit of context, you appreciate, don't
23 you, that there is a schedule that was filed in the bankruptcy. We could
24 look at this schedule, but if you --

25 A Yes. Could we --

1 Q -- list it --
2 A Could we look at that?
3 Q Absolutely.
4 A Because I -- like I said, I share --
5 Q Absolutely.
6 A -- I didn't prepare --
7 Q Absolutely.
8 A -- I had nothing to do with the preparation of that. And I don't
9 know if --
10 Q I've got it handy.
11 A Thank you.
12 Q I've got it handy.
13 A Okay. Thank you.
14 Q Just flip over to page 137.
15 A [Witness complies.]
16 Q And you will see the -- one of the many times that a list of
17 vehicles was submitted to the bankruptcy court in California.
18 A Okay.
19 Q All right. You've seen that list before, I take it?
20 A Yeah.
21 Q Yeah.
22 A I believe so.
23 Q Okay.
24 A I think so.
25 Q Okay. All right. So back to 109, and I thank everyone for their

1 gymnastics as we flip around. It's not linear here. This examination
2 wasn't linear, so we've got to flip around.

3 MK there in the top quarter says: And does the value take into
4 account --

5 They're talking about this chart that we've just looked at. I'll --
6 can we agree to that?

7 A Yes, sir.

8 Q Okay.

9 A I believe so.

10 Q Okay.

11 A I --

12 Q We do remember that the chart came up in the -- in this
13 meeting of creditors, right? It was discussed, correct?

14 A Yes.

15 Q Okay. MK says: And does the value take into account any
16 wear or damages issues or not operational issues costs?

17 And then you say: I think it's just purchase value, because
18 most, the vehicles that I've seen require work, you know. I think that
19 the purchase criteria was based on what they thought they could sell
20 for if a certain amount was invested. It's like buying rehab real
21 estate. How much do you put into it and how much can you get out
22 of it so there would be an investment in all of those.

23 Did you say that, sir?

24 A Yes, I did.

25 Q And doesn't that indicate that you saw the vehicles?

1 A Well, I've seen photographs of the vehicles. I have -- I've
2 been told that what they do as a model --

3 Q Who told you that?

4 A -- but I haven't -- JL, Junior shared that with me.

5 Q When did he tell you that?

6 A The -- before the --

7 Q You said you didn't --

8 A Before the bankruptcy hearing.

9 Q Okay. And that's the only time you've talked with JL?

10 A That's correct. It was -- the only time I've talked to JL was the
11 day of the proceeding.

12 Q And by the way, do you --

13 A So he did -- he did give me some background information
14 based on this prior to my being there. So he had been involved with the
15 principles in Harry Hildibrand.

16 Q Thank you.

17 A Yes, sir.

18 Q And his name is James Laissez [phonetic], by the way.

19 A Okay.

20 Q Laissez. James Laissez.

21 A Okay.

22 Q And, by the way, this is kind of an aside, but you agree, don't
23 you, that he was Mr. Foust's personal attorney? Do you have that
24 understanding?

25 A I --

1 Q Okay.

2 A I really --

3 Q I mean, that's established --

4 A -- really don't know.

5 Q That's established in the --

6 A I don't know.

7 Q -- record, but I just didn't know if you knew anything about
8 that. In any event.

9 A I didn't, sir.

10 Q Thank you.

11 I want to ask about something now, because I feel like there's
12 a fundamental inconsistency in the story that you're telling. Because
13 we've heard all morning that you're talking to Harry Hildibrand Jr., right?

14 A Yes.

15 Q But isn't it true that in this meeting of creditors, you said that
16 there is one owner of member of Harry Hildibrand; didn't you say that?

17 A I believe it to be Junior.

18 Q And -- well, in the hearing, didn't you say it was another entity
19 called Stardust Classics?

20 A I believe Junior owns that as well, along with another
21 gentleman by the name of Ron Vega. And I wasn't -- I was unaware of
22 these names, Mr. Bragonje and Judge Scotti, until the day of that
23 bankruptcy filing. I was unfamiliar with who the ownership structure was.
24 Because in the hearing that we had here, there was documentation
25 shown that Harry Hildibrand was owned by four people. Three people,

1 the Hildibrand children, 33 percent each, and Mr. Foust, 1 percent.

2 So up until -- from that hearing until the day of this bankruptcy,
3 that's what I believed to be true.

4 Q But how can that be true? Because isn't it true that you are on
5 records from the state of Wyoming, your name is on a corporate records
6 for Stardust Classics; isn't that true?

7 A I do not know that, sir.

8 Q Okay.

9 A Honestly, I --

10 Q All right.

11 A -- I do not know that.

12 Q Okay. Let's look.

13 MR. BRAGONJE: Everyone's indulgence for just a minute --

14 THE COURT: Uh-huh.

15 MR. BRAGONJE: -- as I look at this precisely.

16 THE WITNESS: Your Honor?

17 THE COURT: Yes.

18 THE WITNESS: Would it be possible to get a glass of water?

19 THE COURT: Of course.

20 Marshal.

21 And, unfortunately, I don't want to go too much further,
22 maybe 15 minutes. Because I am in the middle of a jury trial and we're
23 settling jury instructions, supposed to do that at 10:00. They can wait a
24 little bit. I thought since -- I thought maybe this wouldn't be going
25 forward today.

1 MR. BRAGONJE: Thank you.

2 THE COURT: So -- but I wanted to indulge you and -- in
3 getting some information from Mr. Detwiler and because of his
4 inconvenience in showing up, I wanted to get started on this.

5 MR. BRAGONJE: Okay.

6 THE COURT: You can go a little -- why don't you find a good
7 breaking point --

8 MR. BRAGONJE: Yeah. Thank you.

9 THE COURT: -- for yourself here.

10 MR. BRAGONJE: Thank you.

11 BY MR. BRAGONJE:

12 Q Could you please direct your attention to page 365 in this
13 same -- this is -- we're still in this gigantic Tab 3. It should be a
14 document from the Wyoming Secretary of State.

15 A [Witness complies.]

16 THE COURT: My 365 starts at Tab 4.

17 MR. BRAGONJE: Thank you.

18 THE COURT: Okay.

19 MR. BRAGONJE: It's never --

20 THE COURT: The Tab 4, the first page there.

21 MR. BRAGONJE: Never easy.

22 BY MR. BRAGONJE:

23 Q It's dated October 26, 2016, filed at 12:55 p.m.

24 MR. BRAGONJE: Does everyone have that in front of them?

25 THE COURT: I do.

1 BY MR. BRAGONJE:

2 Q Mr. Detwiler?

3 A Yes, sir. I'm looking at it.

4 Q You're looking at it? Okay. Then take a moment and let me
5 know when you've had a chance to look at it.

6 A [Witness complies.] Okay.

7 Q Do you see Field 4 there, it says -- okay.

8 First of all, do you see there, Field 1, it says, Name of the
9 limited liability Company: Stardust Classic, LLC?

10 A Yes, sir, I do.

11 Q Okay. Then do you see there, Tab -- or Field 4, Mailing
12 address of the limited liability company; do you see that?

13 A Yes, sir, I do.

14 Q And the address that's given is 7854 West Sahara,
15 Number 100?

16 A Yes, sir.

17 Q See that? And that's your office, isn't it?

18 A No, sir.

19 Q Whose office is that?

20 A I have no idea. I have an office on Sahara that's 8290 West
21 Sahara and I have an office at 10120 South Eastern Avenue in
22 Henderson.

23 Q Uh-huh.

24 A Those are the only two addresses that I have outside of my
25 home address.

1 Q Uh-huh. Okay. Would you kindly flip over to page 369, just a
2 few pages back.

3 A [Witness complies.]

4 Q This is, again, a --

5 MR. BRAGONJE: I will represent to you all -- this is, by the
6 way, these are all exhibits from the prior hearing in November. These
7 have all been admitted into evidence. This is a 2018 limited liability
8 company -- annual report from the State of Wyoming.

9 Q You're aware, aren't you, Mr. Detwiler, that all entities have to
10 file annual reports with the states under which they're organized?

11 A Yes, sir.

12 Q Okay. And do you see that this filing, if you look about in the
13 top quarter of the page, it's for Stardust Classic, LLC; do you see that?

14 A I see that.

15 Q And do you see that it's your signature under this report; do
16 you see that?

17 A I see my name typed in there.

18 Q Yes. And do you see it's dated December 18, 2017?

19 A I see that.

20 Q And you're telling this Court you didn't sign this?

21 A I didn't sign this. I've never seen this document in my entire
22 life except for right now.

23 Q And you didn't -- didn't you say in -- when we had depositions,
24 didn't you say that you allow people to use your signature?

25 A I believe that -- no. What I believe I said in the deposition --

1 we can go back and look -- is that I had a -- there were stamps that were
2 put together so that if and when I bought real estate, I could stamp
3 contracts as a manager for the company. But I haven't seen that stamp,
4 sir, in I couldn't tell you how long.

5 Q But at a minimum you're willing to admit that you gave other
6 people the permission to use your signature?

7 A No, sir. I wouldn't do that. No, sir. Absolutely not.

8 Q Well, what was the point of having a stamp of your signature,
9 then, if --

10 A As a contract, as a signature on a contract, on a purchase
11 contract for real estate, representing the company. But I would never
12 give someone carte blanche to go use my name on anything. That's
13 foolish.

14 Q The bankruptcy filings, for example, you signed those,
15 correct?

16 A Yes, sir.

17 Q Did you physically sign them with a pen? Or did you use a
18 stamp?

19 A I don't know, sir. Can I -- can we look at that?

20 Q Okay.

21 A Because I don't know what I -- I signed some documents for
22 JL on the morning of that, and I also -- so I don't know.

23 Q Okay. Well, we can go into that, but I think we're running out
24 of time. What I want to ask is this: Don't you believe that if Mr. Foust
25 wanted to pay this judgment, he could just cause the cars to be

1 delivered to the bank?

2 A What do I believe?

3 Q He's controlling all of this, isn't he?

4 A I don't know that.

5 THE COURT: Yeah, well, that's the thing. Do you have any
6 personal knowledge as to whether he can do that?

7 THE WITNESS: I don't.

8 THE COURT: Okay.

9 THE WITNESS: And -- because, I mean, anything --

10 THE COURT: Don't want you to speculate.

11 THE WITNESS: Yeah, I was just going to use that word.

12 THE COURT: All right.

13 THE WITNESS: What I know and what I think? I don't know
14 that they're necessarily --

15 THE COURT: Got it.

16 THE WITNESS: -- the same thing.

17 THE COURT: If they're --

18 THE WITNESS: What I know is if I had the ability to deliver
19 any of these cars to your office or wherever, I would do so. And the
20 reason is, foremost, I wouldn't go to jail.

21 THE COURT: I understand.

22 THE WITNESS: Two, I don't want the last nine years of my
23 life to have this Hilton Resort project fall apart because of these holdings
24 that -- or these proceedings that I really have nothing to do with.

25 THE COURT: If the Court ordered you to transfer any interest

1 in the cars that might be held by Harry Hildibrand, what would be your
2 response to that?

3 THE WITNESS: I don't know how to go about doing that.

4 THE COURT: All right. Well, if you're the sole manager
5 member of the company, you could sign an instrument assigning all
6 right, title, and interest to the judgment debtor. Wouldn't you have the
7 legal right to -- or if you don't know, that's fine.

8 THE WITNESS: I don't know. I don't know, sir.

9 THE COURT: Do you know who at the company would have
10 that decision-making power?

11 THE WITNESS: That would -- at this point, it would be a
12 gentleman -- I think it would be Ron Vega, to be -- based on what I just
13 looked at and based on the bankruptcy proceedings. Ron Vega's name
14 was mentioned by JL.

15 MR. MAZUR: Your Honor --

16 THE COURT: Yes.

17 MR. MAZUR: -- it's Michael Mazur.

18 THE COURT: Yes, Mr. Mazur.

19 MR. MAZUR: I believe that the Court has previously ordered
20 all the titles to be transferred over by court order from Hildibrand over to
21 the plaintiff, if I'm not mistaken.

22 MR. BRAGONJE: That's right.

23 THE COURT: Yeah. No, I believe we did. I don't think any of
24 that's happened, though. So, all right --

25 MR. MAZUR: Are those --

1 THE COURT: Go ahead.

2 MR. MAZUR: I was just going to state that pursuant to NRS
3 [indiscernible], once that order has been issued, then the transfer any
4 ownership interest in Hildibrand would have had, at that point in time,
5 would automatically transfer legal -- or legal title would transfer over to
6 Plaintiff.

7 THE COURT: You --

8 MR. MAZUR: In that order.

9 THE COURT: You might be correct. Right. Right. There
10 might be -- happen by operation of law. Mr. Bragonje will have to look
11 into that if he believes that's important for me to know.

12 Okay. We're going to have to continue this 8:30 on Tuesday.

13 You will be back, Mr. Detwiler?

14 THE WITNESS: Yes.

15 THE COURT: Okay.

16 THE WITNESS: If -- please, just tell me that if I'm, like, five or
17 six minutes late, that I'm not going to be in too much trouble.

18 THE COURT: You won't be in any trouble --

19 THE WITNESS: Okay.

20 THE COURT: -- as long as -- I want you to make your best
21 efforts to be here on time. If you're not, because of --

22 THE WITNESS: I was here 20 minutes today, sir.

23 THE COURT: No, I appreciate that, sir. No, you were fine.
24 You were fine. Just make your best efforts. If something happens,
25 sometimes there's traffic, things happen. So thank you.

1 THE WITNESS: One day the line was out the door and down
2 the steps. And so -- and I can't get in that side door. So.

3 THE COURT: And what we'll do is we'll finish with you, these
4 proceedings that would involve you, and then we'll switch over to
5 Mr. Foust.

6 So how many more questions do you think you might have,
7 Mr. Bragonje?

8 MR. BRAGONJE: Oh, I'm done -- practically done.

9 THE COURT: Okay.

10 MR. BRAGONJE: I mean, I'll think about it.

11 THE COURT: Okay. So we'll give you maybe 15, 20 more
12 minutes --

13 MR. BRAGONJE: Fine, yeah.

14 THE COURT: -- 15 minutes, and then --

15 MR. BRAGONJE: I mean, real practically done. Not lawyer
16 practically done.

17 THE COURT: Actually, Mr. Mazur, even though I'm allowing
18 you to participate, you really -- I guess you really don't have standing to
19 ask him in connection with his own proceeding. You would have the
20 right to call him back and ask him questions then on Tuesday in
21 connection with the Foust proceedings. Does that make sense?

22 MR. MAZUR: I understand that. Yes, Your Honor.

23 THE COURT: All right. So when you're done, Mr. Bragonje,
24 then I'll let Mr. Detwiler have the last word in explaining anything you
25 want to do on Tuesday morning. And then we'll be done with your

1 contempt proceedings. And I won't make a decision on what to do, of
2 course, until we hear from Mr. Foust and his witnesses, which might be
3 you again. Okay?

4 THE WITNESS: I -- okay. Sure. Certainly.

5 THE COURT: All right. You're a resident of Nevada?

6 THE WITNESS: Yes, sir. Have been since 1990.

7 THE COURT: Okay. How often are you -- now, you're
8 working on a project in Roatan?

9 THE WITNESS: Yes, sir. I will not be -- I'm not scheduled to
10 go back out of town until June -- I believe it's the weekend of the 9th.

11 THE COURT: June 9th.

12 THE WITNESS: June 9th.

13 THE COURT: Okay. You have social connections here,
14 family here, property here in Las Vegas?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. So even if you're found in contempt of
17 court, you aren't going -- no, I'm just saying, if -- worst case scenario,
18 you're not going to get locked up on Tuesday. Okay? So I don't -- I
19 don't want you to be worried about showing up. Okay?

20 THE WITNESS: May I ask a question?

21 THE COURT: And you're going to get -- look, I have an open
22 mind. I can't make any decisions for anybody's sake till I hear all the
23 evidence. So.

24 THE WITNESS: Yes, sir. But if I could just ask a question?

25 THE COURT: Yes, of course.

1 THE WITNESS: What is the --

2 THE COURT: The procedure is somebody who's in contempt
3 of court can be held until he complies with the order. In this case, the
4 order would be doing whatever you can do to turn over the cars.
5 Obviously, I'm listening to you very carefully to see if you know where
6 the cars are, if you exercise your best efforts to comply with my order to
7 have them turned over.

8 You can't do something, of course, that you're -- that's a
9 physical impossibility. Okay. So if there's something that's a physical
10 impossibility, you can't be held in contempt of court. All right. So that's
11 what we're trying to find out here is have you done all that's in your
12 power to do so satisfy my order. And that's all I'm looking for. Right?

13 THE WITNESS: Okay.

14 THE COURT: And so if there's more you can do over the
15 weekend or Monday, I don't know if there is, maybe you want to talk to
16 Harry Jr., this guy Ron Vega. But understood, sir, you're only
17 responsible for what's in your power to control. Okay?

18 MR. BRAGONJE: May I say just one thing on a --

19 THE COURT: Yes, you may.

20 MR. BRAGONJE: -- housekeeping? I don't anticipate talking
21 to anyone but Mr. Foust. I mean, we have -- this was originally
22 scheduled for April 1st. So I'm going to be really upset if Mr. Mazur
23 brings in new witnesses on Monday after the --

24 THE COURT: Well, no, he -- and he can't, because I required
25 all parties to identify their witnesses --

1 MR. BRAGONJE: Yeah. Okay.

2 THE COURT: -- by a certain deadline. That deadline's

3 passed.

4 MR. BRAGONJE: Yeah, long passed. Okay.

5 THE COURT: So there would have to be -- yeah, some --

6 MR. BRAGONJE: Yeah, okay.

7 THE COURT: -- some change in that prior order.

8 MR. BRAGONJE: Yeah, yeah. And one other --

9 THE COURT: But I just wanted him in case we're doing more

10 examination --

11 MR. BRAGONJE: Yes.

12 THE COURT: -- of Mr. Detwiler on Tuesday, that he be

13 prepared to at least answer questions about what communications he

14 had with Mr. Vega since the very first time I --

15 MR. BRAGONJE: Right.

16 THE COURT: -- I issued the order.

17 MR. BRAGONJE: Right.

18 THE COURT: Because I think that may or may not be

19 relevant.

20 MR. BRAGONJE: Yeah.

21 THE COURT: I'm not saying it is. Just --

22 MR. BRAGONJE: Could -- I just have one other thing to say

23 as we kind of frame this issue.

24 THE COURT: Okay.

25 MR. BRAGONJE: We -- you know, every contempt order has

1 to have a purge clause, right? How do you -- if one does go to jail --

2 THE COURT: Of course.

3 MR. BRAGONJE: -- how does one get out?

4 THE COURT: Of course. Right.

5 MR. BRAGONJE: And we're not necessarily set on having
6 these vehicles. We want either their value of the vehicles of the vehicles
7 themselves. So the bankruptcy --

8 THE COURT: Right.

9 MR. BRAGONJE: -- the bankruptcy order says they're
10 worth -- or, excuse me, the bankruptcy schedule says they're
11 worth 520,000. We'll take either. We'll take the -- we'd rather have the
12 money, obviously.

13 THE COURT: Then that may be more important with
14 Mr. Foust.

15 MR. BRAGONJE: Yeah.

16 THE COURT: Because I don't know anything about --

17 MR. BRAGONJE: Right.

18 THE COURT: -- Mr. Detwiler's control over the assets of
19 Harry Hildibrand --

20 MR. BRAGONJE: Right.

21 THE COURT: -- or what control he has over Mr. Foust, the
22 judgment debtor here, his finances.

23 MR. BRAGONJE: Right.

24 THE COURT: And so that's a relevant inquiry too.

25 MR. BRAGONJE: Yeah. I represent a bank, not a car

1 dealership. So we'd rather have money, obviously.

2 THE COURT: Of course. Well, and Mr. Foust is going to
3 have some things to answer to on Tuesday.

4 MR. BRAGONJE: Yeah.

5 THE COURT: All right. You understand the procedure at
6 least? I tried to help you understand the procedure here.

7 THE WITNESS: Yeah, I just have one four-letter word keep
8 going in and out of my head and that's jail. So I'm trying to pay attention.

9 THE COURT: You're okay Tuesday. All right. And this
10 whole -- we want to be fair here. But I want my orders complied with.
11 You know, it's very -- when I issue an order, I expect it to be complied
12 with if it's at all possible. Right? And a very serious matter here,
13 because we had a judgment here for a million dollars, we have cars that
14 were supposed to be security and nobody knows where the cars are.

15 So I'm trying to get more information to decide how to
16 proceed. All right?

17 THE WITNESS: Yes, sir.

18 THE COURT: So all right. I'm a nice guy, but I'm very serious
19 and expect my orders to be complied with. You understand? Okay.

20 THE WITNESS: Okay. I just don't know what I can do to --

21 THE COURT: Well, we'll find out with more questioning on
22 Tuesday.

23 MR. BRAGONJE: Thank you.

24 THE COURT: So we're going to continue --

25 You may step down, sir.

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THE WITNESS: Thank you.

THE COURT: Mr. Mazur, we'll see you here Tuesday at 8:30,
correct?

MR. MAZUR: Yes, Your Honor. Thank you.

THE COURT: All right. Thank you.

Everyone have a good day.

MR. BRAGONJE: Thank you, Your Honor.

THE COURT: Have a good day.

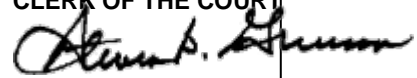
[Proceeding concluded at 10:13 a.m. until May 21, 2019.]

///

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



Shawna Ortega, CET*562



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL
BANK,

Plaintiff(s),

vs.

JAMES FOUST, JR.,

Defendant(s).

Case No. A-17-760779-F

DEPT. II

BEFORE THE HONORABLE RICHARD F. SCOTTI,
DISTRICT COURT JUDGE

TUESDAY, MAY 21, 2019

**TRANSCRIPT OF PROCEEDINGS RE:
EVIDENTIARY HEARING
VOLUME I**

APPEARANCES:

For the Plaintiff(s):

JOHN E. BRAGONJE, ESQ.

For the Defendant(s), James
Patterson Foust, Jr.:

MICHAEL D. MAZUR, ESQ

RECORDED BY: DALYNE EASLEY, COURT RECORDER

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I N D E X

W I T N E S S E S Page #

FOR THE PLAINTIFF:

<u>EDWARD DETWILER</u>	
Direct Examination (cont.)	5
Examination by the Court	19

E X H I B I T S

	<u>Page #</u>
No exhibits offered.	

1 **LAS VEGAS, NEVADA, TUESDAY, MAY 21, 2019**

2 [Proceeding commenced at 8:44 a.m.]

3
4 THE COURT: All right. Counsel, let's go ahead and identify
5 yourselves before we proceed.

6 MR. MAZUR: Your Honor --

7 MR. BRAGONJE: Good morning, Your Honor. John
8 Bragonje of the Lewis Roca law firm for the plaintiff and judgment
9 creditor, Baker Boyer National Bank.

10 MR. MAZUR: Good morning, Your Honor. Michael Mazur on
11 behalf of defendant James Foust. And Mr. Foust is present at the table
12 as well.

13 THE COURT: All right. Mr. Mazur, are you here today just
14 representing Mr. Foust or any other person or entity?

15 MR. MAZUR: Mr. -- just Mr. Foust.

16 THE COURT: Okay. Very good.

17 Mr. Bragonje, I think we left off with your examination of
18 Mr. Detwiler. That was in connection with the proceedings for
19 Mr. Detwiler to show cause why he should not be held in contempt of
20 court, and that is a separate proceeding from the proceeding that we
21 need to do thereafter, which is to determine whether Mr. Foust should be
22 held in contempt of court.

23 Do you -- are you prepared to continue with your examination?

24 MR. BRAGONJE: Yes, Your Honor.

25 THE COURT: All right. And did you wish to invoke the

1 exclusionary rule that we have discussed last time?

2 MR. BRAGONJE: Yes, please.

3 THE COURT: All right. Mr. Foust, I have to ask you to step
4 outside, because we're still conducting the examination of Mr. Detwiler in
5 connection with his proceeding. When we commence your proceeding,
6 you may call Mr. Detwiler as part of your case if that's what you would
7 like to do. All right.

8 So you can recall him, just you can't be here for the
9 proceeding that we have regarding him at this time.

10 Your counsel is free to remain. All right?

11 MR. FOUST: All right. Thank you.

12 MR. BRAGONJE: There's another gentleman here too I don't
13 know --

14 THE COURT: What's your name, sir?

15 MR. LARKIN: Tom Larkin.

16 THE COURT: And what's -- are you -- Mr. Mazur, is he here
17 in connection with the proceedings regarding Mr. Foust?

18 MR. MAZUR: Yes, he is.

19 THE COURT: Okay. Then I have to ask you to step outside
20 too. I don't think this is going to take too long, but we'll see how long it
21 goes, the proceedings regarding Mr. Detwiler. Okay, sir?

22 MR. MAZUR: Your Honor, some of the testimony may relate
23 to Mr. Detwiler as well.

24 THE COURT: Okay.

25 MR. MAZUR: So -- but we can address that as it --

1 THE COURT: Well, it still -- it's an exclusionary rule.
2 MR. MAZUR: Correct, yes.
3 THE COURT: So if Mr. Detwiler chooses to call him, he has
4 the right to do that.
5 MR. MAZUR: Okay.
6 THE COURT: All right?
7 MR. MAZUR: Very good.
8 THE COURT: Thank you.
9 All right. Mr. Detwiler, please come take the stand again.

10 **EDWARD DETWILER,**
11 [having been recalled as a witness and first duly sworn, testified as
12 follows:]

13 THE CLERK: You may be seated.
14 MR. BRAGONJE: Your Honor, may I approach the witness to
15 give him the courtesy copy of the exhibits?
16 THE COURT: Yes.
17 MR. BRAGONJE: And does Your Honor have that?
18 THE COURT: Yes. So this is a continuation of the trial
19 regarding the contempt charges. Just so everybody understands what
20 we're doing here today.

21 **DIRECT EXAMINATION (CONT.)**

22 BY MR. BRAGONJE:

23 Q All right. Good morning, Mr. Detwiler.

24 A Good morning.

25 THE COURT: Do you have a copy of this for my clerk? Or

1 did it -- did you give a copy to my clerk last time? I don't remember if
2 you did.

3 MR. BRAGONJE: I don't recall either.

4 THE COURT: All right.

5 MR. BRAGONJE: I may have a copy. Should I check?

6 THE COURT: Well, I don't know.

7 How do you want to handle this?

8 THE CLERK: I'll let you know.

9 THE COURT: Okay.

10 MR. BRAGONJE: Okay.

11 THE COURT: Let's just commence.

12 MR. BRAGONJE: Okay. Thank you.

13 THE COURT: Thank you.

14 BY MR. BRAGONJE:

15 Q Mr. Detwiler, do you recall that last time we were here, we
16 were speaking about the conditions at Harry Hildibrand in general?

17 A The conditions as far as what? I don't --

18 Q Its operations and that --

19 A Yes. Yes.

20 Q Could you please refer to page 119 of Exhibit 3.

21 A [Witness complies.]

22 Q This is, again, the -- we spent a lot of time the last time we
23 were together talking about the transcript from the meeting of creditors in
24 the bankruptcy. And this will be our last reference to that exhibit.

25 Page 119.

1 A Uh-huh.

2 MR. MAZUR: Your Honor, if I may, with the exhibit that you're
3 referring to, was that -- I think that was filed at the last -- on Friday or
4 was that one was filed previously?

5 MR. BRAGONJE: This is actually one of the exhibits that was
6 already admitted at the previous trial.

7 MR. MAZUR: Okay. What was the date of the admission?
8 And I'll pull it up.

9 MR. BRAGONJE: Of the what?

10 MR. MAZUR: What was the date it was admitted or filed?

11 MR. BRAGONJE: Would have been the last hearing, which
12 was November 4th, I think.

13 MR. MAZUR: Okay. Thank you. Yeah.

14 MR. BRAGONJE: I think.

15 THE COURT: All right. Thank you.

16 BY MR. BRAGONJE:

17 Q Okay. Referring to the top of the page there, there's a
18 question from an LB; do you recall that there was a representative from
19 the IRS at the meeting of creditors?

20 A There were four people there. So I don't know -- I thought LB
21 was the counsel for Lewis Roca.

22 Q No, that was MK. That was Michael.

23 A MK. Okay.

24 Q So in any event --

25 A So that puts five people, then.

1 Q -- would you accept that there was a representative of the IRS
2 at the meeting? Does that sound familiar?

3 A There was one person that poked his head in at the beginning
4 and -- but did not stay. So there were only four people that stayed. So
5 there was someone that did pop in and asked a couple questions and
6 then left immediately.

7 Q Thank you.

8 And let's refer to these questions, the top of the page,
9 Stardust Classics -- Classic LLC.

10 Do you know who the members are of Stardust? JL, which is
11 the attorney for the bankrupt?

12 Harry Hildibrand: We don't.

13 LB --

14 Which I represent is the representative of the IRS.

15 -- Stardust Classic LLC and Harry Hildibrand LLC, do they
16 have any employees?

17 JL: No.

18 ED --

19 That's you.

20 -- None.

21 LB: No employees. Any payroll?

22 JL: No.

23 ED: Zero.

24 Is it -- it's accurate, isn't it, that neither Harry Hildibrand nor
25 Stardust Classic have any employees; is that correct?

1 A I know that Harry Hildibrand doesn't and it's indicated here by
2 JL and by me that Stardust doesn't either. So I -- I would have to say --

3 Q So you're -- you're the only agent of Harry Hildibrand; isn't that
4 accurate?

5 A I'm a figurehead managing member, yes, sir. That's -- that is
6 all I know.

7 Q Other than owners, Harry Hildibrand has no way to act other
8 than by through you; isn't that accurate?

9 A No. He can act on his own.

10 Q The entity, though. Do you understand that an entity is a
11 fiction, right? It doesn't have a real existence, an entity, it must act
12 through its agents; do you understand that?

13 A Yes.

14 Q And you are its only --

15 MR. MAZUR: Objection, Your Honor. Misstates the law on
16 policies --

17 THE COURT: Well, you're not allowed to object --

18 MR. MAZUR: Right.

19 THE COURT: -- in these proceedings. You are allowed to
20 participate by observing. All right. So any evidence that comes in in
21 these proceedings right now cannot be used against Mr. Foust in the
22 other proceeding, though.

23 MR. MAZUR: Very good. Thank you, Your Honor.

24 THE COURT: Okay? All right.

25 Go ahead.

1 BY MR. BRAGONJE:

2 Q So do you agree, then, that you're the only agent of Harry
3 Hildibrand LLC, the entity?

4 A Then with this coming to light, I'm going to answer I don't
5 know. I don't know if I'm the only entity. I know that I'm a manager on
6 paper, but I haven't done anything on their behalf other than file the
7 police report and attend this bankruptcy hearing. Outside of that, I've
8 done -- I have conducted no business on behalf of the company. So
9 whether they've conducted other business, I wouldn't know, sir.

10 Q But there are no employees, correct?

11 A That is my understanding.

12 Q And you're the sole --

13 A At least to my knowledge.

14 Q -- manager, correct?

15 A I'm -- I am a manager.

16 Q Who are the other managers?

17 A I don't know.

18 Q All right.

19 MR. BRAGONJE: Your Honor, I'd like to introduce a new
20 exhibit that hasn't been tendered before.

21 THE COURT: One second.

22 MR. BRAGONJE: I'd like to provide the Court with a courtesy
23 copy. I've already given a copy to Mr. Detwiler and Mr. Mazur. I'd like
24 to --

25 THE COURT: Was this disclosed before the last hearing in

1 this case?

2 MR. BRAGONJE: It was not. I gave it only this morning. I
3 think that --

4 THE COURT: Is there a document that's come up in any of
5 these last 14 hearings that we've had in this case?

6 MR. BRAGONJE: Yes. Yes, it has.

7 THE COURT: Can you -- do you --

8 MR. BRAGONJE: Some of them have. And I think --

9 THE COURT: In what context?

10 MR. BRAGONJE: I think it will give context, what they are is --

11 THE COURT: No, in what manner was it disclosed in these
12 proceedings prior -- before today?

13 MR. BRAGONJE: Well, I'm going to talk about an order this
14 Court entered previously.

15 THE COURT: All right.

16 MR. BRAGONJE: And then some Nevada Secretary of State
17 reports. And this grows out of our discussion on Friday, where we had
18 some testimony about different offices of different businesses. And so
19 after that discussion, in preparation for today's hearing, I looked at the
20 prior order of this Court and then some Nevada Secretary of State entity
21 filings that --

22 THE COURT: Uh-huh.

23 MR. BRAGONJE: -- Mr. Detwiler and Mr. Foust are involved
24 in. So it's --

25 MR. MAZUR: Excuse me. Mr. Foust is not involved in any of

1 the other three.

2 MR. BRAGONJE: Yeah, we'll get to that.

3 MR. MAZUR: Okay. Well -- but -- but --

4 THE COURT: Just give me a moment, guys.

5 MR. MAZUR: -- to state that is incorrect.

6 THE COURT: All right. Give me a moment here.

7 [Pause in proceedings.]

8 THE COURT: So what I'm trying to do is determine -- I want
9 to strictly follow proper procedures here, given the seriousness of this
10 matter. So I want to make sure that if I gave you a deadline for
11 identifying exhibits, that you complied with that.

12 MR. BRAGONJE: Sure.

13 THE COURT: So I have to -- I'm checking my minutes.
14 Okay?

15 MR. BRAGONJE: Yes.

16 [Pause in proceedings.]

17 THE COURT: I thought I gave a deadline. You don't
18 remember, Mr. Bragonje? Because I don't want to waste time on this,
19 but I'm pretty sure I've -- I gave a deadline, but --

20 MR. BRAGONJE: I don't recall.

21 THE COURT: All right.

22 MR. BRAGONJE: I've been just operating under the local
23 rules that normally things have to be disclosed I think a week in advance
24 of any trial or evidentiary hearing.

25 THE COURT: Right. And this --

1 MR. BRAGONJE: And --

2 THE COURT: -- this actually began, remember, this
3 evidentiary hearing began, what, a couple of weeks ago.

4 MR. BRAGONJE: Yes. Absolutely.

5 THE COURT: And did -- and I don't know if you disclosed it
6 before then.

7 MR. BRAGONJE: I did not. For sure I did not. I think -- why I
8 think --

9 THE COURT: All right. Then I don't think we should use it. I
10 don't think --

11 MR. BRAGONJE: Okay.

12 THE COURT: -- it's comporting with due process not to give
13 Mr. Detwiler a prior notice of this document. Unless you have some
14 proof you can show me that you've given it to him before these
15 proceedings started.

16 MR. BRAGONJE: No. No, I only gave it today.

17 THE COURT: All right.

18 MR. BRAGONJE: I don't --

19 THE COURT: We can't use it then, unfortunately.

20 MR. BRAGONJE: I just -- yes. Thank you.

21 THE COURT: You know, for both sides.

22 MR. BRAGONJE: Thank you.

23 THE COURT: It's not something I can consider here.

24 MR. BRAGONJE: Thank you. I wonder if you even --

25 THE COURT: Whether it's favorable to one side or the other

1 side, it hasn't been disclosed. All right?

2 MR. BRAGONJE: If Mr. Detwiler -- and I'll just -- I'll ask one
3 more thing and then I'll be quiet on this issue.

4 THE COURT: You can ask him questions, you just can't read
5 the document.

6 MR. BRAGONJE: I just wonder if he would even object to
7 these documents or not. If he doesn't object, we can talk about them. If
8 not, I'll just ask the questions.

9 THE WITNESS: I object to them, sir.

10 MR. BRAGONJE: Okay. Thank you.

11 THE COURT: All right.

12 MR. BRAGONJE: Thank you for your ruling.

13 Thank you, Mr. Detwiler.

14 BY MR. BRAGONJE:

15 Q Mr. Detwiler, when we were before the Court last Friday, you
16 spoke about a venture you have in Roatan, Honduras; is that right?

17 A That is correct.

18 Q And the name of one of the entities involved in that venture is
19 Nai'a Resorts LLC; is that accurate?

20 A It is.

21 Your Honor, just to make a point, these are -- and I don't have
22 any counsel here, sir, but these are -- what he's talking about is what he
23 was putting into evidence. And my resort company has absolutely
24 nothing to do with Jim Foust or Baker Boyer Bank. And so I'm kind of
25 wondering why --

1 THE COURT: I don't know what --

2 THE WITNESS: -- you just told him not to have this put into
3 evidence, but now he's asking me questions about it.

4 THE COURT: Well, it's a document and I'm saying the
5 document is not being admitted into evidence. He can ask you
6 questions.

7 THE WITNESS: Okay.

8 THE COURT: So the questions are proper, because at the
9 last hearing you made a big deal about --

10 THE WITNESS: Very big deal.

11 THE COURT: -- if you were held in contempt and depending
12 on what the penalty would be, that would have a grave effect on --

13 THE WITNESS: It could very well have a grave effect on me.

14 THE COURT: -- on your business.

15 THE WITNESS: Yes.

16 THE COURT: Okay. So you brought it into issue, and so I
17 need to let him --

18 THE WITNESS: Very well.

19 THE COURT: -- answer questions -- or ask questions about
20 that.

21 THE WITNESS: Very well.

22 BY MR. BRAGONJE:

23 Q And you're familiar, this is a Nevada LLC, this Nai'a Resorts
24 LLC?

25 A Yes, it is.

1 Q And you're familiar with the fact that when one has a Nevada
2 entity -- you are, by the way, you are the -- a manager of Nai'a Resorts
3 LLC; is that correct?

4 A I am a manager, yes.

5 Q There are other managers?

6 A Yes, there are.

7 THE COURT: How do you spell Nai'a?

8 THE WITNESS: N-A-I-'-A.

9 THE COURT: Okay. Very good.

10 THE WITNESS: It's Polynesian for dolphin.

11 THE COURT: Thank you, sir.

12 BY MR. BRAGONJE:

13 Q Okay. And you're familiar with the convention that in Nevada
14 and in other states, the state has on its records official offices related to
15 entities --

16 A Yes.

17 Q -- do you understand that? And, in fact, you gave an office in
18 connection with your role as manager of Nai'a Resorts LLC; is that right?

19 A That's correct.

20 Q And what is the address of that office, sir?

21 A 10120 South Eastern Avenue, Suite 300, Henderson,
22 Nevada, 89051. It's also my office where my real estate license hangs.

23 Q Okay. And do you agree that Mr. Foust also has used this
24 same office for his entities?

25 A Yes, I see that he did.

1 Q Okay. And you would accept for --

2 MR. BRAGONJE: Your Honor -- does Your Honor have any
3 objection to the prior order coming into court? Your -- it's a prior -- it's a
4 charging order from a November 15th, 2017?

5 THE COURT: I --

6 MR. BRAGONJE: I mean, I don't know, I guess --

7 THE COURT: Well, I don't make objections. I simply enforce
8 the --

9 MR. BRAGONJE: Right, right.

10 THE COURT: -- rules of the Court and my prior orders.

11 MR. BRAGONJE: Okay.

12 THE COURT: My prior order is of record, so you can --

13 MR. BRAGONJE: Yeah.

14 THE COURT: -- you can use it.

15 MR. BRAGONJE: Okay.

16 THE COURT: It's part of the public record.

17 BY MR. BRAGONJE:

18 Q So I'll just tell you for background that this court, a long time
19 ago in November of 2017, entered a charging order against an entity
20 that Mr. Foust owns. The name of the entity is JPF Enterprises LLC.
21 Have you heard of that entity before?

22 A I've heard of it, yes. Yeah.

23 Q And you understand that's an entity associated with
24 Mr. Foust?

25 A That is correct.

1 Q And you agree that this entity, JPF Enterprises, uses the same
2 office address as Nai'a Resorts LLC?

3 A I recognize that he has used that address before and has
4 used other addresses for that entity as well.

5 Q All right. Have you done anything in the time since we were
6 here to convince whoever you say might be in control of Harry Hildibrand
7 to turn over the documents?

8 A Yes I have.

9 Q Or, excuse me, the cars?

10 A The cars. Yes, sir, I have.

11 Q And what was the response?

12 A I did not get a response, I did not get an answer.

13 Q And to whom did you direct your inquiry?

14 A Junior.

15 Q Harry Hildibrand Jr.?

16 A Yes, sir.

17 Q And do you mean that you telephoned him?

18 A Yes, sir.

19 Q Did you e-mail him?

20 A No, sir.

21 Q You telephoned --

22 A I don't have an e-mail for him.

23 Q And did you leave a message, a voice message?

24 A I could not leave a message, it said the mailbox was full.

25 Q How many times did you telephone?

1 A Three times, sir.

2 Q Thank you.

3 MR. BRAGONJE: No further questions.

4 THE COURT: All right. One second.

5 Do you have anything in writing, any document that you can
6 show me to show you've made efforts to try to get these cars back other
7 than your word?

8 THE WITNESS: No, sir. I also called -- if I may follow up to
9 that?

10 THE COURT: Yes. What --

11 THE WITNESS: I also --

12 THE COURT: The way we do this -- hold on.

13 THE WITNESS: Okay.

14 THE COURT: All right. I apologize, I think I interrupted you in
15 part. So now that Mr. Bragonje is done with his examination, we let you
16 go first and then he got to cross-examine you, now it's your turn to go
17 ahead and make any statements or clarify anything or provide us with
18 any additional evidence.

19 So your turn.

20 THE WITNESS: Yeah. I don't know why I can't get through,
21 but I can't get through. My involvement with the cars, I don't -- I've never
22 known anything about the cars and what I shared with the bankruptcy
23 attorney, the information that I did share was provided to me by the
24 attorney who filed the bankruptcy.

25 I did call Jim Foust over the weekend and I said, It would

1 probably be a good idea for you to try to settle this. And that's it. So
2 those were the efforts I made. That was the only person I could get a
3 hold of. So.

4 THE COURT: All right. Thank you.

5 THE WITNESS: And I -- beyond that, sir, I just have no
6 accessibility to the assets that are in the company.

7 THE COURT: Anything else that you want to say?

8 THE WITNESS: No, sir.

9 THE COURT: All right. So you went first. Then Mr. Bragonje,
10 then you.

11 And anything else, Mr. Bragonje?

12 MR. BRAGONJE: No, thank you.

13 THE COURT: All right. You can step down.

14 So I want to reserve hearing any closing argument on this
15 matter until after we complete the proceedings from Mr. Foust. All right.
16 And at that point in time, we can determine how to proceed. Okay.

17 So with the exception of closing arguments by the parties, this
18 concludes the proceedings for the contempt charge against Mr. Detwiler.
19 The evidentiary portion of that proceeding is closed. And the Court will
20 inform the parties when they may proceed with any closing arguments
21 and when the Court will decide what action to take, if any. Okay. All
22 right.

23 Mr. Mazur, you may bring in your client now, please.

24 MR. MAZUR: Yes, sir.

25 THE COURT: You can stay, Mr. Detwiler. You can stay

1 now -- well, stay to see if he's going to call you as a witness.

2 MR. DETWILER: Oh. Okay.

3 THE COURT: Okay?

4 MR. DETWILER: Okay.

5 THE COURT: If he is going to call you as a witness, then I'll
6 have to ask you to step outside while he's testifying as part of the
7 exclusionary rule.

8 MR. DETWILER: Yes, sir.

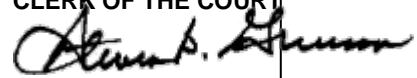
9 [Proceedings concluded at 9:03 a.m.]

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

21 

22 Shawna Ortega, CET*562



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL
BANK,

Plaintiff(s),

vs.

JAMES FOUST, JR.,

Defendant(s).

Case No. A-17-760779-F

DEPT. II

BEFORE THE HONORABLE RICHARD F. SCOTTI,
DISTRICT COURT JUDGE

TUESDAY, MAY 21, 2019

**TRANSCRIPT OF PROCEEDINGS RE:
EVIDENTIARY HEARING
VOLUME II**

APPEARANCES:

For the Plaintiff(s):

JOHN E. BRAGONJE, ESQ.

For the Defendant(s), James
Patterson Foust, Jr.:

MICHAEL D. MAZUR, ESQ

RECORDED BY: DALYNE EASLEY, COURT RECORDER

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1 **LAS VEGAS, NEVADA, TUESDAY, MAY 21, 2019**

2 [Proceeding commenced at 9:03 a.m.]

3
4 THE COURT: All right. The record will reflect that Mr. Foust
5 is now present and he's represented by counsel, Mr. Mazur, who is here.
6 Also present is Mr. Bragonje.

7 This is the time and date set for the trial on the contempt
8 charges against Mr. Foust. This hearing is being conducted pursuant to
9 the document entitled Order to Appear and Show Cause Why Defendant
10 Should Not Be Held in Contempt of Court, which was filed
11 February 21, 2019.

12 And, Mr. Mazur, can you identify which witnesses you plan to
13 call in these proceedings?

14 MR. MAZUR: Yes, Your Honor. First we'd like to call
15 Mr. Foust himself. In addition, Mr. Detwiler. And then Thomas Larkin,
16 as well.

17 MR. BRAGONJE: And I would object to Thomas Larkin as not
18 being disclosed. I have no idea who he is or what relevance he has.

19 THE COURT: Give me a moment to check.

20 MR. MAZUR: Your Honor, Thomas Larkin was disclosed on
21 April 1st. He was in attendance at the hearing on April 1st. And the
22 Court inquired as to his name and put it on the record, I believe that he
23 was here in attendance at that point in time.

24 THE COURT: All right. I don't recall, but I'll accept your
25 representation. If it turns out to be something different than that, we can

1 talk about it. But I accept your representation.

2 MR. MAZUR: Okay.

3 THE COURT: Mr. Bragonje, I accept his representation. If
4 you find the facts to be different than that, then let us know.

5 MR. BRAGONJE: I don't dispute he was here, I just don't
6 think that's a witness disclosure. That's all.

7 THE COURT: Well, did you disclose that he would be
8 testifying?

9 MR. MAZUR: He was -- I believe he was --

10 THE COURT: That's what I thought you said.

11 MR. MAZUR: I believe he was identified at the beginning of
12 the proceeding. And --

13 THE COURT: When you say identified, as present or as a
14 witness? Or --

15 MR. MAZUR: I don't recall that fact specifically. But I do
16 recall at the very end of the proceeding, before we wrapped up, you did
17 call him up, got his name, his position with the company and information
18 like that before we concluded.

19 THE COURT: Let me take a look at my minutes and see what
20 I can find on that. Okay. I don't know if it's in there. That was the last
21 time you were here?

22 MR. MAZUR: April 1st, Your Honor.

23 THE COURT: April 1st?

24 MR. MAZUR: I believe he did come up to the podium, and
25 wasn't sworn in or anything, but you did ask who -- which company he

1 was with and his name, for the record.

2 THE COURT: Checking.

3 [Pause in proceedings.]

4 THE COURT: You guys can sit for a second.

5 [Pause in proceedings.]

6 THE COURT: Guys, I'm having trouble finding any reference
7 to him. And I can listen to JAVS. I don't want to waste any time. I got
8 too much going on this morning. All right. So I'm going to let you call
9 him subject to a Motion to Strike. Okay?

10 MR. MAZUR: Thank you, Your Honor.

11 MR. BRAGONJE: Thank you.

12 THE COURT: All right. Very good.

13 The exclusionary rule is invoked, so the only one present in
14 the courtroom with relation to these proceedings shall be the parties to
15 the Foust proceedings.

16 Mr. Detwiler, I have to ask you to step outside.

17 And Mr. Mazur, you may call your first witness.

18 MR. MAZUR: Thank you, Your Honor.

19 I'd like to call James Foust.

20 THE COURT: Mr. Foust, please come take the stand.

21 **JAMES FOUST,**

22 [having been called as a witness and first duly sworn, testified as
23 follows:]

24 THE CLERK: You may be seated. And then can you please
25 state and spell your first and last name for the record.

1 THE WITNESS: James Foust, F-O-U-S-T.

2 THE CLERK: Thank you.

3 THE COURT: All right. You may proceed.

4 MR. MAZUR: Thank you, Your Honor.

5 And, Your Honor, one point of information is when we did
6 leave on -- April 1st, the Court did request us to submit a declaration of
7 additional facts regarding the list of the contested vehicles. And at the
8 conclusion --

9 THE COURT: I have a copy.

10 MR. MAZUR: At the conclusion of the hearing, it was
11 determined there was only 20 of those vehicles that were at issue and
12 we did submit and file a declaration on April 8th this year,
13 Mr. Patterson -- Patterson-Foust.

14 THE COURT: Yes.

15 MR. MAZUR: Okay. And I'd like to reference that and we'll go
16 through one by one as far as the status of the vehicles for the 20 that are
17 actually are at issue for the hearing here this morning.

18 THE COURT: All right.

19 MR. MAZUR: And the first one was --

20 THE COURT: Mr. Bragonje, do you have that in front of you?

21 MR. BRAGONJE: Well, I've been given -- I'm shuffling
22 through. I'm sure I'll find it.

23 THE COURT: I have a copy here. Do you want to --

24 MR. BRAGONJE: That would be great.

25 THE COURT: -- want the Court -- well, this is my copy. Do

1 you want us to make you a copy?

2 MR. BRAGONJE: That would be great. Thank you.

3 THE COURT: All right.

4 MR. MAZUR: I have a copy as well, Your Honor.

5 THE COURT: Marshal.

6 MR. BRAGONJE: Oh, I've got that one. I thought you were
7 talking about --

8 MR. MAZUR: The bankruptcy --

9 MR. BRAGONJE: -- the declaration.

10 MR. MAZUR: I don't have a copy of the declaration, I do have
11 a copy of this.

12 MR. BRAGONJE: I've got that.

13 THE COURT: Well, I don't have that. I have the declaration,
14 but I don't have the attachment.

15 MR. MAZUR: I'll trade you a copy of this for --

16 THE COURT: Yes.

17 MR. MAZUR: Thank you, Your Honor. May I approach?

18 THE COURT: Yes. Is that an extra?

19 MR. MAZUR: Yes.

20 THE COURT: All right. Thank you. Appreciate it. That would
21 be wonderful.

22 MR. MAZUR: And this is the one from the bankruptcy court.

23 THE COURT: Perfect. Thank you.

24 All right. You may proceed.

25 ///

1 **DIRECT EXAMINATION**

2 BY MR. MAZUR:

3 Q Good morning, Mr. Foust. In looking at the first item we have
4 is the 2007 Mercedes S550 in the declaration. And that is towards the
5 bottom of the list that we have here. In your declaration you provided
6 the location of the vehicle was in Rancho Palos Verdes, California?

7 A Yes, sir.

8 Q And that is correct, it's not in your actual possession, though?

9 A Correct.

10 THE COURT: What -- we're looking at the Mercedes 2007
11 S550; is that what you're talking about?

12 MR. MAZUR: Yes, Your Honor.

13 And for the convenience of the Court, maybe if we number
14 them 1 through -- all the way through, then we can reference and be
15 able to quickly -- this one's fourth one from the bottom?

16 THE COURT: I would prefer that you be consistent and use
17 the numbering system that you have in the declaration of Mr. Foust.

18 MR. MAZUR: Okay.

19 THE COURT: So when you refer to a car, tell us what number
20 it is in that declaration filed April 8th, 2019.

21 MR. MAZUR: Very good.

22 THE COURT: All right? Thank you.

23 BY MR. MAZUR:

24 Q And the 2007 Mercedes S550, last for the VIN, 5860, Item
25 Number 1 in the declaration. And that vehicle is not in your possession;

1 is that correct?

2 A That's correct.

3 Q Okay. And do you know whose possession that's in?

4 A That's in Miriam Foust.

5 Q Okay. And do you have access to that vehicle?

6 A No.

7 Q Do you have control of that vehicle?

8 A No.

9 Q Okay. And is it your understanding that it's subject to the
10 security interests of Mr. Vega or Stardust?

11 A Yes.

12 MR. BRAGONJE: Objection. Leading.

13 THE COURT: It is leading. Sustained. And that's --
14 statement, anyway, in the affidavit already. Which is already of record.
15 So if he's just going to say what's already in here, I think we can save
16 time and just indicate that all these statements are admitted into the
17 record for purposes of the Court's consideration of the contempt
18 charges.

19 MR. MAZUR: Very good, Your Honor.

20 THE COURT: All right. But if -- certainly, elaborate on
21 anything that needs explaining.

22 MR. MAZUR: Okay. What we'll do --

23 THE COURT: And again, Mr. Bragonje, it would be helpful if
24 you have this, so it would expedite any cross-examination you might
25 have.

1 MR. BRAGONJE: Yeah. Are you referring to the declaration?
2 THE COURT: Yes.
3 MR. BRAGONJE: Yeah. I haven't been able to locate it.
4 They did give it to me.
5 THE COURT: Okay.
6 MR. BRAGONJE: If the Court has a copy, that would be
7 great.
8 THE COURT: I do. I'd like my marshal to copy it, if he could.
9 Thank you, Marshal. I appreciate it.
10 MR. BRAGONJE: Thank you, Your Honor. It's a lot of
11 papers.
12 THE COURT: Yeah. If you don't mind.
13 THE MARSHAL: Sure.
14 THE COURT: Or actually, you know what, why don't you stay
15 here. Let's have Liz do it.
16 It's an exhibit. We're going to make an exhibit, so she's in
17 charge of the exhibits.
18 [Pause in proceedings.]
19 MR. MAZUR: Evaluating time, Your Honor, may I jump onto
20 another quick issue --
21 THE COURT: Yes.
22 MR. MAZUR: -- off the page, another --
23 THE COURT: Well --
24 MR. MAZUR: Or I'll --
25 THE COURT: -- we shouldn't, if the clerk's out of the

1 courtroom.

2 [Pause in proceedings.]

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

4 All right. So I'm going to have this declaration of James
5 Foust -- just -- we're just going to have that marked as we'll call it
6 Defendant's Exhibit 1. Okay?

7 MR. MAZUR: Very good. Thank you, Your Honor.

8 [Defendant's Exhibit No. 1 marked.]

9 BY MR. MAZUR:

10 Q With the address of the property at 7 Avenida de Magnolia,
11 you stated that that's your wife's property; is that correct?

12 A Yes.

13 Q Or your ex-wife's property?

14 MR. BRAGONJE: I'm sorry to interrupt. Was there a copy for
15 me?

16 THE COURT: Oh, I thought someone just gave it to you.
17 Right? No?

18 THE CLERK: I made two copies.

19 THE COURT: Oh, you made two copies. Yes, I'm sorry.
20 Here's --

21 MR. BRAGONJE: May I approach?

22 [Pause in proceedings.]

23 MR. BRAGONJE: Thank you, Your Honor.

24 BY MR. MAZUR:

25 Q Okay. Mr. Foust, looking at 7 Avenida de Magnolia, Ranchos

1 Palos Verde, California, 90275, you testified that's your ex-wife's
2 property?

3 A Yes.

4 Q Okay. And when did you -- when was the divorce filed or
5 petition for divorce filed?

6 A Divorce was filed in 2005-2006.

7 Q Okay. And what state was that filed in?

8 A That would be California.

9 Q Okay. And was there any type of orders that were issued as
10 far as what would be done with the property?

11 A Yes.

12 Q And do you recall when the orders were issued?

13 A I think that the -- 2007 I think was something about the time.

14 Q Okay. And do you recall the nature of the orders that were
15 issued?

16 A Yes, I did.

17 Q And what was the order that was issued?

18 A There were obligations that she had regarding ownership of
19 companies and there was ownership of the -- of contested property,
20 which was Las Vegas and California. And she received that.

21 Q Okay. And did she receive the Avenida -- 7 Avenida de
22 Magnolia as her sole and separate property?

23 A Yes.

24 Q Okay. And you have no interest in that property?

25 A No.

1 Q Okay. Do you reside at that property?

2 A No.

3 Q Okay. Do you have any agreement with your ex-spouse
4 regarding that property?

5 A Yes.

6 Q Okay. And what is that agreement?

7 A There's a court order issued in California.

8 Q Okay. And other than the court order, there's no other
9 agreement regarding that property?

10 A There were agreements that -- what was in 2007. I -- yeah, I
11 mean, the status of conference and all of that.

12 Q Okay. And that would be -- the status of the property would
13 be that of her sole and separate property --

14 A Yes.

15 Q -- through the order? Okay.

16 So you don't control that property in any manner or
17 mechanism?

18 A The property right now I think is still -- she has the quit-claims
19 and all of the documentation to be filed. And I think that right now,
20 technically, it's still in my name because of the loan amount. And she
21 has the quit-claim, she has the other stuff required to be in the file.

22 Q Okay. And with the vehicle that's residing, the 2007, a
23 Mercedes S550 Vehicle Number 1 on the declaration, that -- she
24 maintains control over that vehicle; is that correct?

25 A She has that car.

1 Q She has that car? Okay.

2 And did you inform her that people were seeking or have you
3 spoken to her about that vehicle at all?

4 A Not really, no.

5 Q Okay. And then in addition to that, are there other vehicles
6 that you recall are at that same location, and looking at Item Number 3
7 or Vehicle Number 3 on the list, 2000 GMC Yukon?

8 A Yes. She has that.

9 Q Okay. And she has the control of that vehicle, not you?

10 A Yes.

11 Q In addition, Vehicle Number 6, the 2007 Mercedes CLK 550?

12 A My daughter has that one.

13 Q Okay. And that vehicle is at the location of 7 Avenida de
14 Magnolia as well?

15 A Yes.

16 Q Okay. And in the declaration I think -- I believe the final one
17 was Vehicle Number 7, the 2007 Mercedes M50 SUV?

18 A Yes.

19 Q Okay. And that one is at that location as well?

20 A Yes.

21 Q Okay. Other than those vehicles, are there any --

22 THE COURT: Who drives that car? Number 7, who drives --
23 that's the 2007 Mercedes M50 SUV, is that the one you were talking
24 about, Mr. Mazur?

25 MR. MAZUR: Correct, Your Honor.

1 THE COURT: Do you know who drives that one?
2 THE WITNESS: I'm sorry?
3 THE COURT: Do you know who drives that car?
4 THE WITNESS: I believe that my daughter drives --
5 THE COURT: It's at your --
6 THE WITNESS: -- that one.
7 THE COURT: It's at your ex's house, right?
8 THE WITNESS: Pardon me?
9 THE COURT: It's at your ex's house?
10 THE WITNESS: Yes.
11 THE COURT: Okay. And one of your daughters drives that?
12 THE WITNESS: There's three -- my two daughters and
13 Naomi.
14 THE COURT: Okay.
15 THE WITNESS: At that house.
16 THE COURT: Who's Naomi?
17 THE WITNESS: That's my -
18 THE COURT: Your ex?
19 THE WITNESS: Well, yes.
20 THE COURT: Okay. All right. Thank you.
21 All right. Any follow-up? Oh, you can keep going.
22 MR. MAZUR: Okay.
23 BY MR. MAZUR:
24 Q And Vehicle Number 2 is 1998 Marathon Coach, and it's your
25 understanding, as far as the Marathon Coach, that that's been

1 repossessed and sold; is that correct?

2 A I don't know about the sold. It's been repossessed.

3 Q Okay. And on that loan, are you still on the loan with
4 Santander?

5 A I don't know the answer to that. I think so.

6 Q Okay. And has the loan, the fact that the plaintiffs failed to
7 make the payments on that Santander loan, has that impacted your
8 credit?

9 A Yes.

10 MR. BRAGONJE: Objection. Relevance.

11 THE COURT: I don't see any relevance for that, Mr. Mazur.
12 We're not here to determine what rights other secured creditors might
13 have in the vehicles. We're trying to find out, you know, where are the
14 vehicles? What interests your client has in them, what efforts he's tried
15 to comply with our order, and what defenses he might have to the
16 Court's orders. My court order had nothing to do with security interests
17 of others.

18 MR. MAZUR: Understand.

19 THE COURT: All right.

20 MR. MAZUR: Is -- Your Honor, may I inquire, is that vehicle
21 no longer of interest to the Court? Can that be removed off the list,
22 since that's been --

23 THE COURT: You're talking about Number 2, the --

24 MR. MAZUR: Number 2.

25 THE COURT: -- coach?

1 MR. MAZUR: Correct.

2 THE COURT: It's already been repossessed.

3 MR. MAZUR: Okay.

4 THE COURT: It is in the control and custody now of the

5 judgment creditor. So yes, you don't need to --

6 MR. MAZUR: Okay.

7 THE COURT: You don't need to worry about that one. Thank

8 you.

9 MR. MAZUR: Great.

10 THE COURT: It's not of concern to the Court at this time.

11 MR. MAZUR: Okay.

12 BY MR. MAZUR:

13 Q And Vehicle Number 5, 2016 Kawasaki KR10 motorcycle; you

14 familiar with that one, Mr. Foust?

15 A Yes.

16 Q And in the declarations, his last known address was with Harry

17 Hildibrand Jr., in Missoula, Montana?

18 A Yes.

19 Q Okay. And how do you know that -- what do you base that

20 information on?

21 A He was the original requestor of that, I believe, that was

22 bought for him.

23 Q Okay. And what is your understanding as far as with Harry

24 Hildibrand Jr., as far as his position with Harry Hildibrand LLC; are you

25 aware of what his position -- or -- if any?

1 A He is -- I believe that he owns a third of that company.

2 MR. BRAGONJE: Objection. Speculation.

3 THE COURT: Yeah. So sustained.

4 We need foundation for him to make a statement like that.

5 BY MR. MAZUR:

6 Q Mr. Fouts, are you aware of who the current owners of Harry
7 Hildibrand LLC are?

8 MR. BRAGONJE: And I'm just going to object, because I feel
9 like your prior orders say that Mr. Foust is the owner of Harry Hildibrand
10 LLC.

11 THE COURT: Well, they do. But he's allowed to come
12 forward and state now his current position. I'll give it whatever weight I
13 think is appropriate.

14 MR. BRAGONJE: Thank you, Your Honor.

15 THE COURT: All right.

16 THE WITNESS: Yes. The company was never owned by me.
17 And when the Mr. Harry Hildibrand passed away, I believe that 100
18 percent of that ownership went to his three children. His son and two
19 daughters.

20 BY MR. MAZUR:

21 Q Okay. And are you currently a manager of Harry Hildibrand
22 Inc. or LLC?

23 A No. No.

24 Q Have you ever been a manager of Harry Hildibrand LLC?

25 A Yes.

1 Q And when was that?

2 A That was at the formation of the company and relinquished a
3 year later, perhaps, six months later, some other period of time.

4 Q And you -- do you recall the approximate year of the formation
5 of that company?

6 A I believe that was -- I don't specifically, no.

7 Q Okay. Is it fair to say that it's been more than five years --

8 A Yes.

9 Q -- that you've been a manager?

10 A Yes.

11 Q More than 10 years?

12 A Yes.

13 Q Do you exercise any control over Harry Hildibrand LLC?

14 A No.

15 Q Do you know who has control of Harry Hildibrand LLC?

16 A No.

17 Q Do you know whether or not Harry Hildibrand LLC has any of
18 the vehicles that were on the list, the 20 that were subject to today's
19 hearing?

20 A At this time, I believe that all of the vehicles belong to Harry
21 Hildibrand. The ones that haven't -- that we had just previously talked
22 about.

23 Q And --

24 THE COURT: You're talking about the ones we just talked
25 about were, just for the record, Items 1, 3, 6, 7, 2, and 5. And 2 is the

1 motor coach that was repossessed. Those are the ones that you're
2 referring to?

3 THE WITNESS: I don't have a sheet for that number, but yes.

4 THE COURT: Right. But the ones we discussed --

5 THE WITNESS: Yes.

6 THE COURT: -- this morning.

7 THE WITNESS: Yes. Yes.

8 THE COURT: Okay.

9 BY MR. MAZUR:

10 Q Do you know the dates that Harry Hildibrand LLC acquired the
11 vehicles or acquired title to the vehicles?

12 A I believe that would have been sometime around
13 maybe 2011, 2010.

14 Q And do you receive a Schedule K for your tax returns from
15 Harry Hildibrand LLC?

16 A No.

17 Q Okay. In looking at the other vehicles on the list, let's look at
18 Vehicle Number 4, 1955 Ford T-bird Chevy. States that the vehicle was
19 purchased from Meacham Auto Auctions; do you recall that, when it was
20 purchased?

21 A Not specifically, but kind of.

22 Q Okay. Further, it states in the declaration:

23 I'm informed and believe that this vehicle was registered to
24 Harry Hildibrand LLC in 2011 in the state of Montana and subject to
25 security interest by Stardust Classic LLC and/or Ronald Vega.

1 Do you see that?

2 A Yes.

3 Q Okay. Then why did you believe that it was registered to
4 Harry Hildibrand?

5 A Well, after all of the -- some of this thing, I went back and did
6 as much research as I could. I had been provided the information on
7 the -- on that bankruptcy. And I looked at -- went through that.

8 Q Okay. And it is your belief that in 2011 this was registered to
9 Hildibrand --

10 A Yes.

11 Q -- LLC?

12 A Yes.

13 Q And why is it your belief that it was subject to a security
14 interest by Stardust Classics LLC and/or Ron Vega?

15 MR. BRAGONJE: Objection. Speculation.

16 THE COURT: Well, he's asking him why does he believe it.
17 So personal knowledge.

18 If you know without hearsay, go ahead and tell us.

19 THE WITNESS: Sometime in the period of time after there
20 was a movement of Harry Hildibrand to diverse in real estate, other
21 things, and part of the thing was a venture that was between Ronald
22 Vega and Mr. Hildibrand to finance cars, to restore them, and to share in
23 the profits of the sale.

24 BY MR. MAZUR:

25 Q And the resale of the vehicles, that was disclosed to the bank

1 prior to the loan and after the loan; is that correct?

2 A Oh, yeah. Yes, sir.

3 Q Okay. And the bank even acknowledged that they knew the
4 vehicles would be sold?

5 A Yes.

6 Q How do you know the bank knew that the vehicles would be
7 sold at some point in time?

8 A I saw a exhibit by the bank and I don't recall what the number
9 of it was, but it was something called a commercial loan document.

10 MR. BRAGONJE: I'm going to object on the grounds of
11 hearsay.

12 THE COURT: Sustained. He's got to talk about his own
13 personal knowledge. All right. And you've got to lay foundation.

14 BY MR. MAZUR:

15 Q At some point in time, did you see a report from the actual
16 bank? Commercial loan report?

17 A Yes.

18 Q When did you see a commercial loan report from the bank?

19 A 2017 maybe, 2018.

20 Q And where did you see that at?

21 A That was at a deposition.

22 Q Whose deposition?

23 A It was my deposition by Baker Boyer Bank.

24 Q Okay. And who provided you a copy of that?

25 A The exhibits were distributed to my attorney and

1 subsequently, I read them.

2 Q Okay. And do you know where your attorney received them
3 from?

4 A I'm sorry?

5 Q And do you know where your attorney received the documents
6 from?

7 A Probably from the recorder of the deposition.

8 Q And who, for the bank, who took the deposition? Do you know
9 who took the deposition?

10 A I think Bragonje did.

11 Q Okay. And did he hand you a copy of the loan summary?

12 A I'm sorry?

13 Q The commercial loan report?

14 A No. I think that that -- yes, he did. Yes. That exhibit was
15 produced.

16 MR. BRAGONJE: I'm just going to object, because this is
17 fanciful. I did not take this deposition, so I object to this testimony. It
18 was not me. This all occurred before the judgment was domesticated in
19 this state and I don't understand --

20 THE COURT: All right. Well, why don't you save that for
21 argument, because I don't want to get into --

22 MR. BRAGONJE: All right.

23 THE COURT: -- collateral issue about, you know, whether
24 you were there or not. So. All right. But thank you.

25 BY MR. MAZUR:

1 Q You stated that the bank was aware of the fact that you would
2 be selling the vehicles?

3 A Yes.

4 Q Okay.

5 MR. BRAGONJE: Objection. Same objection on hearsay.
6 The statement's based on a document that's not in evidence.

7 THE COURT: So who -- I don't even know what he's talking
8 about here. That some commercial loan report I don't have and talking
9 about some bank -- what's -- what bank are you talking about?

10 MR. MAZUR: Baker Boyer Bank, Plaintiffs' counsel's --

11 THE COURT: So you're saying this witness is giving
12 testimony that Baker Boyer supposedly knew -- or Baker Boyer wanted
13 to sell the cars? What?

14 MR. MAZUR: Well, in one of the exhibits, Plaintiffs' Exhibit 9
15 in a deposition that Mr. Bragonje took of Mr. Detwiler, included a
16 commercial loan report from the bank that he submitted for questions to
17 Mr. Detwiler. I didn't see it in Mr. Foust's deposition. But the
18 commercial loan report acknowledges inside that document, but it was
19 Plaintiffs' exhibit.

20 And that was filed with a report --

21 THE COURT: Well, who can -- I mean, if this is a relevant
22 document, shouldn't somebody lay foundation and admit it so I can
23 consider it?

24 MR. MAZUR: Yes, Your Honor. And this was a --

25 THE COURT: And I don't know where you're going with this.

1 You're -- he's, you know, Mr. Foust is on the stand giving speculative
2 testimony about some loan report that's not in front of me and I've never
3 heard anyone talk about before. So all of this has absolutely no weight
4 for me so far. So just --

5 MR. MAZUR: All right. I understand. And --

6 THE COURT: -- to let you guys know.

7 MR. MAZUR: It was submitted on November 16th by prior
8 counsel as the --

9 THE COURT: In this case?

10 MR. MAZUR: Yes. In this case. Appendix of exhibits to
11 defendant judgment debtor's post-evidentiary hearing brief. But it was
12 submitted on November 16th.

13 THE COURT: Okay.

14 BY MR. MAZUR:

15 Q But as far as you're concerned, Mr. Foust, did you ever
16 mention to the bank that you would be selling the vehicles?

17 A Did I what?

18 Q Did you mention to the bank that you would be selling any of
19 the vehicles?

20 A Yes.

21 Q And did you mention to the bank that you sold one of the
22 vehicles, a Cobra, for a \$900,000 gain?

23 A Yes.

24 Q Okay. And you disclosed that to them?

25 A Yes.

1 Q Okay. And do you recall when you disclosed that to them?

2 A That --

3 MR. BRAGONJE: Object on the grounds of relevance. The
4 Cobra is not one of the cars that's subject of these proceedings. I feel
5 like --

6 THE COURT: Let's see if the Cobra's on here. Rather than
7 me looking on all these --

8 MR. MAZUR: Your Honor, I'll move on.

9 THE COURT: -- is it on here?

10 MR. MAZUR: I'll withdraw the question regarding the Cobra.

11 THE COURT: All right. So we'll move on.

12 MR. MAZUR: Okay.

13 BY MR. MAZUR:

14 Q In going through the list on your declaration, Item
15 Number 8, 2007 Chevy Corvette, testified that you're informed and
16 believe the vehicle was registered to Harry Hildibrand LLC in 2012 and
17 what do you base that information on?

18 A I think that the document that was filed with the bankruptcy
19 court had the -- that date on it.

20 Q Okay. And the vehicle's not in your possession or control?

21 A It is not.

22 Q Okay. Are there any steps that you could take that you
23 haven't taken in order to turn over that vehicle to the Court?

24 A I don't have the vehicle to turn over.

25 Q Okay. And do you know the location of that vehicle?

1 A I -- Tom Larkin would know, you know, the details more of
2 that. I don't know.

3 Q Okay. Next is Item Number 9, a 1944 Coupe, states the
4 information believe was registered to Harry Hildibrand LLC in 2011 and
5 subject to a security interest. Do you know where that vehicle is at?

6 A No.

7 Q Is there any other steps that you could take to turn over that
8 vehicle to the Court?

9 A I -- no. I have no possession of it.

10 Q Okay. And do you know who has current possession of the
11 vehicle?

12 A I do not.

13 Q Okay. Item Number 10, a 1957 Chevy Bel Air convertible; do
14 you know who currently has possession of that vehicle?

15 A No.

16 Q Do you know when the last time you actually saw that vehicle
17 was?

18 A I don't know.

19 Q Okay. And that vehicle was purchased from Meacham Auto
20 Auctions in Illinois; is that correct?

21 A I think so.

22 Q Okay. Do you recall what year that was?

23 A No.

24 Q Next item is Number 11, 1957 Chevy Chrysler 300C; do you
25 know where that vehicle is located?

1 A No.

2 Q Okay. Do you have personal possession of that vehicle?

3 A No.

4 Q Do you have any control over that vehicle?

5 A No.

6 Q Do you know when the last time you saw that vehicle was?

7 A No.

8 Q And Item Number 12, a 1957 Ford Fairlane 500; you're not in

9 current possession of that vehicle?

10 A No.

11 Q And that -- is that currently with Harry Hildibrand LLC or do

12 you know where that possession is, who has control?

13 A I don't, no.

14 Q Item Number 13, a 1966 Ford Thunderbird, do you currently

15 have possession of that?

16 A No.

17 Q Do you know the location of it?

18 A No.

19 Q Number 14, 1971 Ford Pantera; do you know where that

20 vehicle is located?

21 A No.

22 Q Do you have possession of it?

23 A No.

24 Q Do you have the title -- is the title registered in your name?

25 A No.

1 Q Is the title on any of these vehicles registered in your name?
2 A No.
3 Q Do you have any agreement in place regarding the title of any
4 of these vehicles?
5 A No.
6 Q How about any agreement in place regarding the possession
7 of any of these vehicles?
8 A No.
9 Q Item Number 15, 1973 Ford Pantera; do you have possession
10 of that vehicle?
11 A No.
12 Q 1951 Jaguar XL?
13 A No.
14 Q Okay. Do you recall when you've last seen that vehicle?
15 A No.
16 Q Okay. And that was purchased at Meacham Auto Auctions;
17 do you recall when that was?
18 A No.
19 Q Do you know who purchased that vehicle from Meacham?
20 A No, not really. No.
21 Q Okay. Have you ever been to Meacham Auto Auctions in
22 Illinois?
23 A No.
24 Q Okay. Do you have an account with Meacham Auto Auctions
25 in Illinois?

1 A No.

2 Q Next, Number 17, 1957 Oldsmobile 98 Rocket, do you have

3 possession of that vehicle?

4 A No.

5 Q Do you know the location of that vehicle?

6 A No.

7 Q Number 18, 1966 Plymouth Belvedere, or BELV, racecar

8 [indiscernible]; do you have possession of that vehicle?

9 A No.

10 Q Okay. Do you know where the vehicle is located?

11 A No.

12 Q Do you have any agreement regarding this vehicle?

13 A No.

14 Q Okay. Number 19, 2000 Plymouth Prowler, do you have

15 possession of that vehicle?

16 A No.

17 Q Do you know where the vehicle is located at?

18 A I think that was sold in Nevada some years ago. But I don't

19 remember specific.

20 Q Okay. Last sentence of your declaration says:

21 Registered to Harry Hildibrand LLC in the state of Montana

22 and sold in April 2011 to Mr. Kuck, K-U-C-K, in Iowa.

23 Does that sound familiar?

24 A Vaguely.

25 Q Okay. Same thing for Item Number 18, sold in May 2011 to

1 Mr. Kuck in Iowa as well; does that sound familiar as well?

2 A He's a car collector I know of.

3 Q Number -- Item Number 20, 1963 Chevy 425 409 stop sign, do
4 you know where that vehicle's location is?

5 A No.

6 Q Okay. Last sentence said it was sold through an auction in
7 June 2016 at Russo and Steele; do you recall that?

8 A No.

9 Q Okay. Do you know who sold the vehicle through Russo and
10 Steele in Arizona?

11 A No.

12 Q And is it your understanding that this court has previously
13 ordered that all titles would be transferred over by court order to the
14 plaintiffs; is that your understanding?

15 A Yes.

16 Q Okay. And on any of the vehicles that we've discussed,
17 Item 1 through 20, excluding the Marathon coach, did you transfer any of
18 those vehicles?

19 A No.

20 Q Did you receive any funds during the transfer of the vehicles
21 from whomever to whomever?

22 A No.

23 Q Did you direct anybody to sell the vehicles on your behalf?

24 A No.

25 Q And out of those 20 vehicles, you don't have any of them in

1 your possession; is that correct?

2 A That's correct.

3 Q Okay. And you don't have any of them -- any of those 20
4 vehicles in any of your agents' or employees' possession?

5 A Correct.

6 Q Okay. The only vehicles you're aware of are those four that
7 were identified that were in California at your ex-wife's?

8 A Correct.

9 Q Okay. And --

10 THE COURT: So -- hold on.

11 MR. MAZUR: Okay.

12 THE COURT: Simple question here. Were any of these 20
13 vehicles ever titled in your name?

14 THE WITNESS: No.

15 THE COURT: Okay. Thank you.

16 Go ahead.

17 BY MR. MAZUR:

18 Q And part of today's proceedings, orders to show cause,
19 plaintiffs are claiming noncompliance with the court order, findings of
20 fact, notice of entry, of findings of fact from January 10th, part of it which
21 requires being the vehicles that Hildibrand still owns or void ab initio that
22 you still own, but you don't -- did not own any vehicles as of the time of
23 this order?

24 A No.

25 Q Okay. And were you aware whether or not Hildibrand LLC

1 owned any of the vehicles as of the date of the order?

2 A I think they did, yes.

3 Q Okay. And were you aware of any transfers that Harry
4 Hildibrand made at the time of the order?

5 A No.

6 Q Okay.

7 THE COURT: Well, let's don't limit -- that's a little bit vague at
8 the time of the order.

9 MR. MAZUR: Okay.

10 THE COURT: How about --

11 MR. MAZUR: I'll withdraw that.

12 THE COURT: -- since this action? I'd like to know.

13 Since this action was commenced --

14 MR. MAZUR: Okay.

15 THE COURT: -- do you know if Harry Hildibrand sold or
16 transferred any of the vehicles that were in its name?

17 THE WITNESS: I think they have, yes.

18 THE COURT: If you know? All right.

19 Do you know which cars?

20 THE WITNESS: I don't --

21 THE COURT: And do you know if it's any of these 20?

22 THE WITNESS: Pardon me?

23 THE COURT: Do you know if it's any of these 20 that we're
24 talking about now?

25 THE WITNESS: Not specifically. I just think that they have.

1 THE COURT: All right.

2 THE WITNESS: Certainly, the -- those Mercedes were.

3 THE COURT: All right. That wasn't done with your

4 supervision or direction?

5 THE WITNESS: Not my supervision, no.

6 THE COURT: Okay. How about your direction?

7 THE WITNESS: No.

8 THE COURT: Okay. Thank you.

9 BY MR. MAZUR:

10 Q Also, the hearing that occurred on Friday, it was brought up,

11 evidence was submitted regarding insurance at Hagerty Insurance. Are

12 you familiar with Hagerty Insurance?

13 A Yes.

14 Q Okay. And when was the last time you had communication

15 with Hagerty Insurance?

16 A 2011.

17 Q And why did you have communications with Hagerty

18 Insurance in 2011?

19 A The -- got a quote done on the Cobra.

20 Q Okay. And was there a quote on any of the other vehicles at

21 that point in time --

22 A No.

23 Q -- 2011? Okay.

24 And since 2011, you did not have any communications with

25 Hagerty Insurance?

1 A No.

2 Q And there is a reference in a subpoena for documents that
3 were subpoena and produced --

4 MR. BRAGONJE: Can I just say if we're going to talk about
5 the subpoena, can we just have it in front of us? See what page we're
6 talking about.

7 MR. MAZUR: Sure.

8 THE COURT: That sounds fair.

9 MR. BRAGONJE: This is --

10 MR. MAZUR: Yeah, I was going directly to --

11 MR. BRAGONJE: This is really part of my cross also. I mean,
12 it's not really part of the direct. But.

13 MR. MAZUR: I was going to Bates stamp Baker 398.

14 MR. BRAGONJE: Does the Court have that?

15 THE COURT: Is that in this thing here?

16 MR. BRAGONJE: I've got -- I brought it last time and the
17 Court received it. I have a courtesy copy as well.

18 THE COURT: Is in here?

19 MR. BRAGONJE: No. It's a separate smaller stack.

20 THE COURT: All right. I don't need it. I'll listen to this and if
21 someone wants --

22 MR. MAZUR: It'll be very brief, Your Honor.

23 THE COURT: If somebody wants me to have it, they can get
24 it to me later. All right.

25 Go ahead.

1 MR. BRAGONJE: Thank you.

2 BY MR. MAZUR:

3 Q On page 398 --

4 MR. BRAGONJE: Well, just to be clear, I'm going to want you
5 to have it. And I'll talk about it in my cross. So.

6 THE COURT: Okay.

7 MR. BRAGONJE: If you want it now, I can give it to you now
8 or later.

9 THE COURT: Okay. That's fine. I'll take it now if you have a
10 copy, sure. That's fine. Thank you.

11 Thank you. All right. Great.

12 Oh, that, yes.

13 You can keep going, Mr. Mazur.

14 BY MR. MAZUR:

15 Q On page 398, there's a reference to TT Mr. -- and it's blank.
16 Next line says -- and this is the top right -- 80 years old. And this is in
17 September of 2018.

18 Mr. Foust, what is your current age?

19 A 79.

20 Q And in September 27th or August -- or, actually,
21 August 22nd, 2018, how old were you? 78?

22 A 78.

23 Q Okay. So this is referring to some -- an 80-year-old that was
24 not you that made contact?

25 A No.

1 Q And you said in 2011, they actually did issue an insurance
2 policy against one -- against the Cobra?

3 A The policy wasn't issued, but it was -- they -- I got the quote
4 on it.

5 Q And, Mr. Foust, is there anything else that you could do to
6 have the vehicles possession transferred over to Plaintiffs that you're
7 aware of?

8 A No.

9 Q You've done everything that you possibly can do to the
10 vehicles that -- to have them transferred or to transfer possession over
11 to Plaintiffs?

12 A The four vehicles that I knew where they were, I testified to it
13 in court and also at deposition -- or the statement that I made.

14 Q Okay. And are those available for the bank to retrieve those
15 vehicles?

16 A Pardon?

17 Q Do you -- if you know?

18 A I don't know the answer to that.

19 Q Okay. But you do know the location and that was disclosed to
20 the Court?

21 A Yes.

22 Q Okay. As it relates to Stardust Classics LLC, are you a
23 manager of that entity?

24 A No.

25 Q Have you ever been a manager of that entity?

1 A I don't think so, no.

2 Q Okay. Are you a member of that entity?

3 MR. BRAGONJE: I'm going to object, because this
4 contradicts facts that are already in evidence and facts that are already
5 the subject of the Court's prior orders.

6 THE COURT: I don't understand your objection. You're
7 saying that you're objecting because he's inconsistent with something he
8 said before?

9 MR. BRAGONJE: Yes, essentially. Well, not something he
10 said before, something this Court has already ruled on.

11 THE COURT: All right. Well, but you're asking for a pretty
12 serious sanction here. I think he's entitled to be heard in connection with
13 this proceeding. So I'm overruling your objection. All right?

14 MR. BRAGONJE: Thank you, Your Honor.

15 BY MR. MAZUR:

16 Q Mr. Foust, you're not a member of Stardust LLC?

17 A No.

18 Q And since the proceedings have commenced in 2017 in Clark
19 County, have you been a member of Stardust LLC -- or Stardust Classic
20 LLC?

21 A No.

22 Q And have you -- since 2017, have you been a manager of
23 Stardust Classic LLC?

24 A No, I don't -- I don't think so, no.

25 Q Okay. Do you know who the manager of Stardust Classic LLC

1 is?

2 A No, I don't know.

3 Q Okay. And do you know if Ron Vega is affiliated with Stardust
4 Classic LLC?

5 A I think so, yes.

6 Q And since 2017, you have not tried to sell any of the vehicles;
7 is that correct?

8 A Correct.

9 Q And you have not tried to hypothecate or transfer the vehicles
10 in any manner?

11 A Correct.

12 Q Okay. And you have not pledged the vehicles as
13 consideration or pledged them as collateral for any transaction; is that
14 correct?

15 A That's correct.

16 Q Okay. And you -- do you -- you don't have the ability to
17 actually transfer or hypothecate the vehicles, do you?

18 A That's correct.

19 Q And have you interfered with the bank's attempts to repossess
20 the vehicles in any manner?

21 A No.

22 Q Has the bank contacted you trying to repossess any of the
23 vehicles?

24 A No.

25 Q Okay. Has any agent or reposessor agent contacted you to

1 try and repossess the vehicles from you?

2 A No.

3 MR. MAZUR: And, Your Honor, I --

4 THE COURT: Well, how could they try to repossess them if
5 they don't know where they are?

6 MR. MAZUR: I was asking if they attempted to contact him --

7 THE COURT: Just contact him --

8 MR. MAZUR: -- and repossess them.

9 THE COURT: -- you mean, like, call him or something like --

10 MR. MAZUR: Correct. That --

11 THE COURT: Okay.

12 MR. BRAGONJE: I did talk to his attorney. I can't contact him
13 directly.

14 THE COURT: Well, of course. Okay.

15 MR. MAZUR: Well, this is prior to me, as well, but typically the
16 agents, repossession agents will only contact and -- with the numbers
17 that are provided.

18 THE COURT: All right.

19 MR. MAZUR: Your Honor, I don't have anything further for
20 Mr. Foust.

21 THE COURT: And I don't know if you need to clarify it or
22 Mr. Bragonje needs to -- I had in my notes that Mr. Foust in the past had
23 said that he supposedly sold this -- the 16 cars that -- not of the cars that
24 we're talking about, that his wife or ex-wife or daughters have, those
25 other 16 that -- some or all of them were at one point in his name and he

1 sold them to Harry Hildibrand. That's what I have in my notes. But I'll
2 have to look back when --

3 MR. MAZUR: I believe --

4 THE COURT: -- he said it, and --

5 MR. MAZUR: And I can inquire --

6 THE COURT: -- what context. So.

7 MR. MAZUR: -- as to the testimony. But I believe the
8 testimony was that there was an arrangement where they would buy the
9 vehicles, Harry Hildibrand try and fix them up and sell them for a profit.

10 THE COURT: Why don't you kind of -- why don't you clarify
11 that.

12 BY MR. MAZUR:

13 Q Mr. Foust, what was the arrangement with Hildibrand LLC in
14 regards to the purchase of the vehicles? What was the strategy?

15 A An agreement with the financing on this thing that the cars
16 would be bought by Harry Hildibrand, they would be -- whatever work
17 was done on it and market it and sold it at profit.

18 Q Okay. So they would actually finance the purchase of the
19 vehicles?

20 A Yes.

21 Q Okay. And then what were you bringing to the table? Do you
22 have any type of expertise or background in automobiles?

23 A I have a very extensive knowledge of them, yes. So --

24 Q Okay. Can you elaborate on your background in
25 automobiles?

1 A Say again?

2 Q Could you elaborate on your background and experience with
3 automobiles?

4 A Well, I've been -- I had at one time things like -- it was
5 expressed what the -- when the bank was -- when this loan was given,
6 cars that I had owned previously. And they were very expensive. That
7 Cobra is an example. A very rare car. It was one of six of them that was
8 made called competition. Number 18 made that was competition. Just
9 an example.

10 Q Now, isn't it true that you also have some vehicle types named
11 after you in the drag racing industry as well?

12 A Yes.

13 Q Can you elaborate on that?

14 A I developed the computer that went on all racecars, and part
15 of that was drag racing and one time a car with my name on it was world
16 champion.

17 Q And who was the driver in that vehicle?

18 A Dale Armstrong.

19 Q And the vehicle was named Foust?

20 A Yes.

21 Q And did you develop computers systems for the drag racing
22 analysis as well?

23 A I did.

24 Q And what was that?

25 A That would have been 1985.

1 Q Okay. And what was developed?

2 A I built two of them for Ford Motor Company. One went on
3 Kenny Bernstein's car and the other went on Mario Andretti's car. And
4 there isn't a racecar in the world today that doesn't have one of those
5 computers on board.

6 Q And so in the arrangement, Hildibrand LLC would use your
7 expertise in the vehicles and they were going to finance the vehicles; is
8 that correct?

9 A Yes.

10 Q Okay.

11 MR. MAZUR: Thank you, Your Honor. I don't have anything
12 further.

13 THE COURT: All right. Thank you, Mr. Mazur.

14 All right, Mr. Bragonje, cross-examine.

15 MR. BRAGONJE: Thank you.

16 **CROSS-EXAMINATION**

17 BY MR. BRAGONJE:

18 Q Good morning, Mr. Foust. Quick question about the
19 declaration. Can you look at the last page of the declaration we've been
20 discussing.

21 A I don't have one to look at.

22 MR. BRAGONJE: May I approach the witness, Your Honor.

23 THE COURT: Yes. Do you want -- okay.

24 MR. BRAGONJE: Actually, I want to give the witness
25 everything that Your Honor has in front of him too, courtesy copies.

1 THE COURT: Uh-huh.

2 MR. BRAGONJE: We will refer to these as well.

3 BY MR. BRAGONJE:

4 Q The first question concerns the declaration.

5 Is that your signature at the bottom of the declaration?

6 A Yes.

7 Q And it was signed on April 8th of this year; is that correct?

8 A Yes.

9 Q And it was signed in Los Angeles, California; is that correct?

10 A Yes.

11 Q And isn't it true that you signed this declaration at the Rancho
12 Palos Verdes address we've been discussing this morning?

13 A I don't think so, no.

14 Q And where did you sign?

15 A Probably at my -- where I'm staying now in Orange County.

16 Q Well, that's not Los Angeles County. That's Orange County,
17 correct?

18 A That would be correct. It would not be Los Angeles County.

19 Q So how could you have signed a declaration in Los Angeles
20 County if you were in Orange County?

21 A Probably just -- I don't know, I'm not sure. And again, maybe I
22 didn't sign it in Orange County. I don't remember where I signed it.

23 Q And you frequently visit -- this Rancho Palos Verdes residence
24 we've been talking about, it's a home; is that right?

25 A Yes.

1 Q It's in a gated community; is that correct?

2 A It's what?

3 Q In a gated community; is that correct?

4 A Yes.

5 Q And your ex-wife lives there, you say, correct?

6 A Correct.

7 Q Do any of your daughters live there?

8 A Yes.

9 Q And you visit there frequently, don't you?

10 A I visit them, yes.

11 Q And, in fact, you mentioned earlier, and I want this clear on the

12 record, that you are the owner of that property as far as the real

13 property -- the official real property records are concerned; isn't that

14 what you said earlier?

15 A I don't know. Not the real owner. There is a -- the registration

16 showing that I am the owner, but that was subjugated by the court order

17 in California.

18 Q Uh-huh.

19 A The real owner is what the court order says.

20 Q Uh-huh. But didn't you say the court order had never been

21 recorded?

22 A No, I didn't say that. The court order?

23 Q Yes.

24 A I didn't say that.

25 Q You said something about your wife or ex-wife hadn't recorded

1 anything; isn't that what you said?

2 A The -- my wife has all of the documentation called a quit-claim
3 and all the things necessary for the -- for California to record that as
4 ownership. She has that in her possession as part of that court order.

5 Q And she has not recorded those documents?

6 A I don't know that.

7 Q Okay. So as far as the county recorder is concerned, if we
8 were to look at the title of this house in Rancho Palos Verdes, it would
9 show you as the owner; isn't that accurate?

10 A I don't know. I haven't looked at that.

11 Q But it's certainly possible?

12 A It's possible, yes.

13 MR. MAZUR: Objection. Speculation.

14 THE COURT: Look, do you -- so, sustained. All right. He
15 says he doesn't know. So I guess in the realm of possibility, if I don't
16 know means could be one way or could be the other way.

17 Do you know -- who's getting the tax bills for that property?
18 They coming to you or to somebody -- or to somebody else?

19 THE WITNESS: The tax bill is sent to the home in Palos
20 Verdes. And I have, according to that court order, I have been making
21 those payments for a period of time.

22 THE COURT: Okay. Thank you.

23 BY MR. BRAGONJE:

24 Q Are you officially divorced from this woman you've been
25 calling your ex-wife?

1 A No.

2 Q Thank you.

3 Did you -- would you please refer to the large stack of papers
4 there, the thickest one, and at Tab 3 within that. And specifically
5 page 137.

6 A [Witness complies.]

7 Q This is just the same list of cars that we have been discussing
8 this morning.

9 A Okay. Exhibit 3?

10 Q Yes.

11 A Okay.

12 Q 137. It's the list of cars that was submitted in the bankruptcy
13 court.

14 A I don't see the list of cars here in Exhibit 3.

15 THE COURT: It's under Tab 3, page 137. The page in the
16 bottom right-hand corner.

17 THE WITNESS: Oh, 137. Sorry.

18 THE COURT: Yes, sir. It's the --

19 Mr. Mazur, for your reference, it's the exact same list that you
20 handed us this morning.

21 MR. MAZUR: Okay. Thank you.

22 THE WITNESS: Okay.

23 BY MR. BRAGONJE:

24 Q Did you create -- is that your handwriting on this page?

25 A No. I don't think so. On the -- no.

1 Q Did do you draft this?

2 A Did I draft it?

3 Q Yes. Did you prepare this list?

4 A No, I don't think I did.

5 Q Okay. Would it surprise you if the attorney -- well, you

6 understand that Harry Hildibrand filed bankruptcy?

7 A Yes.

8 Q And you understand that Harry Hildibrand hired or was

9 represented by an attorney in that bankruptcy?

10 A Yes.

11 Q And his name was James Laissez, I don't know how you

12 pronounce it, James Laissez, is that right?

13 A Close enough.

14 Q James Laissez?

15 A Yes.

16 Q And he is your long-time attorney, correct?

17 A No.

18 Q He's not -- you've never worked with him before?

19 A I have worked with him on a number of other things, not as an

20 attorney.

21 Q Do you appreciate that the Court's prior order found that he

22 had worked with you extensively in the past? I'm not understanding if

23 you -- I'm not asking if you agree with that; I'm understanding if you

24 believe that's what the court order says.

25 A I'm not -- not aware -- this court?

1 Q Yes.

2 THE COURT: I have the orders here, and I reviewed them
3 last night, and I know what my prior orders say. So.

4 MR. BRAGONJE: Thank you.

5 THE COURT: Yep.

6 BY MR. BRAGONJE:

7 Q If Mr. Laissez in the context of the bankruptcy, in the creditors
8 hearing, if he would have said that you prepared this list, was that a lie?

9 MR. MAZUR: Objection. Speculation.

10 THE COURT: Well, he doesn't know what Laissez said, but
11 he would know if the fact is true or not. So -- all right. So what's
12 speculation? What's the speculative part?

13 MR. MAZUR: Because he's asking him if he would have said,
14 which turns it into a complete speculation.

15 THE COURT: All right. So take out the if-he-would-have-said
16 part and just ask him the fact directly. Right?

17 MR. BRAGONJE: We can either look at the transcript or --

18 THE COURT: Well, just read -- what was your question?
19 Give me the exact words that you just asked him.

20 MR. BRAGONJE: I'll try to remember.

21 If Mr. --

22 THE COURT: Don't answer it yet.

23 MR. BRAGONJE: If Mr. Laissez would have said at the
24 meeting of creditors in the bankruptcy, that you prepared the list of cars
25 in the bankruptcy, would that have been a lie?

1 THE COURT: All right. He already said that he didn't prepare
2 it. All right. So what Mr. Laissez thought, what Mr. Laissez said, what
3 Mr. Laissez might have said, you know, what he was thinking, none of
4 that's relevant here. All right?

5 MR. BRAGONJE: Thank you.

6 THE COURT: All right. I mean, we have -- I have my findings
7 and I have what he said here on the stand. That's all I need right now
8 on that. Okay?

9 MR. BRAGONJE: Thank you, Your Honor.

10 I assume there's no objection to the subpoena to Hagerty
11 coming into evidence, since you referenced it? I mean, I'll lay the
12 foundation if it's necessary.

13 MR. MAZUR: Yeah, I believe we need a foundation on it. But
14 yes.

15 MR. BRAGONJE: Okay. I think he's waived his opportunity to
16 object, since he --

17 THE COURT: I'm admitting the subpoena over objection.

18 MR. BRAGONJE: Okay. Thank you.

19 THE COURT: All right?

20 BY MR. BRAGONJE:

21 Q Mr. Foust, isn't it true that Hagerty is a car insurance
22 company?

23 A I wouldn't know that. I know that they sell insurance, car
24 insurance.

25 Q Isn't it true that Hagerty specializes in high-end and collectible

1 cars?

2 A I wouldn't know what their business model is, really.

3 Q And isn't it true that you have already admitted this morning
4 that you've had dealings in the past with Hagerty?

5 A Yes.

6 Q And isn't it true that you also had dealings with them as
7 recently as last summer?

8 A No, it's not true.

9 Q Okay. Would you refer to page 397 of the smaller stack of
10 papers that I handed you earlier. This is the Hagerty subpoena.

11 A [Witness complies.] Okay.

12 THE COURT: So for the record, these -- this is a subpoena
13 that's attached as a document attached to the evidentiary hearing
14 disclosure brief that Plaintiff filed April 4, 2019, and subpoena beginning
15 on page Baker 000381.

16 What page in that stick did you want us to look at?

17 MR. BRAGONJE: Page 398, please.

18 THE COURT: All right.

19 THE WITNESS: You said 397. Which one do you mean?

20 MR. BRAGONJE: 398, please.

21 THE WITNESS: Okay.

22 BY MR. BRAGONJE:

23 Q Looking at the top third of the page here. Do you see the field
24 that says: Created 8/22/2018?

25 A Yes.

1 Q So do you agree that that would indicate that someone had a
2 conversation with Hagerty on that date?

3 A I have no idea --

4 MR. MAZUR: Objection.

5 THE WITNESS: -- whether they did or didn't.

6 MR. MAZUR: Lack of personal knowledge, Your Honor.

7 BY MR. BRAGONJE:

8 Q Okay. You've had --

9 THE COURT: Well --

10 BY MR. BRAGONJE:

11 Q -- conversations with Hagerty --

12 THE COURT: -- so it's sustained.

13 BY MR. BRAGONJE:

14 Q You've had conversations with Hagerty in the past?

15 A Yes.

16 Q You agreed to e-mail a list of the cars that was mentioned in
17 the bankruptcy to Hagerty, didn't you?

18 A I did not. I think you sent that, actually.

19 Q Okay. Would you please refer to page 407 of the same
20 document.

21 A Okay.

22 Q You prepared this list, did you not?

23 A I'm not sure I did or not. I don't recall.

24 Q Do you agree that --

25 A And I see, by the way, it says up there, Title. So I think

1 probably Vega or -- you probably -- did you send this to Hagerty?

2 Q I mean, I ask the questions here, but the answer's no, I did
3 not.

4 A Okay.

5 Q I will represent to you that this is a different list. It's got the
6 same cars, but it's not the list. But it was submitted to the bankruptcy. If
7 you compare page -- I want to ask you if you agree. If you look at the
8 page that was submitted at the bankruptcy, that's Baker 137, and you
9 compare it with Baker 407, you'll see that these lists have the same
10 vehicle, but they're not in the same order; do you agree?

11 A I apologize for that. I have no idea of that. But do you want
12 me to do that, to go down through it?

13 Q Yes.

14 A Is that your question?

15 Q Yep. The lists are the same.

16 A Okay. Page -- compare 407 to what?

17 Q 137.

18 A [Witness complies.]

19 THE COURT: We're not going to waste time doing it. The
20 Court looks at these two documents, it's readily apparent to everybody --
21 anybody who can look at these two documents within five seconds, that
22 these are lists in which the cars are listed in different order. All right.
23 We're not going to waste any time fumbling through two pages --

24 MR. BRAGONJE: Okay.

25 THE COURT: -- where it's super apparent to anybody.

1 All right, Mr. Foust?
2 All right, Mr. Bragonje?
3 Let's go.
4 MR. BRAGONJE: Thank you.
5 I really have no further questions, Your Honor.
6 THE COURT: All right. Mr. Mazur, anything else, sir?
7 MR. MAZUR: Very briefly.
8 **REDIRECT EXAMINATION**
9 BY MR. MAZUR:
10 Q Mr. Foust, in looking at Baker 00398, the Hagerty Insurance --
11 A I'm sorry, the -- which bit?
12 Q 00398.
13 A 398?
14 Q Yes.
15 A Yes, sir.
16 Q Okay. And it says: Created date 8/22/2018.
17 A Yes.
18 Q And at that time you were 78 years old not 80, correct?
19 A That's correct.
20 Q Looking at the previous page at 397, second entry from the
21 bottom.
22 A Okay.
23 Q Created 7/28/2011:
24 Hello, Mr. Foust. I apologize for the confusion.
25 That was in 2011; is that correct?

1 A That's 2011, yes, sir.

2 Q And was there --

3 THE COURT: Where are you looking now? I'm not where
4 you are.

5 MR. MAZUR: Second entry from the bottom, start e-out,
6 E-O-U-T.

7 THE COURT: Still on 398?

8 MR. MAZUR: 397, Your Honor.

9 THE COURT: Oh, 397? Yes, I see it.

10 BY MR. MAZUR:

11 Q And that's an e-mail that was sent to you from Matt; is that
12 correct?

13 A Yes.

14 Q Okay. And it doesn't have a close date on it; was there an
15 insurance policy issued in 2011?

16 A No.

17 Q Okay.

18 MR. MAZUR: Thank you, Your Honor. I have nothing further.

19 THE COURT: Mr. Bragonje, anything on recross?

20 MR. BRAGONJE: No, thank you.

21 THE COURT: All right. You may step down, Mr. Foust.

22 Mr. Mazur, cross can call his next witness.

23 MR. MAZUR: Yes, I'd like to call Mr. Detwiler.

24 THE COURT: All right. Will you bring in Mr. Detwiler,
25 Marshal.

While we're getting that, my court clerk listened to JAVS and on April 1 -- hearing we had on April 1, Mr. Larkin was present. I asked who he was and I guess it was you, Mr. Mazur, who introduced him or referred to him as the individual having power of attorney for Mr. Vega.

MR. MAZUR: Correct.

THE COURT: And I told him to come back today.

MR. MAZUR: Thank you, Your Honor.

THE COURT: Okay. So.

Mr. Detwiler, please re-take the stand.

MR. DETWILER: Yes, sir.

THE COURT: You're going to be sworn in again, sir.

MR. DETWILER: Yes, sir.

EDWARD DETWILER,

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

THE CLERK: You may be seated.

THE COURT: All right. We have your name already.

Mr. Mazur.

DIRECT EXAMINATION

BY MR. MAZUR:

Q Good morning, Mr. Detwiler. What's your current position with Harry Hildibrand LLC?

A I'm a manager.

MR. MAZUR: And, Your Honor, if I may, I know that we had testimony Friday and today.

1 THE COURT: Uh-huh.

2 MR. MAZUR: And I know it's separate without overlapping, do
3 you want me to cover background to go through it or some of the
4 background information --

5 THE COURT: So whatever -- I mean, you've got a choice,
6 either re-ask him the question, introduce the evidence here, or you can,
7 on behalf of Mr. Foust, adopt his testimony that came up in his contempt
8 proceedings for all purposes for Mr. Foust to -- your choice.

9 MR. MAZUR: Okay. And I'd like to adopt the testimony --

10 THE COURT: Okay.

11 MR. MAZUR: -- in order of expediency.

12 THE COURT: So that'll save us some time.

13 The testimony that you've given already, Mr. Foust, is hereby
14 adopted by -- I'm sorry, Mr. Detwiler, the testimony you provided in
15 connection with your case is adopted by Mr. Foust in connection with the
16 contempt trial for Mr. Foust. I think I said that correctly.

17 MR. MAZUR: Thank you, Your Honor.

18 THE COURT: All right. So what you've already said before is
19 incorporated by reference here today.

20 THE WITNESS: Thank you.

21 THE COURT: Is that -- did I say it right then?

22 MR. MAZUR: Perfect.

23 THE COURT: All right. Thank you.

24 BY MR. MAZUR:

25 Q And Mr. Detwiler, in relation to Harry Hildibrand LLC, you

1 testified that you're currently the manager of that LLC?

2 A Yes.

3 Q And to your recollection, is Mr. Foust the manager of that
4 LLC?

5 A No, not to my knowledge.

6 Q Is Mr. Foust a member of that LLC?

7 A Yes.

8 Q Okay. And to what extent is Mr. Foust a member of that LLC?

9 A I believe what I have seen and read and what was presented
10 in a previous hearing, he owns 1 percent of Harry Hildibrand.

11 Q Okay. And do you recall who the other members of the LLC
12 are?

13 A Yes. It's Harry Jr. and his two sisters. They each own 33
14 percent.

15 Q And do you know how long they each own 33 percent of that
16 entity?

17 A No, sir.

18 Q Okay. Does -- to your knowledge, does Mr. Foust have any
19 control of that company?

20 A Not to my knowledge.

21 Q Okay. And to your knowledge, are you aware of -- let me
22 strike that.

23 Are you aware of the 20 vehicles that are at issue in this case
24 as far as there were --

25 A Yes, through the bankruptcy --

1 Q The bankruptcy?

2 A -- proceeding -- yes. That's --

3 Q Okay.

4 A Yes. I'm aware of that.

5 Q And with those 20 vehicles, do you know where those vehicles
6 are located at?

7 A At this point, no, sir. At this time, no.

8 Q And do you have knowledge, is Mr. Foust in possession of
9 those vehicles?

10 A I do not know.

11 Q Okay. To your knowledge, does Harry Hildibrand LLC have
12 any agreement with Mr. Foust as to those vehicles?

13 A I'm unaware of one.

14 Q Okay. Do you know who the current owner of those vehicles
15 are?

16 A No, sir.

17 Q Do you know, on those 20 vehicles, when they were acquired?

18 A No.

19 Q Did you participate in the acquisition of those vehicles?

20 A No.

21 Q Did you participate in the sale of those vehicles?

22 A No.

23 Q Okay. And to your knowledge, did Mr. Foust have -- exercise
24 any control over those vehicles?

25 A Not that I'm aware of.

1 Q Okay. Also, you testified regarding another entity called
2 Stardust Classics LLC?

3 A Yes.

4 Q Okay. And do you have a position with Stardust Classics
5 LLC?

6 A I do not.

7 Q Okay. Do you have membership interest in Stardust --

8 A I do not.

9 Q -- Classics LLC?

10 A I do not.

11 Q Do you know of any transactions between Harry Hildibrand
12 and Stardust Classics?

13 A I am unaware of any deals that those two companies may
14 have made.

15 MR. MAZUR: Your Honor, I have nothing further.

16 THE COURT: All right. Before I turn it over to Mr. Bragonje,
17 let me just finish some notes here.

18 You can go ahead and sit down, Mr. --

19 MR. MAZUR: Okay. Thank you, Your Honor.

20 THE COURT: Mr. Bragonje, you need --

21 MR. BRAGONJE: I have nothing, Your Honor.

22 THE COURT: All right. Thank you, Mr. Detwiler. You are
23 excused. You may step down.

24 And does anybody plan on calling Mr. Detwiler in connection
25 with this proceeding for either rebuttal or any other purpose?

1 MR. MAZUR: No, Your Honor.

2 MR. BRAGONJE: No, thank you.

3 THE COURT: All right. You're free to go.

4 Well, you might want to be present if we have argument. I'm
5 not -- I think what I'm going to do is allow five minutes of closing
6 argument and we're all -- when we're all done, and then I'll allow the
7 parties to submit written closing argument that's more in depth if they
8 want to do that. All right.

9 MR. DETWILER: I'll stay outside, Your Honor.

10 THE COURT: Now, you're -- since you already finished your
11 testimony, you're free to stay for the rest of these proceedings. All right.
12 Or you can step outside, whatever is your pleasure.

13 MR. DETWILER: Okay. Oh, yeah, I thought I was being
14 excused to leave for the day. I apologize.

15 THE COURT: You could if you want, it's -- or you could stay
16 and watch the rest of this to be informed. Okay.

17 MR. DETWILER: I'll just -- okay.

18 THE COURT: All right.

19 MR. DETWILER: Thank you.

20 THE COURT: Mr. Mazur, you may call your next witness.

21 MR. MAZUR: I'd like to call Mr. Larkin, please.

22 THE COURT: Mr. Larkin. We're calling him, Marshal, and it's
23 still subject to Mr. Bragonje's objection on issues that the Court
24 [indiscernible].

25 MR. BRAGONJE: I don't know if it's possible to voir dire the

1 witness. I just have no idea what his connection is or if the Court would
2 just prefer --

3 THE COURT: Well, it's -- we don't need voir dire, because
4 it's -- we don't have a jury. It's not in front of the jury. So I'm going to
5 hear it one way or another, right?

6 So, but go ahead and assert appropriate objections.

7 MR. BRAGONJE: Yeah.

8 THE COURT: At the right time.

9 MR. BRAGONJE: Okay.

10 THE COURT: I can't imagine anything he says is going to
11 be -- I don't know what relevance his testimony is going to have until I
12 hear it.

13 MR. BRAGONJE: Thank you.

14 THE COURT: All right.

15 **THOMAS LARKIN,**

16 [having been called as a witness and first duly sworn, testified as
17 follows:]

18 THE CLERK: You may be seated. And then can you please
19 state and spell your first and last name for the record.

20 THE WITNESS: Thomas, T-H-O-M-A-S, Larkin, L-A-R-K-I-N.

21 THE CLERK: Thank you.

22 THE COURT: All right. You may proceed.

23 MR. MAZUR: Thank you, Your Honor.

24 ///

25 ///

1 **DIRECT EXAMINATION**

2 BY MR. MAZUR:

3 Q Good morning, Mr. Larkin. What is your current position, your
4 title, what you do?

5 A I'm at M&A consultant for industries in healthcare, auto, and
6 technology.

7 Q Okay. And are you currently working with Mr. Ronald Vega?

8 A Yes.

9 Q Okay. And how so?

10 A Mr. Vega's health doesn't allow him to travel and he asked me
11 to represent him in this interest of these vehicles in this case and
12 represent his interest that he has title to these vehicles.

13 THE COURT: Did you say these vehicles? Which vehicles
14 are you talking about? The 20 that are on this list?

15 THE WITNESS: There's -- I have a -- I have seven right now.

16 THE COURT: All right. Well, that's okay. I'll let your counsel
17 clarify now.

18 THE WITNESS: Okay.

19 THE COURT: As we go forward.

20 BY MR. MAZUR:

21 Q Okay. Now, Mr. Larkin, with the list before you, I believe
22 there's a list of 20 vehicles prepared by the bankruptcy court in Harry
23 Hildibrand LLC?

24 A Uh-huh.

25 Q Document Number 137.

1 A Okay.

2 Q Okay. And there's a list of 20 vehicles on there?

3 A Yes. And I can provide --

4 MR. BRAGONJE: It's Exhibit -- Tab 3, page 137. He might
5 be lost without the tab.

6 THE COURT: Do you have the big book of exhibits there?

7 THE WITNESS: I see the big book -

8 MR. MAZUR: Yeah, Tab 3.

9 THE COURT: Yeah, under Tab 3, page 137, there's a list of
10 vehicles that --

11 THE WITNESS: Okay.

12 THE COURT: -- Mr. Mazur is referring to.

13 THE WITNESS: Tab 3.

14 MR. MAZUR: May I approach, Your Honor?

15 THE COURT: Uh-huh.

16 THE WITNESS: Yeah, if you could, that would be wonderful.

17 MR. BRAGONJE: I'm just going to object on the grounds of
18 competency of the witness. I -- you know, I've never heard of one
19 person representing another. He's not saying that he's affiliated with the
20 company. He says he works with Mr. Vega. I mean ---

21 THE COURT: Right.

22 THE WITNESS: Yeah. I'm his --

23 THE COURT: Well, I'm --

24 THE WITNESS: -- I'm his attorney --

25 THE COURT: -- wondering if --

1 THE WITNESS: -- of record.

2 THE COURT: -- if he could shed some light on where these
3 vehicles are and who's currently in possession, custody, or control of
4 these vehicles. I think that's what we need to know. But if he has
5 anything relevant on that issue, I would like to hear it before I --

6 MR. MAZUR: Yeah. And I -- further foundation, I just wanted
7 to have that handy, the list.

8 THE COURT: Otherwise, I'm not sure what relevance he'll
9 have. If he's just going to talk about security interest, I'm not going to be
10 too interested in that. But let's see where this is going.

11 MR. MAZUR: Very good.

12 BY MR. MAZUR:

13 Q Okay, Mr. Larkin. You testified that you're working with Mr.
14 Vega; what's the capacity that you're working with Mr. Vega on?

15 A I have a power of attorney to represent him as the deals with
16 the disposition of these vehicles.

17 Q Okay. And was there a transaction with the -- regarding
18 the 20 vehicles and Mr. Vega?

19 A Mr. Vega had previously invested money into Harry Hildibrand
20 and had first position on the titles of these vehicles.

21 Q And when was that done?

22 A I want to say January 1, 2009. Pull this out in a minute and I'll
23 tell you.

24 Yeah, I would say it was January 1, 2009. I'm looking for the
25 exact note here.

1 Q What type of agreement was it?

2 A It's a promissory note, lump sum payment, from my
3 understanding.

4 Q Okay. And what was the result, though? What's the current
5 status of that agreement?

6 A That agreement has been used to foreclose on the vehicles.
7 Once the bankruptcy was filed, the terms of the agreement allow
8 Mr. Vega to seek remedies on the default.

9 Q And was there a foreclosure that was completed or?

10 A To my understanding, yes.

11 Q Okay.

12 A Foreclose on the vehicles.

13 Q Was that a repossession that was done on the vehicles or
14 what happened? Maybe you can walk us through it.

15 A I believe Mr. Vega had already had the copies of the titles and
16 he repossessed -- he took possession of them. And some of them were
17 wherever the vehicles happened to be, and the other ones were where
18 they were stored. The vehicles are scattered over multi states.

19 Q Okay. With the list of -- Tab 3, page 137, the list of 20
20 vehicles that are at issue for this hearing, can you walk us through which
21 vehicles have been repossessed and the current statuses of those
22 vehicles?

23 A Yes.

24 THE COURT: Can you lay some more foundation to make
25 sure I can give proper weight to his testimony --

1 MR. MAZUR: Sure.

2 THE COURT: -- on what foundation, you know, he has to
3 know whether there was a foreclosure on which cars there were
4 foreclosure on, you know, how he would know that.

5 MR. MAZUR: Yes. Okay.

6 BY MR. MAZUR:

7 Q Mr. Larkin, in your --

8 THE COURT: Separate from hearsay. I don't want hearsay.

9 MR. MAZUR: I understand.

10 THE COURT: Okay.

11 BY MR. MAZUR:

12 Q In your position with the company, are you in control of the
13 books and records for the transaction between Harry Hildibrand and
14 Mr. Vega?

15 A I'm not in control of that. I can --

16 Q Are you in possession of those documents?

17 A I am in possession of the -- I'm not in possession of the
18 foreclosure document or the -- for Mr. Vega on when he grabbed these.

19 Q Now, what documents are you in possession of?

20 A I have my power of attorney for Mr. Vega and I have copies of
21 the certificate of title that have been -- that are clearly stamped to
22 Mr. Vega. And I can tell you where -- I can tell you the status of at least
23 seven of these vehicles.

24 Q Okay. And -- all right. Do you have a copy of the security
25 agreement or promissory note that you mentioned?

1 A I do. I do have a copy of that.

2 THE COURT: So you guys understand that we're not here to
3 resolve, you know, conflicting claims. If there are conflicting claims
4 among different secured creditors, I've already made my order that
5 Baker Boyer's entitled to repossess those vehicles. There's rules under
6 Nevada rules of -- Nevada Revised Statutes that would require a
7 secured creditor to come forward and assert an interest in those
8 vehicles for the Court to adjudicate and that hasn't been done yet by
9 Mr. Vega or any of his companies.

10 But if there's been a change in title, I need to know that.

11 MR. MAZUR: Right. And that's why I was going to jump right
12 to it and then --

13 THE COURT: Okay.

14 MR. MAZUR: -- what was it -- you asked for more foundation,
15 so I --

16 THE COURT: Yes.

17 MR. MAZUR: But I was going to jump into the list of the
18 vehicles. Also --

19 THE COURT: Perfect.

20 MR. MAZUR: -- the claim issue, there is no notice of
21 execution that was ever issued by Plaintiffs' counsel, which would
22 trigger --

23 THE COURT: That's a separate issue.

24 MR. MAZUR: -- right, a separate issue.

25 THE COURT: Right.

1 MR. MAZUR: But if I may jump right into the 20 and --

2 THE COURT: You may.

3 MR. MAZUR: -- go into location or --

4 THE WITNESS: Sure.

5 MR. MAZUR: -- of each vehicle.

6 BY MR. MAZUR:

7 Q With that list in front of you, Mr. Larkin, on Tab 3, page 137.

8 A Uh-huh.

9 Q Can you identify which list -- or which vehicles were
10 repossessed and the location, if you know the current location of such
11 vehicles?

12 A Yeah. I have here copies of the titles, so I'll just go right from
13 them --

14 Q If you want to take the first one and we'll -- let's just walk
15 through whichever one you have.

16 A The Corvette. Uh-huh.

17 THE COURT: So can you give us the year of the vehicle, just
18 to help identify it?

19 THE WITNESS: Sure.

20 2007 Chevy Corvette --

21 THE COURT: All right. Thank you.

22 THE WITNESS: -- has been repossessed and is in
23 Mr. Vega's possession.

24 THE COURT: And you know that how, that it was
25 repossessed? Did you sign any documents regarding that

1 repossession? Did you witness any foreclosure activity --

2 THE WITNESS: No, I didn't --

3 THE COURT: -- or what --

4 THE WITNESS: I didn't witness the physical. I was brought in
5 afterwards for Mr. Vega's health.

6 THE COURT: All right. So how do you know it was
7 repossessed? Did you -- like, did somebody tell you? Or have you seen
8 some documents?

9 THE WITNESS: Mr. Vega.

10 THE COURT: Or were you at the proceedings?

11 THE WITNESS: Yeah. No, Mr. Vega told me that when I --
12 when he asked me to take responsibility and gave me a durable power --

13 THE COURT: Okay. Would that be the same answer for
14 each of the --

15 THE WITNESS: Yeah.

16 THE COURT: -- repossessions you're --

17 THE WITNESS: Yeah.

18 THE COURT: -- going to talk about? Okay.

19 THE WITNESS: Absolutely.

20 THE COURT: All right.

21 THE WITNESS: So --

22 THE COURT: Well, that's how I want it all. Let's let your
23 attorney ask any more questions.

24 THE WITNESS: Okay.

25 MR. MAZUR: I'm not his attorney, though.

1 THE COURT: Oh, I'm sorry.

2 Your -- Mr. Foust's attorney.

3 THE WITNESS: Right. That's fine.

4 BY MR. MAZUR:

5 Q And with that vehicle, you said it was repossessed; is it -- that
6 vehicle in Mr. Vega's control, then?

7 A It's in Mr. Vega's control.

8 Q Okay. And do you know the location of that vehicle?

9 A I don't know the location of the vehicle. I don't know whether
10 it's been moved. It's Mr. Vega's intention to sell these at an auction in
11 August.

12 Q Okay. Do you know the location or the state where the vehicle
13 would be located --

14 A No, I don't.

15 Q -- or any other information?

16 Okay. So that's the 2007 Chevy Corvette, is that the Z06,
17 correct?

18 A Yes.

19 Q Okay. What's the next vehicle?

20 A The next vehicle is a Mercedes M50. I do not -- Mr. Vega
21 does not have those. I have those listed as sold already.

22 Q Okay. Let's go through the vehicles that he does have.

23 A Okay.

24 Q That he possessed --

25 A Let me --

1 Q -- at some point in time.

2 A It would probably be easier if I read them to you.

3 Q Yes, that's fine. Let's do that and --

4 A Okay. So the 1966 Ford Thunderbird Bel Air, which is about
5 middle of the list there, the red Thunderbird.

6 Q Is that ending in VIN number 4010?

7 A 4010, yes.

8 Q Okay.

9 A The --

10 Q And do you know the dates and the times, any other
11 information for any of the vehicles or date of repossession or any of that
12 information? Or is it --

13 A No, I think Mr. Vega acted quickly with his agents and his
14 repossession people to secure the vehicles. I also believe he had the
15 titles already stamped and delivered to him.

16 Q Okay. And these 1966 is still under his control, then,
17 possession?

18 A Yes.

19 Q Okay. What's the next vehicle?

20 A The next vehicle is a 1973 Pantera, which is a Ford Pantera
21 GT4.

22 Q And that's in VIN 5291?

23 A Yes.

24 Q Okay. The next vehicle?

25 A The next vehicle is a 1955 Ford Thunderbird, which is --

1 Q Last four 0647, VIN?

2 A 0647, correct. 0647.

3 The next vehicle is a 1971 Pantera ending in the VIN number
4 of 1620.

5 Q And the next?

6 A The next one is a 1951 Jaguar. I have XK120, so as a model.
7 VIN number is 1966.

8 Q Okay. The next?

9 A The next is a -- the Chevy that we spoke of, the Corvette, VIN
10 number 1069.

11 Q That's the 2007 -- the first one we --

12 A Yeah, that was the very first one we spoke of.

13 Q Okay.

14 A The next one is a 1940 Ford, VIN number 2801.

15 Q What type of vehicle?

16 A It's a Ford coupe 1940.

17 Q 1940?

18 A Yes. And that's the actual -- from -- to the best of my
19 knowledge, those are the cars that Ronald Vega has control over,
20 possession.

21 THE COURT: When did these -- what year were these
22 foreclosures?

23 THE WITNESS: I think it happened in the month right as the
24 bankruptcy was filed.

25 THE COURT: Do you know what year was that? I don't

1 remember the -- or the month that the bankruptcy was filed? That helps.

2 THE WITNESS: The bankruptcy was first -- when he first
3 became aware of the bankruptcy.

4 THE COURT: And who was the one who was foreclosed
5 upon? Was that --

6 THE WITNESS: Harry Hildibrand.

7 THE COURT: Okay.

8 THE WITNESS: Harry Hildibrand filed for bankruptcy, I don't
9 have the date --

10 THE COURT: Okay.

11 THE WITNESS: -- that they filed.

12 BY MR. MAZUR:

13 Q Okay. Was that done after the bankruptcy was dismissed or?

14 A I think -- I can't answer that specifically. I suspect that once
15 the bankruptcy was filed, it violated one of the terms of the promissory
16 note. And at that point, Ronald Vega probably acted with -- you know,
17 as fast and expeditiously [sic] as he could.

18 Q Okay. And is Ronald Vega Stardust Classics LLC? Is that his
19 company or?

20 A He may be an investor in that. I don't -- I didn't ask him if he
21 was a -- he may be an investor in that also.

22 Q Okay. And to your knowledge, does Mr. Foust have an
23 interest in these vehicles with Mr. Vega?

24 A Not at this time, no. You know, Mr. Foust also is an investor in
25 Harry Hildibrand, would have been part of the pool. But he doesn't have

1 an interest in these vehicles.

2 Q Okay. And each of these vehicles, the seven, are currently in
3 the control or possession of Mr. Vega, then?

4 A Yes.

5 Q Okay. Any of the vehicles, do you have a specific location
6 where they're --

7 A I don't have an address or location. I suspect they're in
8 wherever they were located or wherever he consolidated them to,
9 whatever storage facility.

10 Q Okay. And do you know who would have the knowledge of
11 where these vehicles are located?

12 A Mr. Vega or his agent, his repossession agent.

13 Q Okay. And do you know who Mr. Vega's repossession agent
14 is?

15 A I don't. I don't know that.

16 Q And where does Mr. Vega reside or do business now?

17 A He's in a nursing home, I believe, in Los Angeles area.
18 Pomona, Gardena, something of that nature. It -- his -- the titles are
19 stamped Gardena, California. I don't know if that's his residence or
20 whether the nursing home came at a later date.

21 Q Okay. And you have copies of each of the titles as well?

22 A Yes, I do.

23 THE COURT: Do you want to see those, Mr. Bragonje, or
24 wait until your cross or? Well, you don't have to decide now.

25 Go ahead.

1 BY MR. MAZUR:

2 Q And you have each of those titles -- can you make those
3 available for the Court?

4 A Copies.

5 Q The copies of the title?

6 A Yeah, I'll be more --

7 THE COURT: These are titles to the seven cars you just
8 mentioned?

9 THE WITNESS: These are copies of the titles.

10 THE COURT: So I need to know something. When did you
11 personally first learn that Baker Boyer was trying to track down where all
12 these cars are?

13 THE WITNESS: Only probably within the last six months.

14 THE COURT: All right. And how did you learn that?

15 THE WITNESS: Mr. Vega was reaching out looking for
16 somebody to give a power of attorney to to group the cars together and
17 with the intent of selling them or auctioning them. Some of the cars are
18 not auctionable.

19 THE COURT: Well, I mean -- maybe I wasn't clear. The
20 proceedings that were filed, we have these proceedings by Baker Boyer
21 National Bank against Mr. Foust and then Harry Hildibrand was brought
22 in.

23 THE WITNESS: Yeah.

24 THE COURT: And so these proceedings have gone on for the
25 last couple of years trying to find out where these cars are and who

1 owns them. When did you find out -- first find out about this case?

2 THE WITNESS: I -- shortly -- in February of 2019.

3 THE COURT: Okay.

4 THE WITNESS: So that's -- and then on the 28th of February
5 I received --

6 THE COURT: And how did you find out?

7 THE WITNESS: I was talking to Mr. Foust, Mr. Vega --

8 THE COURT: Okay.

9 THE WITNESS: -- and just we -- everyone's known each
10 other for a number of years.

11 THE COURT: Okay.

12 THE WITNESS: And that's --

13 THE COURT: So people were trying -- there were questions
14 being asked about where the cars were.

15 THE WITNESS: Yes. And I -- and Ron -- well, mainly
16 questions on who can go and represent Ronnie's interest --

17 THE COURT: Okay.

18 THE WITNESS: -- in front of the Court, since he's unable to
19 travel.

20 THE COURT: Okay.

21 THE WITNESS: And I volunteered if he gave me a durable
22 power of attorney, I volunteered to come in and say, Here's the copies of
23 the titles and here's our claim, if you will.

24 THE COURT: All right. Okay. Thank you, sir.

25 THE WITNESS: Yes.

1 MR. MAZUR: Thank you. I have nothing further, Your Honor.
2 THE COURT: All right. Mr. Bragonje, any cross-examination?
3 MR. BRAGONJE: Yeah, just a little bit.
4 THE COURT: Yes, you may.

5 **CROSS-EXAMINATION**

6 BY MR. BRAGONJE:

7 Q How many times did you talk with Mr. Foust since you became
8 involved in this matter?

9 A I've talked to Mr. Foust pretty regularly as part of my business,
10 and I've known him for 12 to 15 years.

11 Q How many times did you meet with him in person in
12 connection with this matter?

13 A Maybe -- it came up and I meet with Mr. Foust probably once
14 a month or every three months. So it would have come up in
15 conversation. But I don't specifically go up there to meet with him on
16 this matter particularly.

17 Q And you say you've known Mr. Foust for 15 years?

18 A More or less, yes.

19 Q And what kind of business do you do with Mr. Foust prior to
20 this lawsuit?

21 A With -- I bought one of Mr. Foust's companies, that's how we
22 first met. He had a company here in Las Vegas. And I -- my company
23 that I represented wanted to purchase that, because we wanted the
24 algorithms that he was using. So he had intellectual property.

25 Q Do you receive money in any of these dealings you have with

1 Mr. Foust?

2 A No. No, I have not.

3 Q What is your motivation for them, then?

4 A For?

5 Q What's your motivation for dealing with Mr. Foust if you're not
6 compensated in some way?

7 A Well, if --

8 Q Is he your friend?

9 A Pardon me?

10 Q Is he your friend?

11 A Yes, that's -- I -- he's a business colleague and a friend. I'd
12 like to think he's a friend. But do I receive compensation? In a
13 transaction, yes, I would receive compensation as part of a transaction.
14 When I purchases his original company, that I didn't receive, per se,
15 direct funds from that transaction. But as part of my job as the chief
16 executor of that -- of the purchaser, as -- I would have been
17 compensated as part of my plan. My compensation plan.

18 Q Isn't it true that Mr. Foust made the decision to effect the
19 foreclosure of the vehicles we've been discussing -- that you've been
20 discussing?

21 A I don't know that.

22 Q How could you not know that, if you were involved in helping
23 do this? He directed the foreclosure, didn't he?

24 A Of the car?

25 Q The seven vehicles that you've been discussing, he directed

1 that they be foreclosed upon, isn't that true?

2 A Not to my knowledge. Mr. Vega directed this based on a
3 promissory note that he signed many years ago when he invested in
4 Harry Hildibrand and --

5 Q How do -- you don't know that he signed it many years ago,
6 you've been involved only since February of 2019.

7 A I'm going off of the dates of that. So yeah, I'm going off the
8 dates that appear on the documents.

9 Q So you don't know that for a fact that it was signed many
10 years ago; you're speculating, isn't that right?

11 A I'm not speculating. I'm going off of what -- I deal in financial
12 insurance all the time. So if you want to say that your mortgage is
13 speculation, I don't know you have a mortgage, but I would assume that
14 if you presented mortgage papers to me from a lender or bank, then
15 yeah, we'd both be speculating. You would know for a fact that you owe
16 that mortgage, I'd be speculating.

17 So no, I'm not speculating in the sense of how it's inferred
18 here or how I'm inferring it.

19 Q Mr. Foust is your friend, correct? That's what you've said.

20 A Mr. Foust is -- I like to think of a friend and a colleague and a
21 business --

22 Q You don't want him to go to jail, do you?

23 A I don't want anybody to go to jail.

24 MR. BRAGONJE: No further questions.

25 THE COURT: All right.

1 **REDIRECT EXAMINATION**

2 BY MR. MAZUR:

3 Q Mr. Larkin, you stated that you first met Mr. Foust when there
4 was a purchase of one of his companies?

5 A Yes.

6 Q How long ago was that?

7 A 12 to 15 years ago.

8 Q And which company was purchased?

9 A A company called Source Check.

10 Q Okay. And were you the buyer of the company or were you
11 the broker or?

12 A I was the CEO of the acquirer.

13 Q You come in and actually purchased it?

14 A Yes.

15 Q Okay. And as far as the documents that you've reviewed on
16 behalf of Mr. Vega, do you have any reason to doubt their authenticity?

17 A I don't.

18 Q Have you received any information that they're not true and
19 correct or what the company does?

20 A I have not, no.

21 Q Okay. And have you inquired as to the exact location of the
22 vehicles or do you --

23 A No, I haven't. I expect I will eventually.

24 Q Okay. Are you going to be handling the transaction for the
25 auction or the sale of the vehicles?

1 A If Mr. Vega wishes me to do so, yes.

2 Q Okay. And that hasn't been discussed as of yet?

3 A No.

4 Q Okay.

5 MR. MAZUR: Nothing further, Your Honor.

6 THE COURT: Are there any dates set for the transfer or sale
7 of the seven vehicles that he just mentioned?

8 THE WITNESS: Yeah. These auctions occur, in this
9 particular case, at Monterey. This would be at a -- they're specialty
10 auctions that have to deal with collectible cars.

11 THE COURT: What's -- when do you believe that these cars
12 are going to be auctioned?

13 THE WITNESS: August is the next one.

14 THE COURT: Okay.

15 THE WITNESS: So.

16 THE COURT: So August what? I need a date.

17 THE WITNESS: August of 2019.

18 THE COURT: When in August? Do you have a date in
19 August?

20 THE WITNESS: I don't --

21 THE COURT: If you don't know, that's okay.

22 THE WITNESS: I don't know the exact date.

23 THE COURT: All right.

24 THE WITNESS: But usually it's the second week in August.

25 THE COURT: Do you know the name of the auction house?

1 THE WITNESS: It may be through Manheim, it may be
2 through Barrett-Jackson. It also may be through the people that manage
3 auctions --

4 THE COURT: Okay.

5 THE WITNESS: -- if it were for, say, the [indiscernible] auto
6 show. They could be put on display and, you know, make it known that
7 they're for sale.

8 THE COURT: Right. Are you the one who's involved in
9 arranging for the sale to go forward?

10 THE WITNESS: No, I --

11 THE COURT: Or auction to go forward?

12 THE WITNESS: I probably would be, if Mr. Vega wants to do
13 that. I just told him, you know, I'll show up and make his position clear.

14 THE COURT: You would take direction from Mr. Vega on
15 whether to go forward with this auction or not?

16 THE WITNESS: Yeah.

17 THE COURT: Okay.

18 THE WITNESS: But it's been discussed that they're going to
19 go to Monterey in August and be disposed of.

20 THE COURT: All right. I think that's all I needed to know.

21 Any further follow-up from the attorneys?

22 MR. BRAGONJE: No, thank you.

23 MR. MAZUR: No, Your Honor.

24 THE COURT: All right. You may step down. Thank you for
25 your time.

1 THE WITNESS: Okay.

2 THE COURT: You reside in California?

3 THE WITNESS: I reside in California. It does --

4 THE COURT: All right. Well, safe travels back, sir.

5 THE WITNESS: Thank you. Does the Court need a copy of

6 my power of attorney or anything of that nature?

7 THE COURT: It's up to the parties. I'm not going to direct you

8 to give me a copy, but --

9 THE WITNESS: Okay.

10 MR. BRAGONJE: Could I just have -- ask one question. Just

11 where he lives?

12 THE COURT: Sure.

13 MR. BRAGONJE: In case we need to get a subpoena to him

14 in the future.

15 THE COURT: All right.

16 THE WITNESS: Yeah.

17 **FURTHER EXAMINATION**

18 BY MR. BRAGONJE:

19 Q Mr. Larkin, what is your current address?

20 A 12250 Corte Sabio, C-O-R-T-E S-A-B-I-O, Number 2201, San

21 Diego, California, 92128.

22 THE COURT: In case anybody needs to follow up with

23 Mr. Vega, and if you don't, that's fine, but do you have the authority and

24 power to accept legal documents on his behalf?

25 THE WITNESS: Let me just read quickly through that --

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THE COURT: Okay.

THE WITNESS: -- and see if I do.

I am the attorney in fact in this power of attorney, and litigation to -- so I can maintain, defend, compromise, arbitrate, and dispose of any of all the action suits and other legal proceedings against Mr. Vega.

THE COURT: All right.

THE WITNESS: Includes, not limited to, appear on my behalf, power to settle any claim, and whatever form or my attorney in fact deems prudent, to purchase, sell, and dispose of property.

So if -- does that answer your question?

THE COURT: I think it does.

THE WITNESS: Okay.

THE COURT: All right. Thank you, sir. Appreciate it.

MR. BRAGONJE: If the Court will indulge me, another question suggested itself to me.

THE COURT: Yes.

BY MR. BRAGONJE:

Q Mr. Foust testified earlier that he's been staying in San Diego; does Mr. Foust stay at your home?

MR. MAZUR: Objection. Misstates the evidence. Mr. Foust testified he was in Orange County, which is separate from San Diego.

THE COURT: Well, and then he said -- I thought he says a lot of times he stays in L.A. at some locations.

MR. MAZUR: Yeah, and San Diego, San Diego County, and Orange County and --

1 THE COURT: Well, so -- all right. Then let's just ask the
2 witness if he stays with him.

3 THE WITNESS: I -- no. Mr. Foust does not stay with me.

4 BY MR. BRAGONJE:

5 Q Does he visit your home?

6 A No. Not generally.

7 Q Not generally?

8 A He has. He's visited my home in Dallas over the years. So --

9 Q Has he ever been to your home in San Diego?

10 A I can't recall. Probably.

11 Q What's your -- thank you. What's your telephone number?

12 A It's 469-964-8001.

13 Q Do you know where Mr. Foust lives?

14 A I assume Mr. Foust lives in Las Vegas. That's where I used
15 to -- that's where I mainly visited him is his home in Las Vegas.

16 Q Thank you.

17 A So.

18 THE COURT: So in case somebody asks me -- this
19 proceeding's been going on a long time.

20 THE WITNESS: Yeah.

21 THE COURT: And the parties have been tasking me to make
22 decisions on, you know, who owns the cars, where the cars are, who
23 has interest in the cars, et cetera.

24 Do you know the present whereabouts of these seven
25 vehicles?

1 THE WITNESS: I don't know the specific addresses or
2 whereabouts of them.

3 THE COURT: All right. Are they all -- are they located all in
4 one lot somewhere or different places?

5 THE WITNESS: I don't think so. I think when they were --
6 when Ronnie took over, his agent took over and repossessed them. I
7 think they maybe moved them from where they were, where they
8 originally were bought and stored, and maybe to a yard or a storage
9 vehicle nearby.

10 THE COURT: Okay.

11 THE WITNESS: I don't think he wanted to transport these
12 cars, spend a thousand dollars to transport them and consolidate them.

13 THE COURT: If Mr. Vega asks you to take care of the --
14 getting the cars to this auction facility in -- I believe you said Monterey,
15 you would have to find out where these cars are and make
16 arrangements to get them transported, right?

17 THE WITNESS: I would have to have them inspected and
18 consolidated, shipped to Monterey. And then I'd have to have him, you
19 know, detailed, and be -- given accurate mechanical report on what --

20 THE COURT: Right.

21 THE WITNESS: -- how the cars are operating.

22 THE COURT: If you were tasked to locate where these cars
23 are, what would you do to go about finding out where the cars are?

24 THE WITNESS: I would go ask Ronnie. The simplest thing
25 is --