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Elizabeth A. Brown
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1 **REQT**

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

18 EDGEWORTH FAMILY TRUST;
19 AMERICAN GRATING, LLC; BRIAN
20 EDGEWORTH AND ANGELA
21 EDGEWORTH, INDIVIDUALLY,
22 AND AS HUSBAND AND WIFE;
23 ROBERT DARBY VANNAH, ESQ.;
24 JOHN BUCHANAN GREENE, ESQ.;
25 AND ROBERT D. VANNAH, CHTD,
26 d/b/a VANNAH & VANNAH, and
27 DOES I through V and ROE
28 CORPORATIONS VI through X,
inclusive,

Appellants,

v.

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

Supreme Court Case No. 82058

District Court Case No. A-19-
807433-C

NOTICE OF FILING REQUEST
FOR TRANSCRIPTS

Respondents.

Appellants EDGEWORTH FAMILY TRUST, AMERICAN GRATING, LLC, BRIAN EDGEWORTH and ANGELA EDGEWORTH, by and through their attorneys of record, MESSNER REEVES LLP, hereby notify the Court that Appellants filed a request for transcript for the October 1, 2020 hearing on Appellants' Motion to Dismiss in the District Court on October 1, 2020. The transcript was filed in the underlying District Court case on October 6, 2020. A true and correct copy is attached hereto. I certify that the court reporter, Chris Hwang, was paid in full on October 5, 2020.

DATED this 9th day of March, 2021.

MESSNER REEVES LLP

By: /s/ Lauren D. Calvert

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Nevada Bar No. 13379

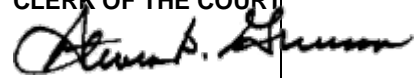
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14 **CERTIFICATE OF SERVICE**

15 On this 9th day of March, 2021, I caused the foregoing **NOTICE OF FILING**
16 **REQUEST FOR TRANSCRIPTS** to be transmitted to the person(s) identified in
17 the E-Service List for this captioned case in the Supreme Court of Nevada. A service
18 transmission report reported service as complete and a copy of the service
19 transmission report will be maintained with the document(s) in this office.
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25 /s/ Michelle Ordway
26 Employee of MESSNER REEVES LLP
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

LAW OFFICE OF DANIEL S.
SIMON,

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST,

Defendants.

CASE#: A-19-807433-C

DEPT. XXIV

BEFORE THE HONORABLE JIM CROCKETT, DISTRICT COURT JUDGE
THURSDAY, OCTOBER 1, 2020

**RECORDER'S TRANSCRIPT OF VIDEO CONFERENCE VIA
BLUEJEANS HEARING
ALL PENDING MOTIONS**

APPEARANCES:

For the Plaintiff:
(Law Office of Daniel S. Simon)

PETER S. CHRISTIANSEN,
ESQ.
KENDELEE L. WORKS, ESQ.

For the Defendants:
(American Grating, LLC and Angela
and Brian Edgeworth)

RENEE M. FINCH, ESQ.
CHRISTINE L. ATWOOD, ESQ.

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APPEARANCES (CONTINUED):

For the Defendants:
(Robert D. Vannah, CHTD, Robert
Darby, Esq., and John Buchanan
Greene)

PATRICIA A. MARR, ESQ.

RECORDED BY: NANCY MALDONADO, COURT RECORDER

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Las Vegas, Nevada, Thursday, October 1, 2020

[Case called at 9:51 a.m.]

THE COURT RECORDER: Pages 7 through 8, A807433,
Law Office of Daniel S. Simon versus Edgeworth Family Trust.

THE COURT: All right, and who do we have on line here for
Plaintiff?

MR. CHRISTIANSEN: Pete Christiansen and Kendelea
Works for the Plaintiffs, Your Honor.

THE COURT: All right. Thank you.
And I see other parties that I wonder if they're really still
actively involved in this litigation. American Grating, are they still really a
Defendant in the case?

MR. CHRISTIANSEN: They are, Your Honor.

MS. FINCH: Yes, Your Honor. Yes.

THE COURT: Okay, so who do we have on behalf of
American Grating?

MS. FINCH: Good morning, Your Honor, this is Attorney
Renee Finch, along with Attorney Christine Atwood.

THE COURT: All right.

MS. FINCH: And we're appearing on behalf of American
Grating, but also Defendants Brian and Angela Edgeworth and the
Edgeworth Family Trust.

THE COURT: Okay. All right, thank you.

And then, who do we have on behalf of the Vannah and

1 Buchanan Defendants?

2 MS. MARR: Good morning, Your Honor, this is Attorney
3 Patricia Marr appearing on behalf of John Buchanan Greene, Robert
4 Darby Vannah, and Robert D. Vannah Charter doing business as
5 Vannah and Vannah.

6 THE COURT: Okay, so we have a series of motions here, but
7 to state it succinctly, we have a special anti-SLAPP Motion to Dismiss
8 from Defendants Edgeworth and a special anti-SLAPP Motion to
9 Dismiss from Defendants Vannah. And then, we have the conventional,
10 I'll call it to make the distinction, Motion to Dismiss also filed by
11 Defendants Vannah.

12 These motions also refer to two appendices that were filed
13 August 27th of 2020. One is 234 pages and the second is 197 pages.

14 On September 10th, the Plaintiff filed an opposition to all of
15 Defendant's motions and contemporaneously filed a -- an appendix of
16 1,459 pages.

17 Originally, there were motions in this case that were ostensibly
18 calendared from consideration on August 13th, 2020, calendar tort
19 consideration, but the pleadings that had been filed ignored the 30-page
20 limitation and were a chaotic hodgepodge of filings.

21 So the Court instructed counsel to start over and present their
22 motions and briefs in compliance with the Rules. The Court gave a
23 briefing schedule August 27th to correctly file motions, September 10th
24 to file an opposition, and September 24th to file any reply. The parties
25 complied with these deadlines.

1 The suit which is alleged to be a SLAPP suit, Strategic
2 Lawsuit Against Public Participation, is the suit that was filed by Simon
3 against Edgeworth and Vannah. I'm just going to give you my
4 impressions of what I have read. And then, we will discuss further.

5 The special motion of Robert Darby Vannah, et al was filed
6 first on August 25th, so it will be considered first. The thrust of this anti-
7 SLAPP motion is that Simon's suit was brought in response to the legal
8 use of the courts by Defendants here to redress wrongs.

9 And Defendant contends that all of the communications in and
10 connected to the litigation were completely protected and immune from
11 legal action.

12 At page 13, Defendant says that Plaintiff's suit is clearly a
13 SLAPP suit, because its allegations all arise from protected
14 communications made in direct connection with an issue under
15 consideration by a judicial body.

16 At pages 15 and 16, Defendant quotes excerpts from Simon's
17 complaint in which Simon alleges as a basis for his suit the protected
18 allegations and assertion of claims for relief in the suit that was filed by
19 Vannah on behalf of Edgeworth against Simon.

20 So the Defendant concludes we have met our initial burden to
21 demonstrate that the communications would form the basis of Simon's
22 suit are protected communications under NRS 41.637.

23 At pages 17 through 20, Defendant's argument changes
24 focus, shifting into a more conventional motion to dismiss analysis. The
25 thrust of the arguments that since the claims by Simon are all, according

1 to the Defendant, based upon privileged communications and pleadings
2 and judicial proceedings, Simon has little to no chance of succeeding on
3 the merits.

4 At page 19, Defendant says the language in Simon's claim for
5 wrongful use of civil proceedings is nothing more, either factually or
6 legally, than one couched in malicious prosecution and/or abuse of
7 process and lacks sufficient and/or legal support to -- sufficient factual
8 and/or legal support to meet his burden on these counts either.

9 The Vannah then excerpts multiple paragraphs from Simon's
10 complaint. And all of them are indeed couched in terms of the
11 allegations, assertions, and actions taken in pursuing litigation against
12 Simon.

13 The tenor of Simon's complaint is that Vannah's actions are
14 perceived by Simon as audacious, even though they are in fact
15 privileged and protected actions and were so long before anti-SLAPP
16 litigation was even contemplated.

17 The Court will not recount the paragraphs in language here,
18 but they are found in Vannah's Special Motion to Dismiss at pages 15
19 through 16.

20 The language excerpted there from Simon's complaint
21 unmistakably references the protected communications as the basis for
22 Simon's claims against Vannah, inherently unsustainable as causes of
23 action.

24 The Court is curious as to whether or not these claims were
25 ever raised by Simon in the initial litigation commenced by the

1 Edgeworths against Simon.

2 And so, I was wondering if any of these same claims were
3 raised either as affirmative defenses or counterclaims in that underlying
4 litigation, because if they were or should have been, then I think that
5 issue preclusion is a relevant thing to discuss in this case.

6 If they were not, I wonder why not. In Part B --

7 MR. CHRISTIANSEN: Judge, Pete Christiansen.

8 THE COURT: Hold on.

9 MR. CHRISTIANSEN: Are you asking now or you waiting?

10 THE COURT: No.

11 MR. CHRISTIANSEN: You want me to wait first?

12 THE COURT: Yes, please wait. I want to let you know the
13 innermost processes that are going on in my mind, so that you can --

14 MR. CHRISTIANSEN: Understood.

15 THE COURT: -- provide focused arguments.

16 MR. CHRISTIANSEN: Thank you, Your Honor.

17 THE COURT: In Part B of Vannah's Special Motion to
18 Dismiss, Vannah addresses the unlikelihood of success on Simon's
19 claims.

20 Vannah says a plain reading of Simon's SLAPP suit reveals
21 that the basis for all of Simon counts or claims are pleadings filed and
22 statements allegedly by made by one or more of the Defendants in the
23 course of the underlying litigation and judicial proceedings, referencing
24 Exhibit D.

25 Since these written and oral communications and statements

1 allegedly made by Vannah are absolutely privileged, there is no set of
2 facts which would entitle Simon to any relief from Vannah or to prevail.

3 Vannah is also immune from any civil liability for claims based
4 upon the communications, citing to NRS 41.650. Therefore, Simon does
5 not have any prima facie evidence to support any of its -- any of his
6 counts or claims upon which relief against Vannah could ever be
7 granted.

8 Therefore, Vannah continues, Simon cannot meet his burden
9 under the law, citing to NRS 41.660(3)(b). The Court is inclined to agree
10 with that at least on its face.

11 Next, Vannah argues that there is also no cognizable claim for
12 abuse of legal process or misuse of civil proceedings as alleged by
13 Simon because one of the conditions precedent is favorable resolution
14 of the claim in a plaintiff's favor.

15 And the suit in question, the underlying litigation that preceded
16 before Judge Tierra Jones, has not been resolved in Plaintiff's favor with
17 finality.

18 Vannah then returns to what this Court sees as the missing
19 link in Simon's claims for relief. It says, and I don't have the page
20 reference, but Vannah says most importantly here, the facts alleged in
21 Simon's counts and claims, as are all of the claims and counts in
22 Simon's suit, are immune from civil liability pursuant to NRS 41.650 and
23 are barred by the absolute litigation privilege. Simon's claims for relief,
24 paragraph -- IV and XIII do not make any sense in this controversy.

25 The basis for Simon's allegations contained in fourth claim for

1 relief, Roman numeral -- negligent hiring, supervision, and retention and
2 claim Roman numeral VIII, civil conspiracy, are factually and legally
3 defective as well, Vannah says.

4 There is no reasonable question, Vannah continues, that an
5 attorney-client relationship never existed. Vannah acted on behalf of his
6 client in filing suit against Simon, a legal action that was entirely
7 protected. And two or more people combining to do a legal act can not
8 form the basis for a conspiracy.

9 Vannah then provides an interlocutory summary. To
10 paraphrase Simon in a motion he brought in the matter now on appeal,
11 none of his allegations against Vannah rise to the level of a plausible or
12 cognizable claim for relief.

13 All are barred by the absolute litigation privilege, others by a
14 lack of procedural rightness, some by the failure to allege all conditions
15 precedent having occurred, others still by the clear absence of any duty
16 owed or remedy afforded. And all combined of that is anti-SLAPP laws.

17 So Vannah concludes that the lawsuit filed by Simon against
18 Vannah is a SLAPP suit and should be dismissed by this special Motion
19 to Dismiss accordingly.

20 In opposition, Simon says that in order for the Defendant to
21 prevail, Defendant must show that the communications were made in
22 good faith, that is to say that the statements were true or made without
23 knowledge of their falsity.

24 However, Simon is speaking of extrajudicial statements in that
25 regard, which typically form the basis of a SLAPP suit. The statements,

1 that is to say the communications at issue here, were made in pleadings
2 and judicial proceedings.

3 And there is nothing in Nevada's anti-SLAPP law that changes
4 the privileged nature afforded to statements made in judicial proceedings
5 and pleadings.

6 And, yes, I'm aware that there's separate consideration to be
7 given to the alleged communications had with a former Supreme Court
8 justice and some other people outside the context of judicial proceeding.

9 Simon's opposition then kind of devolves and loses sight of
10 the anti SLAPP issues that needed to be addressed and avoids
11 discussing the privileged nature of the communications made and
12 pleadings and judicial proceedings, as opposed to extrajudicial
13 communications of a quote public concern. And I didn't see anything
14 that fitted to the public concern issue here.

15 In Defendant's Reply, filed September 24th, Vannah takes the
16 bait offered by Simon and starts chasing issues about claim preclusion
17 and *res judicata* and issue preclusion, but those have nothing to do with
18 an anti-SLAPP Special Motion to Dismiss.

19 NRS 41.637 says that good faith communications in
20 furtherance of the right to petition or the right to free speech in direct
21 connection with an issue of public concern are then defined.

22 And item 2, sub 2, has to do with communication of
23 information in a -- I'm sorry, number 3, written or oral statements made
24 in direct connection with an issue under consideration by a legislative,
25 executive, or judicial body or any official proceeding authorized by law.

1 And that's what we're talking about with regard to those
2 aspects of Simon's suit against Vannah that are based on the
3 allegations that were made in the underlying suit by Edgeworths against
4 Simon.

5 Those are privileged and protected. And they can't form the
6 basis of a lawsuit, because to do so, would in fact countenance a
7 Strategic Lawsuit Against Public Participation, not that public
8 participation is an issue here, but because it's privileged under NRS
9 41.637(3) and really always had been.

10 I think this means that with pleadings and judicial proceedings,
11 which is to say the Edgeworth suit which forms the basis for Simon's
12 suit, we stop with the inquiry if we determine that the basis of Simon's
13 suit is Edgeworths' suit filed by Vannah against Simon because it's
14 protected communication and that's the end of the inquiry.

15 There doesn't need to be any issue of public concern because
16 that is not part of the protection afforded by NRS 41.637(3). I think
17 Simon's suit, at least for the most part, fits the profile of a SLAPP suit.

18 Then, I'm going to turn my attention to Edgeworths' special
19 anti-SLAPP motion. It falls into the same analysis as the Vannah
20 Defendants.

21 The statements were privileged because they were made in
22 the course of judicial proceedings. As Vannah's clients and the Plaintiff
23 litigants in that suit, they are afforded the same immunity as their
24 Attorney Vannah.

25 And that underlying immunity renders Simon's lawsuit, at least

1 those claims which are clearly based upon the allegations of the
2 Edgeworth versus Simon suit, just as ineffective and legally deficient
3 and -- as it does with regard to Vannah.

4 So at this point, I'm leaning in favor of granting the special
5 anti-SLAPP Motions to Dismiss. I haven't made up my mind, but I want
6 you to know what my leanings are.

7 And then, finally, with regard to Vannah's conventional
8 nonspecial Motion to Dismiss, the same analysis that Vannah used to
9 argue the unlikelihood of Simon prevailing on his suit applies to that
10 nonspecial Motion to Dismiss and would warrant granting the
11 conventional Motion to Dismiss, even if the special anti-SLAPP Motion to
12 Dismiss was not considered.

13 I also had a question about the lawsuit for conversion. And
14 so, my understanding is that after the Edgeworths' claim was settled with
15 the entities that had been sued, there was argument back and forth.
16 Let's deposit the money in Simon's trust account. No, let's deposit the
17 money in Vannah's trust account.

18 And my understanding is that, ultimately, there was a
19 compromise made, so that the funds were to be deposited in an
20 independently established escrow account, we'll call it, where the funds
21 could not be released without both signatures of a Vannah
22 representative or Edgeworth representative and a Simon representative.

23 If that's true, that would seem to me that the parties had
24 reached an accord and satisfaction as to how the funds were to be
25 handled pending resolution of the underlying dispute.

1 And, again, I'm just obviously thinking out loud here, that
2 would negate the existence of conversion, because it would have been a
3 consented to displacement of the funds in an agreed-upon custodial
4 account.

5 Hence, no unconsented to exercise of dominion and control
6 over the proceeds. I don't know the answer to that. That's something
7 else you can answer for me.

8 So those are my thoughts. And please keep in mind that I did
9 read your briefs. And so, I know what you said in your briefs.

10 I have shared with you the impressions you've created in my
11 mind, so that you know where you can perhaps steer my thinking in a
12 different direction that supports your point of view or re-enforces it, but
13 please do not regurgitate and re-state things that you said in your
14 pleadings.

15 And if you hear yourself saying, well, as we said, Your Honor,
16 please don't go any further. You're just announcing the fact that you're
17 about to say something that's redundant and repetitive. And it's taken
18 long enough for me to deliver my remarks. I don't want to waste time
19 having you do that.

20 So let me first say that since my leaning is in favor of Vannah
21 and Edgeworths, let me hear from counsel for Simon, Mr. Christiansen,
22 as to your thoughts in light of what I have said.

23 MR. CHRISTIANSEN: Sure, Your Honor. Pete Christiansen
24 on behalf of the Simon Plaintiffs. I guess I'll try to start in reverse order
25 for the Court, because I think it makes some sense in light of your

1 leanings.

2 And that is to tell you I think your last comments relative to
3 conversion of being a legal and factual impossibility prior to the
4 Edgeworths -- Mr. Vannah's office filing not just an initial complaint, but
5 then a amended complaint and multiple oppositions to motion work,
6 where affidavits were attached, furthering that argument, to and
7 including an appeal of Judge Tierra Jones' final decision to dismiss the
8 conversion and find it, and I'm quoting from her order, Your Honor, to
9 have no reasonable basis for the conversion.

10 And in that order, she sanctioned -- and that is just for ease of
11 the Clerk because I recognize there's lots of documents here. Exhibit 3
12 in our appendix, that is Tierra Jones' order where she sanctioned the
13 Edgeworths via Vannah on November the 19th, 2018 for filing a
14 conversion claim, that as Your Honor has properly analyzed, could not
15 have under any set of circumstances when it was filed, amended and
16 filed again, and litigated over and over and over, have existed. And I
17 misspoke, Judge. It's Exhibit 1, not Exhibit 3.

18 So Judge Jones found, as Your Honor has found, that that
19 could not have existed. And, frankly, Your Honor, Mr. Vannah, and this
20 segues into something for you, Mr. Vannah, knew it could not have
21 existed because in emails that he sent prior to filing, which are Exhibits
22 27 and Exhibit -- one second, Your Honor, 20, Mr. Vannah to Mr.
23 Christiansen, James Christiansen who represented Mr. Simon,
24 articulated in his own words that he didn't think Mr. Simon would steal
25 the money.

1 And he knew he couldn't -- he, Mr. Simon, couldn't convert the
2 money because again, Your Honor, Judge Jones found that on
3 November the 29th, that Ms. -- the Edgeworths terminated Mr. Simon
4 and hired Mr. Vannah.

5 And Exhibit 26 is the release for the \$6 million that was settled
6 on behalf -- by Mr. Simon on behalf of the Edgeworths that Mr. Vannah
7 reviewed, Your Honor.

8 And if you'll look at specifically subsection 3, paragraph (a),
9 Mr. Vannah was at this point the lawyer for the Edgeworths. Danny
10 Simon was not.

11 That's been determined by Judge Tierra Jones. And as the
12 Court alludes under Five Star, the issue of issue preclusion is one of
13 some import in this case.

14 And that is executed December the 1st, two days
15 after -- executed December the 1st by the Edgeworths with the advice of
16 Vannah, not Simon, Vannah not Simon, two days after the Edgeworths
17 terminated Simon and about a month before Mr. Vannah for the
18 Edgeworths filed legally and factually impossible claims accusing a
19 lawyer of stealing.

20 And I would point out to the Court, Your Honor, I guess I'll say
21 weigh into your question for me, Your Honor, which was whether the
22 matters were litigated, the issue of conversion as affirmative defenses,
23 et cetera.

24 Mr. Simon -- the case against Mr. Simon was dismissed on a
25 12(b)(5) motion after he was awarded, you know, upwards of \$500,000

1 in additional attorneys' fees by Judge Tierra Jones in what she found to
2 be a properly filed attorney lien, ethically pursued attorney lien, et cetera.

3 So the matters were pursued, but they were pursued by way
4 of a motion to dismiss, which was granted. The entire lawsuit was
5 dismissed. Mr. Vannah filed an appeal from that dismissal.

6 And as part of the dismissal, the Edgeworths were sanctioned
7 \$55,000 for filing the frivolous and factually impossible claims of
8 conversion against the lawyer, who as the Court pointed out, could
9 never have converted the funds today, you know, three years ago, or
10 any other time when their lawyer, Mr. Vannah, had to sign off on any
11 withdraw [sic] from an account which he suggested frankly. And that is
12 cited in our opposition, Your Honor.

13 THE COURT: All right, let me ask you a question.

14 MR. CHRISTIANSEN: The quote --

15 THE COURT: Hold on, let me ask you a question.

16 MR. CHRISTIANSEN: Yes, sir, go ahead, Judge.

17 THE COURT: That sounds like there was a summary
18 resolution of the wrongful claim for conversion?

19 MR. CHRISTIANSEN: There was a punishment meted out for
20 the wrongful claim of conversion that doesn't -- for an award of attorneys'
21 fees that Mr. Simon suffered or had to incur for those, Your Honor.
22 There was no compensatory award given for that, which is what is
23 sought in the complaint in question.

24 He was awarded a portion of his attorneys' fees for having to
25 defend against a frivolous claim. And that is --

1 THE COURT: I get that. I get that. I guess I'm just -- I'm
2 wrestling with why wasn't this -- I mean, all the information was there.
3 Why wasn't this asserted as a counterclaim, vexatious litigation under I
4 think it's 18.010? I'm sure it was -- it had to have been pled as an
5 affirmative defense otherwise --

6 MR. CHRISTIANSEN: No answer was filed, Your Honor.

7 THE COURT: The --

8 MR. CHRISTIANSEN: The Motion to Dismiss was granted
9 before an answer was filed, Judge.

10 So procedurally, after the lien adjudication hearing took place,
11 then a motion was filed. And the finding of facts, conclusions of law
12 were rendered by Judge Tierra Jones in favor of Mr. Simon and against
13 the Edgeworths.

14 Then a Motion to Dismiss was brought to dismiss the entire
15 lawsuit filed by Mr. Vannah for properly filing an attorneys' fee or an
16 attorneys' lien.

17 Your Honor, to kind of bring you full circle, Judge Tierra Jones
18 denied the anti-SLAPP Motion filed by Mr. Simon in the underlying
19 matter and said there was enough evidence to go forward and actually
20 adjudicate an attorneys' lien.

21 Under the exact same analysis that the Court has indicated is
22 leaning towards dismissing a complaint against a lawyer and clients who
23 filed a completely -- a frivolous and it has been found to be frivolous.

24 Under Five Star, Your Honor is stuck with that ruling. It was
25 without any reasonable basis that the clients and the lawyer filed a

1 conversion claim.

2 Your Honor, the litigation for the anti-SLAPP privilege,
3 privileges for defamation, not privileges against abuse of process in the
4 Ball versus McCluskey [phonetic] case specifically allowed an abuse of
5 process claim to be brought against the lawyer who vexatiously sued a
6 doctor in order to try to obtain, you know, nuisance value.

7 The doctor won the case and turned around and sued the
8 lawyer. And that's been upheld as good law in the state of Nevada for
9 abuse of process, which is what -- Vannah is not sued for defamation in
10 your complaint, Your Honor.

11 He is sued for abuse of process in the other claims for which
12 the anti-SLAPP provision does not provide a privilege, doesn't extend to
13 it.

14 And even if it did, Judge, the good faith communication, that's
15 the first prong, good faith, that it is true or you have no ability to know the
16 absence of knowing that it's untrue.

17 Both the Edgeworths in their testimony, remember, Judge, this
18 is -- I lived this case, like I litigated. I did the five day trial in front of
19 Judge Jones. I put the Edgeworths on the stand. Both of them admitted
20 they knew Mr. Simon was owed money when they sued him.

21 In both of their lawsuits, they claim that they were entitled to
22 all the money and Mr. Vannah was entitled to none of the -- in
23 Edgeworth, Brian Edgeworth's affidavit, he wanted to know why Mr.
24 Simon didn't do the work he had been hired paid in full to do. And that's
25 Exhibit 14, Judge, paragraph 23.

1 Since we've -- quoting here from line 11 and 12, since we've
2 already paid him for his work to resolve the litigation, can't he at least
3 finish what he's been retained and paid for?

4 And that is throughout. And I quoted throughout both the
5 complaint and the amended complaint filed by Vannah for the
6 Edgeworths, but they were entitled to all of the money of -- and that
7 being all of the \$6 million.

8 And then, Your Honor, you're forced -- you've got to -- they
9 need to contend it is [indiscernible] with their testimony, both Angela and
10 Brian Edgeworth, at the adjudication hearing where they acknowledge
11 Mr. Simon was entitled to a portion of those proceeds because they still
12 owed him money.

13 And they sued him. And this is -- I quoted it from Ms.
14 Edgeworth's testimony, they sued him to punish him. They sued -- so
15 they filed a lawsuit. And Mr. Vannah did it for them, knowing the facts
16 could never amount to conversion, legally or factually.

17 And they did it to punish Mr. Simon, knowing the allegations
18 contained in the lawsuit, both Mr. Vannah and with the Edgeworths,
19 were false.

20 He could never have converted that funds -- those funds
21 because Mr. Vannah was their lawyer at the time and he came up with
22 the idea to put in a joint trust account specially created for those
23 proceeds.

24 So Mr. Simon had no exclusive dominion and control, had no
25 ability to convert the money. And that fact, which is established by

1 Judge Tierra Jones' order that this claim was brought without reasonable
2 basis for the conversion claim and was brought by the Edgeworths
3 without reasonable basis, who got sanctioned for \$55,000, and was
4 brought by Vannah, knowing it couldn't happen because he's the person
5 who came up with the idea to create the account.

6 THE COURT: Okay, well, we're starting to --

7 MR. CHRISTIANSEN: And --

8 THE COURT: We're starting to circle back on ourselves now.
9 What else did you want to say?

10 MR. CHRISTIANSEN: What else I wanted to say to Your
11 Honor is as much as the Court may lean in favor of, as the Court says,
12 historically disallowing claims against lawyers in the course of litigation,
13 this is not a normal case, Your Honor.

14 This is a case where a lawyer, on behalf of clients, all of whom
15 knew what they were doing was wrong, filed a piece of litigation to
16 punish a lawyer, Simon, who had filed a proper, and it's been found to
17 be proper, attorneys' lien to adjudicate fees owed to him that they knew
18 they owed, and that rather than pay, they accuse a lawyer of stealing.

19 And not only did Vannah do it in judicial proceedings, but the
20 Edgeworths went out and did it extrajudicially to people that were not
21 lawyers for them.

22 Ms. Carteen was her friend, according to Angela Edgeworth,
23 when she told her that Danny Simon was extorting her and blackmailing
24 her, and so was Justice Shearing, her friend, not her lawyer.

25 So as much as the Court leans that way under Five Star, and

1 I'll bring it you back to where you started, Your Honor, through Five Star,
2 the Court is precluded from reaching a different conclusion from a sister
3 court.

4 And I'll quote from Five Star, because the Vannah reply
5 seems to suggest --

6 THE COURT: Well, hold on, though. I don't reach a different
7 conclusion than Judge Jones. It's not my province to do that.

8 MR. CHRISTIANSEN: That's right. And so because, Your
9 Honor --

10 THE COURT: The -- I would never do that. It's not even
11 legally possible to do that.

12 MR. CHRISTIANSEN: That's right, Judge, and I --

13 THE COURT: The case that was pursued -- the case --

14 MR. CHRISTIANSEN: And that's why the motions have to be
15 denied because all of the findings of Judge Jones binds the Court. And
16 the finding that the claim for conversion was made without reasonable
17 basis makes the anti-SLAPP or litigation privilege fail, because they
18 can't meet the first prong, which is good faith belief or reasonable basis.

19 It failed as a matter of law because Judge Tierra Jones found
20 that there was no reasonable basis for the conversion. So for that
21 reason alone, the motions to dismiss must be denied. And we should be
22 allowed to go conduct discovery.

23 THE COURT: All right, Ms. Marr?

24 MS MARR: Okay, Your Honor, my concern was is that the
25 Plaintiff would lead the Court to a field of weeds and that's exactly what

1 it has done.

2 And I'm going to encourage the Court that we come out of the
3 weeds and see this case for what -- and I actually agree with the Court
4 and it should be leaning towards granting the Defendants' motions,
5 particularly the anti-SLAPP Motion.

6 It is of no moment, the claim for conversion, because it's pretty
7 simple. First and foremost, the Defendants have an absolute privilege.
8 That's recognized by this Court. And that's a subset of the anti-SLAPP
9 statutes. And they're there for a reason. I mean --

10 THE COURT: Well, all right, excuse me one moment, though.
11 The -- my question early on was how could there legally ever be a
12 conversion when there was some kind of a pre-litigation accord and
13 satisfaction reached between the parties about how dominion and
14 control over the funds was to be exercised --

15 MS. MARR: Sure.

16 THE COURT: Once that happened, didn't that legally
17 preclude either side from claiming that the other side was exercising
18 unauthorized dominion and control over the proceeds?

19 MS. MARR: No, no, absolutely not. And I tell you why is
20 because the Vannah Defendants or the Edgeworths didn't have any
21 choice.

22 And so, some agreement had to be reached to prevent that
23 settlement check from going stale. To this day, as we speak in this
24 hearing, the Edgeworths still do not have -- they don't have access to
25 those funds.

1 And I don't want to get into them. If the Court wants me to get
2 into the merits of that case, and how there wasn't a contingency fee, and
3 how Simon billed hourly and was paid, and then created a super bill, I
4 mean --

5 THE COURT: No, I'm familiar with all the back and forth on
6 that, but --

7 MS. MARR: Okay.

8 THE COURT: -- if two parties have a corpus of funds out
9 there, and each of them is laying claim to the proceeds, and one of them
10 says, well, we'll just put in my trust account till we resolve it. The other
11 person says no, no, no, let's put it in my trust account, then we'll resolve
12 it.

13 And they realize that they're at a, speaking of stale, a
14 stalemate. And they say, all right, let's put it in a third vehicle that would
15 require the signatures of both sides to release it. They've just solved
16 their problem regarding the issue of funds and how they're going to be
17 handled.

18 So that is a huge issue for me. I don't see how you get
19 around that. And apparently --

20 MS. MARR: Well --

21 THE COURT: -- Judge Jones didn't either.

22 MS. MARR: Well, in that regard, Your Honor, there was
23 absolutely no way, other way, to obtain the monies. And it was just a
24 trust account decision. And, again, the Edgeworths still don't have
25 access to that money still.

1 And my concern is that we would go down this path of
2 conversion. And I would invite the Court --

3 THE COURT: Okay, but it's true that they still don't have
4 access to the funds. Really, nobody does. And that's because the legal
5 issues haven't been resolved. And so, those funds are going to sit in
6 limbo under the joint control of both sides until that issue is resolved and
7 it hasn't been.

8 MS. MARR: Right. And I would submit, Your Honor, that the
9 Plaintiff has not relinquished his control over those funds. If he were to
10 do so, we may have a different story, but he continues to exercise
11 wrongfully, we assert, dominion and control over those funds, because it
12 cannot be released without his approval.

13 And I would invite -- we've cited the Bader court -- the Bader
14 case. And it's conversion is not a specific intent tort. It's a general
15 intent. And it doesn't require an actual physical taking. I think that's
16 quite notable.

17 THE COURT: Well, I know that, I know that.

18 MS. MARR: Okay, and --

19 THE COURT: That's not the issue.

20 MS. MARR: And at no point whatsoever did -- and I'll refer to
21 them, all three Defendants, as the Vannah Defendants, at no point in
22 time ever did they ever make statements outside of the pleadings ever.

23 And the Ball case only helps the Vannah Defendants. At no
24 point in time did the Vannah Defendants accuse Simon of theft ever.

25 And I would encourage the Court not to get caught up in this

1 issue of conversion, because it's subsumed by the anti-SLAPP motion.

2 No matter how you turn this on its head, you can't get past the
3 facts and the law. And the law being that the Vannah Defendants have
4 an absolute privilege, absolute. It -- that doesn't even require good faith,
5 but it's an absolute privilege.

6 And I would submit to the Court that it's leaning in the right
7 direction in granting the Defendants' Motion based upon the facts, and I
8 know the Court has read all the pleadings painfully so, and the law. You
9 just can't -- no matter how you look at this, you can't get past that.

10 THE COURT: Okay.

11 MS. MARR: And I would also submit that Judge Tierra
12 Jones -- and I don't even want to go down this road because it's just
13 going into that field of weeds, but they weren't sanctions. They were
14 attorneys' fees that were assessed to the Edgeworths. And also --

15 THE COURT: The only justification for awarding attorneys'
16 fees would have been for sanctions for wrongful conduct.

17 MS. MARR: Right, but I would also note for the Court that the
18 Vannah Defendants were not a party to that prior litigation, the
19 underlying litigation.

20 And that's notable. And again, it's on appeal. We don't know
21 what the Supreme Court is going to do with that.

22 THE COURT: No, we don't.

23 MS. MARR: And for these purposes, though, for this lawsuit
24 filed by Simon, the Vannah Defendants, again I can't say it enough, I
25 know that -- I don't want to beat a dead horse for the Court, but they're

1 absolutely protected by the absolute litigation privilege and the anti-
2 SLAPP. This is a classic example and this is why the statutes were
3 codified specifically for cases like this.

4 THE COURT: Okay, understood. So let me ask about the
5 extrajudicial comments. There were extrajudicial comments allegedly
6 made in a conversation involving Retired Justice Miriam Shearing and
7 who?

8 MS. MARR: Your Honor, I can't speak to that. That would
9 probably be better suited for the Edgeworths' counsel.

10 THE COURT: Yeah, I'm asking Mr. Christiansen.

11 MS. MARR: Oh, I'm sorry.

12 THE COURT: Who was alleged to have communicated with
13 Justice Shearing in a way that was not connected properly under
14 41.637(3)?

15 MR. CHRISTIANSEN: Judge, Angela Edgeworth testified
16 under oath that she spoke to both Retired Justice Shearing and Lisa
17 Carteen, not as lawyers, as friends.

18 I quoted that and told them -- and I gave you the exact quote
19 in the oppositions that she was being extorted or blackmailed, and I'm
20 paraphrasing it now, and by Simon -- and that all the money was their
21 money.

22 In addition, Mr. Edgeworth spoke to the volleyball coach. And
23 that's referenced in his Exhibit 17, which is the 3/15, March 15 of '18
24 affidavit that Mr. Simon was extorting him.

25 So there were extrajudicial comments by both Angela and

1 Brian Edgeworth to persons not affiliated in any way whatsoever with the
2 litigation, not any -- and not as lawyers either.

3 In these new affidavits that Ms. Edgeworth, Mrs. Edgeworth
4 signs and replies, which are improper procedural matter, because then I
5 don't get to respond to them --

6 THE COURT: And yet, you will.

7 MR. CHRISTIANSEN: -- she changes her story -- she
8 changes her story, Your Honor, from what she testified to under oath.

9 Under oath, she said she did not talk to Miriam Shearing or
10 Lisa Carteen as lawyers. She talked to them as friends. I asked her that
11 question specifically.

12 And Mr. Edgeworth was talking to a volleyball coach. She
13 wasn't ask him -- and he put it in an affidavit that he told the volleyball
14 coach that Mr. Simon was extorting millions of dollars from him.

15 THE COURT: Okay, so I made it clear the direction in which I
16 was leaning, but to those who think that it is impossible for me to be re-
17 directed, take note.

18 I found Mr. Christiansen's arguments persuasive. They gave
19 me a different perspective through which to view this information in the
20 Motions to Dismiss, both special and nonspecial, and the Oppositions.
21 And so, I am now ruling that I'm denying --

22 MS. FINCH: Your Honor?

23 THE COURT: No, no, no, we only have a certain amount of
24 time available.

25 MS. FINCH: It's Ms. --

1 THE COURT: And we have reached it in this case.

2 MS. FINCH: I --

3 THE COURT: No, counsel, please.

4 MS. FINCH: I understand, Your Honor, but it's Ms. -- I haven't
5 been given an opportunity to speak on behalf of the Edgeworths at all --

6 THE COURT: Well --

7 MS. FINCH: Because Patricia Marr is only [indiscernible].

8 THE COURT: That doesn't necessarily mean that I can't
9 make this ruling. You have to keep in mind that I don't need to actually
10 hear from everybody, okay. So --

11 MS. FINCH: I understand that, Your Honor. I just wanted to
12 make that clear before you rule, so in case there's something extra that
13 Your Honor would like from Edgeworths' counsel, because Ms. Marr
14 couldn't represent a few things based on who she represents versus
15 who I represent. I just wanted to make that clear on the record so that
16 we --

17 THE COURT: All right.

18 MS. FINCH: -- you know, we have that opportunity.

19 THE COURT: So go ahead, Ms. Finch. I'll allow you a brief
20 opportunity to make remarks.

21 MS. FINCH: Thank you, Your Honor. And I don't want to
22 waste Your Honor's time. I just want to talk quickly about what I think
23 Your Honor --

24 THE COURT: Counsel, you're not wasting my time. I'm just
25 trying to manage it for the calendar. You're not wasting my time.

1 MS. FINCH: I appreciate that, Your Honor. Very quickly, one
2 of the major issues I believe Your Honor is being persuaded by Mr.
3 Christiansen on is this issue of conversion.

4 And in order to speak about that issue, a few things for the
5 record. First and foremost, the issue of conversion was in the underlying
6 case, which was brought by counsel, Mr. Vannah, and the Edgeworths
7 after having been given counsel by their very highly-esteemed lawyers
8 that this is a proper claim, which we assert it still is.

9 Because, Your Honor, although Mr. Simon and Mr. Vannah
10 have a joint trust account, Mr. Simon is exercising control of over \$2
11 million that have been previously adjudicated to not be his. And those
12 still remain in the account. So there's is a good faith basis on the part of
13 the Defendants or the Plaintiffs in the underlying case to maintain that
14 claim.

15 Now, I understand that Judge Tierra Jones ruled in the
16 underlying action essentially pursuant to NRS 18.012(b) that that claim
17 was brought without merit and that was adjudicated.

18 In the underlying claim, albeit we disagree with her opinion
19 and it is on appeal, they have given the sanctions that were previously
20 done. That -- the issue for those claims to be brought, the issue for Mr.
21 Simon's redress is being handled in the underlying claim.

22 To you file a separate Plaintiff's claim, as he has done in this
23 case, goes in direct contravention with what our Nevada legislature has
24 specifically stated should be protected.

25 And as a lawyer and as a Nevada constituent, we should be

1 very concerned when these types of things are filed because it -- this
2 lawsuit has brought the Edgeworths back into tens of thousands of
3 dollars of attorneys' fees on a case -- a separate case, to continue to
4 adjudicate what's being adjudicated on the underlying case and now in
5 the Nevada Supreme Court.

6 And frankly, there's no place. Everything that was done in the
7 underlying motion was done with good faith.

8 And the Nevada law even says if it was not, so long as it was
9 done in the procedure of a lawsuit, that any issue with respect to that
10 can be handled in the underlying case, which was adjudicated by Tierra
11 Jones. So preclusion here is important if that's the direction Your Honor
12 is leaning.

13 As for the comment with respect to the underlying case being
14 brought to punish Simon, that's in the context of damages claimed. The
15 underlying case had punitives sought, no different than what Mr. Simon
16 is seeking in this case.

17 And as Your Honor knows, and as has been the case for
18 decades, and hundreds of years, that punitive damages are made for
19 the purpose to punish.

20 So to suggest that that's what's happening, that is what's
21 happening. That's what Simon is attempting to do in this case. That's
22 what litigants do when they believe they have a basis for a punitive
23 damages claim, which is what happened here.

24 So to suggest otherwise is to suggest that Simon is in the
25 same issue. He has the same punishment motive here in this case that

1 they're suggesting Angela did in the underlying case. It's simply in
2 relation to damages.

3 And finally, Your Honor, every extra -- quote extrajudicial
4 comment, there are apparently three that Mr. Simon is relying upon, two
5 of which Angela got friendship advice from lawyers.

6 So whether you want to couch that as attorney-client privilege
7 or you want to couch that as her asking friends whom she knows are
8 respected lawyers for legal advice and guidance on a claim worth
9 millions of dollars to their family, that is protected.

10 It is also in connection with the litigation that was about to
11 happen. To seek an additional opinion about whether or not you should
12 do this is perfectly acceptable and not outside of the anti-SLAPP
13 protection or privilege in that regard.

14 And as Your Honor knows, Mr. Edgeworth's conversation with
15 the volleyball coach was in defense of Simon's email to him alleging
16 wrongdoing. Nothing that was said was anything meant to be
17 defamatory. Nothing was anything outside of the issues here.

18 THE COURT: All right, Ms. Finch, you realize though that
19 what you're arguing is the factual justification for things. Those are
20 questions of fact. They cannot be determined as a matter of law.

21 MS. FINCH: But, Your Honor, I would then say this is a
22 motion for summary judgment. And in opposition to our motions, Mr.
23 Christiansen and Mr. Simon Plaintiffs did not present, pursuant to EDCR
24 2.21, any reliable evidence on their behalf to substantiate their factual
25 contentions, which means that any factual contentions that we have pled

1 by way of declaration go unchallenged.

2 And that does not lead them to discovery to --

3 THE COURT: It's not a motion for summary judgment. And
4 there isn't a summary judgment determination to be made in this case.

5 MS. FINCH: Well, Your Honor, respectfully, I would disagree
6 under prong 2 of the anti-SLAPP statute. The case law suggests that it
7 switches the burden to a plaintiff once we establish prong 1, which we
8 argue we have, which then leads to a motion for summary judgment
9 standard.

10 They have to come forward with admissible evidence, Your
11 Honor, based on a preponderance that they can meet the burden on
12 every single one of their causes of action.

13 And first and foremost, everything that they're relying upon to
14 do that is privileged, number one.

15 But even if you want to look beyond that, they have provided
16 Your Honor with nothing by way of admissible evidence to overcome a
17 motion for summary judgment standard, which is the law in the state of
18 Nevada on a SLAPP motion.

19 THE COURT: Okay.

20 MS. FINCH: So I would suggest to you because of that, that
21 just on the basis of that alone, EDCR 2.21 precludes them from
22 prevailing.

23 THE COURT: All right. Thank you.

24 I have nevertheless in spite of Ms. Finch's cogent and well-
25 reasoned arguments had my mind changed about this. And so, I think

1 the anti-SLAPP -- special anti-SLAPP motions filed by Vannah and
2 Edgeworth need to be denied.

3 And I think the conventional Motion to Dismiss filed by Vannah
4 must be denied.

5 And I -- in terms of justification for the Motion to Dismiss, I
6 would return to the remarks made about me by the -- about the
7 conversion and my concerns about the extrajudicial discussions had with
8 Justice -- former Justice of the Supreme Court Miriam Shearing,
9 Attorney Carteen, and the volleyball coach.

10 It is clearly a question of fact as to whether or not what took
11 place there really was in direct connection with the lawsuit or not. And
12 that cannot be resolved as a matter of law by me at this stage.

13 So because I'm denying all of these motions, I think that we
14 can either have a single order or perhaps it would be better to have
15 three separate orders.

16 I'm open to hearing from counsel about whether or not there's
17 any procedural reason to use three separate orders as opposed to one
18 single order.

19 Now Mr. Christiansen, any thoughts on that?

20 MR. CHRISTIANSEN: Your Honor, I think just for the sake of
21 being extra careful, maybe we could prepare three orders, one for each
22 of the motions and run them by Defense counsel before we submit them
23 to Your Honor?

24 THE COURT: All right, and keep in mind I would appreciate it
25 if they would be approved as to form and content. I always get a kick

1 out of it when somebody who had a ruling go against them refuses to
2 sign it, even though it does correctly state what took place, but being
3 petulant and child-like, counsel doesn't want to sign it approved as to
4 form and content.

5 Don't conflate the two. You're not conceding that you agree
6 with the ruling or the decision, just that it accurately reflects what was
7 said. And I -- if you knew how difficult it was to compare competing
8 orders, you'd know why they are greatly disfavored.

9 And so, my inclination is when I direct counsel to prepare an
10 order, and they submit it, my inclination is to sign the order that was
11 submitted by counsel who was directed to prepare it.

12 If it turns out that there are mistakes made in that order, then
13 somebody's going to have to move to amend the order, but I do not like
14 having competing orders when there's no need to do that.

15 So I need the orders submitted within 14 days per EDCR 7.21.
16 They will, of course, come to the TPO system. And I will review and sign
17 them within 24 to 48 hours of when they're submitted.

18 And then, we'll set this out for October 29th on the chambers
19 calendar, just to make sure that the orders have in fact been filed.

20 Anything else --

21 MS. MARR: And --

22 THE COURT: -- from anybody?

23 MS. MARR: Your Honor, I just had a clarification. You had
24 just made a statement that your decision was based on the conversion
25 issue and statements made outside of Court.

1 I just wanted to clarify that you were not referring to the
2 Vannah Defendants with respect to statements made outside of Court,
3 correct? Because there haven't been any -- hasn't been any allegations
4 of that by the Plaintiff.

5 THE COURT: Well, if there haven't been any allegations --

6 MS. MARR: Or [indiscernible.]

7 THE COURT: -- then I wouldn't be referring to them.

8 MS. MARR: Okay, just wanted to clarify. Thank you.

9 THE COURT: All right. Anything else?

10 MR. CHRISTIANSEN: Thank you, Your Honor. No
11 [indiscernible], Your Honor.

12 THE COURT: Ms. Finch?

13 MS. FINCH: Sorry, Mr. Christiansen.

14 Ms. Finch just wants a clarification for purposes of the order. I
15 understand your ruling is based on the conversion issue and
16 extrajudicial.

17 Is it simply that you believe that those two claims require
18 discovery because they are factual in nature is why you're denying the
19 motion? Is that the basis? I just want to make sure I clearly articulate
20 your basis on those issues.

21 THE COURT: No, it's because -- first of all, I don't think it can
22 be set as a matter of law that either of those claims, a conversion or the
23 extrajudicial, fall within SLAPP.

24 They don't appear to be strategic litigation against public
25 participation. And the -- so therefore, they're not protected in that

1 regard.

2 With regard to the conversion, I think that -- I mean, my initial
3 question was, wait a minute, if you agreed to this, how can you claim
4 that that was conversion? So I'm not making a ruling as to whether it
5 was or wasn't.

6 The question that was put to me is can you say as a matter of
7 law that there's no way that that claim -- there's no set of circumstances
8 where a claim of conversion could have been supported? And it
9 appears to me that that is true that at the time, there was no way a claim
10 of conversion could be supported.

11 So for the -- Simon to sue on the basis of that claim being
12 pursued unsuccessfully, that is a valid basis for him to make the claim.

13 Can he prove it? Will it factually prove out to be true? I don't
14 know, but it's a legitimate claim to make, that is not strategic litigation
15 against public participation.

16 With regard to the extrajudicial comments, if it's true that there
17 were comments made that were not directly connected to the litigation,
18 which is a factual inquiry to former Supreme Court Justice Shearing,
19 Attorney Carteen, and/or the volleyball coach, then those are legitimate
20 claims to pursue by Mr. Simon.

21 Any other questions?

22 MS. FINCH: Okay. Thank you.

23 MS. MARR: Your Honor?

24 THE COURT: I'm sorry, go ahead.

25 MS. MARR: Your Honor, I just wanted to clarify that your

1 finding given that the appeal regarding the claim for conversion and the
2 dismissal of that action is still being looked at by the Nevada Supreme
3 Court?

4 THE COURT: I have nothing to say about --

5 MS. MARR: So --

6 THE COURT: -- that. That is a totally separate action. That
7 is on its own path and nothing that I say or do here today is intended to
8 have, nor can it have, any effect upon that litigation. That's a totally
9 separate piece of litigation.

10 MS. MARR: Right, because that was the argument is that it's
11 premature to bring any action against anybody with that Supreme Court
12 ruling still pending.

13 THE COURT: That was one of the arguments with regard to
14 abuse of legal process or malicious prosecution is that there hadn't been
15 a resolution of the case with finality, but that is a claim that goes to the
16 merits.

17 If somebody were to file an abuse of legal process and
18 somebody filed a motion to dismiss, the issue that would come up is has
19 there been a final resolution made with regard to this case?

20 The case itself is still ongoing, the underlying lawsuit. Has
21 there been a resolution that would be considered final? I don't know. I
22 have no opinion on that.

23 MS. MARR: Right, well, right, and that was the bases for the
24 argument in our motion, so --

25 THE COURT: Okay. Understood.

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MS. MARR: -- with that being said.

THE COURT: Understood. All right, anything else?

MR. CHRISTIANSEN: No, Your Honor, from the Plaintiffs.
We understand the Court's ruling and we'll prepare the appropriate
orders and run it by Defense counsel.

THE COURT: All right, Ms. Finch?

MS. FINCH: I think that's it, Your Honor.

THE COURT: Okay. Ms. Marr?

MS. MARR: For now, that's all.

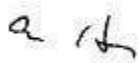
THE COURT: All right, thank you.

MS. FINCH: Thank you.

[Proceedings concluded at 10:54 a.m.]

* * * * *

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.



Chris Hwang
Transcriber