

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

2
3 ROBERT DARBY VANNAH, ESQ.; JOHN
4 BUCHANAN GREENE, ESQ.; and
5 ROBERT D. VANNAH, CHTD. d/b/a
6 VANNAH & VANNAH; EDGEWORTH
7 FAMILY TRUST; AMERICAN GRATING,
8 LLC; BRIAN EDGEWORTH AND
9 ANGELA EDGEWORTH,
10 INDIVIDUALLY, AS HUSBAND AND
11 WIFE ,

12 Appellants,
13 vs.

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

17 Respondents.

SUPREME COURT

CASE No. 82058 Filed
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18 **SIMON RESPONDENTS' APPENDIX IN SUPPORT OF ALL**
19 **RESPONDENTS' ANSWERING BRIEFS**
20 **VOLUME III**

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1 BY MR. CHRISTIANSEN:

2 Q And I just go back to your line item, do you see the entry for
3 lawyer expenses?

4 A Yes.

5 Q It says, through December 1 of 2016?

6 A Correct.

7 Q Does that help refresh your recollection that you wouldn't
8 have received any additional ones, or you would have put them in here?

9 A Yeah, I said that. Like these are pretty accurate, whenever I
10 got an invoice I would then, almost immediately --

11 Q And --

12 A -- if I was at work.

13 Q -- the total, Mr. Edgeworth, between what you paid and what
14 you expected to pay is \$1,019,400, and I think that says \$37.23?

15 A Yes.

16 Q And not paid or invoiced yet. Did I miss it, or is there -- there
17 are no line item for attorney's fees?

18 A There's no line item.

19 Q So there's nothing reflecting any work done between
20 December and March, when you prepared this, that would indicate to
21 anybody what you were paying Mr. Simon for whatever he was doing,
22 right?

23 A I was only sending this to Mr. Simon.

24 Q That's not what I said.

25 A Okay.

1 Q There's nothing on this document that you created that
2 reflects what you were compensating Danny Simon for, during the
3 months from December, when you got the first bill, through March,
4 when you prepared this?

5 A No.

6 Q No, there is not? It's not on the document, correct?

7 A I do not see it on the document. No, it's not there.

8 Q And, sir, that day was March the 6th, and the next day --

9 MR. CHRISTIANSEN: This 87, John.

10 BY MR. CHRISTIANSEN:

11 Q -- you, through your lawyer, sent an offer of judgment to
12 Lange Plumbing for a \$1 million, correct?

13 A Correct.

14 Q All right. So, if I went back and showed you your
15 spreadsheet, the value you had determined for past and future damages
16 was just a little bit more to the million. You authorized Mr. Simon to
17 offer Lange, the plumber that installed the sprinklers, to pay you \$1
18 million to settle the entire case?

19 A Correct.

20 Q And you knew, because Mr. Simon explained it to you, that if
21 Lange were to accept that offer of judgment, they would have made you
22 give your claim against Viking to Lange as part of the settlement, right?

23 A I'm sorry?

24 Q Sure. You had a claim against Lange?

25 A Lange Plumbing, yeah. They --

1 Q Yeah --

2 A -- installed it. Yeah, yeah.

3 Q -- Lange Plumbing, because Lange had failed to go enforce
4 the warranty as it was required under your contract?

5 A Correct.

6 Q You knew if Lange would accept this offer of judgment for a
7 million bucks, you sent in early March, that it would want from you, in
8 exchange for the million, that ability to go after Viking for the money it
9 paid you, right?

10 A No. I'm not sure I understand that right now. So, if I sign
11 this, then --

12 Q Let me make it easy for you. You knew that if this offer was
13 accepted, your case, in its entirety, was over, for you, Brian Edgeworth?

14 A I guess so.

15 Q Okay. And the value you had assigned -- the total value to
16 your property damage claim, that you sent an offer of judgment for was
17 a million bucks, right?

18 A Correct.

19 Q And I want to make sure I accurately state that as -- let me
20 check with you, Mr. Edgeworth, March the 7th of 2017, correct?

21 A Correct.

22 Q Your case settled November, between November 10th and
23 15th, the sort of essential terms of the settlement were agreed for \$6
24 million against Viking, correct?

25 A Correct.

1 Q And what's that, six -- no, eight months, my math's not too
2 good. Eight months, your property damage claim increased \$5 million,
3 by your own assessment, right?

4 A I don't think the property value ever -- that the property
5 damage claim grew.

6 Q Right.

7 A But the amount they paid for it, I totally agree, it grew.

8 Q Five million bucks?

9 A Yes.

10 Q Is it reasonable to the lawyer work that Danny Simon did?

11 A As a result of something they wanted to settle for, Viking,
12 correct.

13 Q And do you agree when you hired Mr. Simon there was zero
14 discussion of a punitive aspect to the claim?

15 A Well, there was a discussion when he talked about why he
16 was going to bill me 550. He said, you know, you're only going to get
17 your damage costs back in this case, so it doesn't make sense to do it on
18 any kind of contingency, because, you know, your damage is your
19 damage, so you can't give away 40 percent of your damage.

20 Q Right. That's to get reimbursed from Lange, Mr. Edgeworth,
21 do you see the difference?

22 A No. I really didn't understand your last line of questioning
23 about it.

24 Q Okay.

25 A The whole -- like the million dollar thing I was told was we

1 had to sign and put it to make sure I get my legal fees back.

2 Q So an offer of judgment. So that if you later beat that --

3 A Yeah. I'd get my --

4 Q -- in a verdict --

5 A -- legal money back.

6 Q -- you could go back and try to get your money, right?

7 A Yeah. And get all my legal fees paid for.

8 Q And that was something that Lange's contract contemplated
9 if you -- if it, the plumbing company, failed to prosecute a warranty claim
10 on your behalf, and you had to go pay somebody to do it, right?

11 A Yes.

12 Q All right. That offer of judgment did not reflect a loss of
13 value for stigma, or decreased value to your house, right? Because you
14 just paid five grand to have somebody do the analysis of it, you didn't
15 have a report yet?

16 A I don't know when I got the report, but it didn't -- I agree with
17 you, it didn't reflect that.

18 Q You thereafter in June --

19 MR. CHRISTIANSEN: John, Exhibit 80, Bate Stamp 2784.

20 BY MR. CHRISTIANSEN:

21 Q On June of 2017, do an additional calculation of damage that
22 you sent to Mr. Simon; is that fair?

23 A Yes.

24 Q And your email says, If John accepts this logic, and then
25 (which I think is, it is backed by that book and the case study) the claim

1 becomes more reasonable.

2 Did I read that correctly?

3 A Yes.

4 Q That's the book that Mr. Simon found?

5 A He has a book by Randall Bell, talking about property
6 damage and what happens --

7 THE COURT: Okay. Sir, is that the book that Mr. Simon
8 found?

9 THE WITNESS: Yes, sorry.

10 BY MR. CHRISTIANSEN:

11 Q And John's brother-in-law?

12 A Correct.

13 Q My other question, I'll just continue to read, Mr. Edgeworth,
14 my other question is, quote: "Can I change the billing rate I charged for
15 me, and Mark supervising the repairs, now, that I have seen how you are
16 willing to pay their experts that have less education and experience than
17 either Mark or I?"

18 A Yes.

19 Q Did I read that correctly?

20 A Yes.

21 Q You wanted to change your rate?

22 A Yes.

23 Q Gotcha. And then you go down and list out legal and repairs,
24 900,000. Repairs still to be made, 300,000, and the first time you've got a
25 stigma value of about a million bucks, it's actually exactly a million,

1 correct?

2 A Correct.

3 Q And you add that to additional legal and lab. Does it say
4 additional legal and lab, the rate at which you'll pay that?

5 A No, it does not.

6 Q Okay, 2.4 million, right?

7 A Correct.

8 Q And then you go down and you say, and this is the first time
9 it's contained in any writing in this case; and then hopefully we can
10 convince them to award punitive, to further push the two to settle, but it
11 is far above our generous settlement offer that they refused.

12 Did I read that correctly?

13 A Correct.

14 Q This is the first time you're discussing punitives, correct?

15 A It's the first time I put in an email?

16 Q Is that right?

17 A Not technically.

18 Q Show me the email that it talks about punitives, before the
19 statement?

20 A Well, we're not having a discussion, I put it in an email.

21 Q Okay.

22 A So it's the first time I mention it, you mean?

23 Q Yes.

24 A Likely.

25 Q Okay. So up until June of 2000 -- I want to get that date

1 exactly right, June 9th of 2017, you never had any discussion about Mr.
2 Simon pursuing a punitive claim on your behalf, fair?

3 A Well, we discussed what Craig Marquis had told me.

4 Q Sir, you just told me it was the first time you ever discussed
5 it in that email. You just got done telling me that.

6 A I believe I said, probably the first time I put punitive in an
7 email.

8 Q All right. And that was June of '17, right?

9 A Yes.

10 Q Simon had been your lawyer for 13 months?

11 A Correct.

12 Q And you'd still not seen a bill from an associate, right?

13 A In June?

14 Q Yeah.

15 A I'm not sure.

16 Q You had two bills in 13 months, totaling about 70 grand,
17 right?

18 A Likely.

19 Q But you were paying him in his favor, that's your version,
20 right?

21 A No, I said one of his bills -- I'm not supposed to answer; is
22 that right?

23 THE COURT: Yeah, you are.

24 THE WITNESS: Just say, yes, no? No. What I stated was, I
25 thought he billed generously in his favor for some of the block times in

1 his first bill.

2 THE COURT: And when you say first bill this is the bill that
3 came out of December?

4 THE WITNESS: December, correct --

5 THE COURT: Okay.

6 THE WITNESS: -- was the first one.

7 BY MR. CHRISTIANSEN:

8 Q And can we agree that between March, when you sent the
9 offer of judgment in June, when you authored this last email to Mr.
10 Simon, that the value of your claim as a result of his locating an expert,
11 and finding a book for the expert to rely on had more than doubled?

12 A Correct.

13 Q And then, historically, let's see if you can recall, sometime in
14 June there was a bunch of litigation over a protective order that Viking
15 wanted in place before it was going to produce a bunch of documents
16 about sprinkler activations, right?

17 A If you say so, yes.

18 Q Prior to that June date Danny Simon, not Brian Edgeworth,
19 took the deposition of the binding, managing speaking agent, the
20 30(b)(6) witness for Viking, correct?

21 A May 3rd, correct.

22 Q And in that deposition, Danny Simon, not Brian Edgeworth,
23 secured testimony about how many activations Viking knew of?

24 A Correct.

25 Q And the data dump that came in the summer was obtained in

1 the litigation, correct?

2 A Correct.

3 Q And then provided to you by Ashley, Ms. Ferrel, this nice
4 lady sitting right here, in a Dropbox?

5 A Correct.

6 Q And the documents contained in that Dropbox, or in those
7 dated dumps, where in excess, would it be fair to say, of 60,000 pages?

8 A No.

9 Q How many pages, in your opinion?

10 A My best guess would be -- unique pages, 25.

11 Q I don't know what unique pages are. Just tell me --

12 THE COURT: Sir, how many pages were in the document?

13 THE WITNESS: Probably 55,000, duplicates --

14 THE COURT: Okay, 55,000 pages?

15 THE WITNESS: Yeah. But --

16 THE COURT: Okay.

17 THE WITNESS: -- a lot were dups.

18 BY MR. CHRISTIANSEN:

19 Q In August, Mr. Simon gives you a couple -- or gives you
20 another bill; is that right?

21 A Correct.

22 Q Now the third bill in 15, 16 months?

23 A Correct.

24 MR. CHRISTIANSEN: And that's Exhibit 26, Your Honor. I'm
25 sorry --

1 THE COURT: Okay.

2 MR. CHRISTIANSEN: -- Mr. Greene, Exhibit 26.

3 BY MR. CHRISTIANSEN:

4 Q And what Mr. Simon says, it's for your review, let's discuss,
5 plan how you may want to move forward, thanks. Correct?

6 A Correct.

7 Q And just in time, this comes after your email to Mr. Simon,
8 talking about going for punitives, right?

9 A Yes.

10 Q And no word in time, during when you wrote your email nor
11 here, is any punitive work or the terms supporting agreed upon. You
12 never come to terms about what he's going to do for punitives, correct?

13 A Correct.

14 Q And you're asking Mr. Simon some questions in July of '17,
15 about needing to rebut things. Fair?

16 A Correct.

17 Q And remember when I asked you earlier, Mr. Edgeworth,
18 about your decision to, I think you called it a prudent one to borrow
19 money, did I used the right term?

20 A Yeah. It's prudent.

21 Q And I knew this was coming, this is the -- you know, when
22 you say to Simon, hey, I have -- and I'm paraphrasing -- I have money -- I
23 had funding -- other ways to fund, I just chose to do it the way I chose to
24 do it?

25 A Huh.

1 Q A fair statement? And Danny answers your legal questions,
2 we already have, and that is rebut this?

3 A Okay.

4 Q Yes? And he tells you, you have to wait for their expert
5 reports?

6 A Yes.

7 Q Because you don't know in the legal context if you need to
8 rebut things, you're asking your lawyer, and he's answering it?

9 A Correct.

10 Q And then in time, 21 days after, Mr. Simon says, here's your
11 third bill, let's talk about how you might want to move forward, you may
12 want to move forward, you then write the contingency email, correct?

13 A Correct.

14 Q And if I read your affidavits correctly, the contingency email
15 comes after Simon gives you his third bill you and he travel to San
16 Diego. There's discussion in an airport, I think Mr. Vannah said you
17 might have had a beer or something, how to -- relative to how to move
18 forward?

19 A Correct.

20 Q All right. And prior to that you'd had no agreement about
21 punitive damages, correct?

22 A Correct.

23 Q And you actually say that in this email; do you not? We
24 never really had a structured discussion about how this might be done.

25 Did I read that correctly?

1 A Correct.

2 Q And that is how Mr. Simon might be fairly compensated for
3 pursuing a case that had blossomed, to use your term, into one of 55,000
4 pages in a document on it, correct?

5 A I don't agree with what your statement was, no.

6 Q I just -- did you use the term blossomed?

7 A No, I -- please rephrase it. Repeat your question, please --

8 Q Sure.

9 A -- and I'll try to --

10 Q In your affidavit, sir, did you say the case blossomed, which
11 caused you to write this email after a significant sum of money above
12 the 500,000 had been offered by one of the Defendants?

13 A Correct.

14 Q And when you wrote this email not one dollar had been
15 offered by the Defendants?

16 A Correct.

17 THE COURT: Which exhibit is this email, Mr. Christiansen?

18 MR. CHRISTIANSEN: Exhibit 27, Your Honor, Bate stamp

19 399. I'm sorry, Mr. Greene, I neglected to tell you that.

20 BY MR. CHRISTIANSEN:

21 Q And so we're thorough, what you say in here is, I am more
22 than happy to keep paying hourly, but if we're going to go for punitive
23 we should probably explore a hybrid of hourly on the claim, and then
24 some other structure that incents both of us to win -- I think that means
25 and go after the appeal that these scumbags will file, et cetera.

1 Did I read that correctly?

2 A Yes, you did.

3 Q And then -- so just from the first two sentences, as of August
4 22nd, 2017, you never had a structured discussion about going after
5 punitives, correct?

6 A Correct.

7 Q No terms had been reached, correct?

8 A Correct.

9 Q Then you go on to say, obviously, that could not have been
10 done earlier, since -- I think again that's just a typo -- who would have
11 thought this case would meet the hurdle of punitives at the start?

12 Did I read that correctly?

13 A Correct.

14 Q So, in addition to saying this is your first, or this is a stab at a
15 constructive discussion about punitives, you concede from that
16 sentence, that way back in May of 2016, at the outset of the litigation
17 there was no way to contemplate the case being punitive in nature?

18 A Correct.

19 Q So no terms could have been reached?

20 A Correct.

21 Q Then you go down to say, I could also swing hourly for the
22 whole case (unless if I'm off what this is going cost). I would likely
23 borrow another 450,000 from Margaret, in 250 and 200 increments, and
24 then either I could use one of the house sales for cash, or if things get
25 really bad I still have a couple million in Bitcoin I could sell.

1 Did I read that accurately, sir?

2 A Yes, you did.

3 Q Doubt we will get Kinsale, that's one of the insurance
4 companies --

5 A That's Lange's insurance.

6 Q Thank you. To settle for enough to really finance this. Did I
7 read that correctly?

8 A Correct.

9 Q So in other words, that's you saying, I doubt we can get the
10 insurance companies to settle for enough to finance me [Brian], going
11 and borrowing more money to keep paying for this case hourly?

12 A Incorrect.

13 Q I would have to pay the first 750,000 or so back to Collin and
14 Margaret, and why would Kinsale sell it for 1 MM, when their exposure is
15 only 1 MM. 1 MM means a million, I assume?

16 A Yes, it is.

17 Q Did I read that all correctly?

18 A Correct.

19 Q And this is the email you wrote after the case had blossomed
20 and one of the Defendants had offered a considerable sum of money,
21 right?

22 A This is not written after the case had -- or after the
23 Defendants had offered a considerable sum of money.

24 Q That's what you wrote in your affidavit, so I'm just asking
25 you, is that your testimony?

1 A That's not what I wrote in my affidavit.

2 Q All right.

3 A It's commas, beside each of those four events.

4 Q Do you know what a register of actions is, sir?

5 A No.

6 Q That's like all of us can look on it and see what was done in a
7 case and --

8 A Oh, I know what it is then, yeah --

9 MR. CHRISTIANSEN: It's Exhibit 63, Mr. Greene.

10 THE WITNESS: -- I have that link, yeah.

11 BY MR. CHRISTIANSEN:

12 Q And in your case, do you know how many entries are in the
13 register of actions?

14 A A lot.

15 Q Who made all those entries? Whose work culminated in
16 those entries, yours or Danny Simon's?

17 A Danny Simon filed them.

18 Q Danny Simon's works, what took this case in March for a
19 million bucks, that you were willing to settle the whole thing for, to
20 November in six, fair?

21 A His filings in court?

22 Q This case turned from a property damage claim to a punitive
23 damage case, correct?

24 A I don't think we ever got a punitive damage case, no. There
25 was potential, though.

1 Q Do you think Zurich paid 11, 12 times your property damage,
2 because there's some like emotional distress attached to property
3 damage?

4 A Zurich didn't pay 11 or 12 times my property damage, sir?

5 Q Zurich paid 6 million, right?

6 A Zurich paid \$6 million, correct.

7 Q And your estimation of your property damage, all these
8 documents I've been showing you, is about 500 grand, before you start
9 adding in interest and things of that nature?

10 A Correct.

11 Q Right. You know, I know you're not a lawyer, that there's no
12 emotional distress claim attaching to a property damage case, correct?

13 A Correct.

14 Q All right. And so, the difference between your hard costs and
15 what you got reflects Danny Simon changing the nature of the claim,
16 correct?

17 A I guess we disagree on why the parties settled, because my
18 answer would be incorrect.

19 Q Okay. Well, we're going to have a lawyer from one of the
20 parties come tell us why they settled. But they settled when there was a
21 pending motion to strike their answer, correct?

22 A Correct.

23 Q They settled after Her Honor excluded one of their experts,
24 because Danny Simon wrote a motion to exclude it, correct?

25 A Correct.

1 Q And they settled because there was a real risk their insured,
2 Viking, would be hit with a punitive damage award, which is non-
3 insurable, correct?

4 A I don't know that that's correct.

5 Q What don't you know was correct?

6 A You just said -- you said they settled because their insured
7 was going to -- I don't know that that's correct. That's not my opinion on
8 why they settled at all.

9 Q All right. One day after, just one day after your contingency
10 email, I've got it somewhere, you did another email to Mr. Simon, with
11 the spreadsheet of your view of the value of your case; do you
12 remember that?

13 MR. CHRISTIANSEN: That's exhibit, Mr. Greene, 28, Bate
14 stamp 400.

15 BY MR. CHRISTIANSEN:

16 Q August 23rd, Brian Edgeworth to Danny Simon?

17 A Yes.

18 Q Did this email, like two-thirds of these other emails, is after-
19 hours; is that right, Mr. Edgeworth?

20 A I don't know if they're two-thirds after hours or not.

21 Q Did you write emails at all times of the day or night to Danny
22 Simon?

23 A Yes. I would write emails at all times --

24 Q Did you call --

25 A -- day and night.

1 Q -- on a cell phone on all times day and night?

2 A Not all times, but, yes, after --

3 Q Weekends?

4 A -- business hours, definitely.

5 Q And what you say here is, we may be past the point of no
6 return. What you mean by that is this case might have to go to trial,
7 right?

8 A I don't know that that's what I meant, but --

9 Q The costs have added up so high I doubt they'll settle
10 anyway -- I doubt they settle anyway, I apologize. This does not even
11 include upgraded -- updated --

12 A Updated.

13 Q -- legal and experts, any of my time wasted, et cetera. I
14 already owe Collin and Margaret over 85,000 now -- 850,000 now?

15 A Correct.

16 Q So you don't, at the time you author this, have a bill, or even
17 an understanding of what the updated legal and expert fees are, correct?

18 A It's on the sheet, sir.

19 Q This does not even include updated, legal and experts. Okay.
20 This is written August 23rd, the last legal cost you've got is July 31st.
21 So, my question is -- the answer is, yes, you don't update to the day of
22 the --

23 A Oh 31 to 23, correct.

24 Q And here you value your case, the one that you valued to a
25 million bucks in March, at 3 million bucks, 3,078,000, right?

1 A I would agree if you use a different term than value. My
2 damages, or costs at that point were this.

3 Q Right. And the biggest line item is the million-five stigma
4 damage, Danny's book and brother-in-law found you, right?

5 A Correct.

6 Q Then you're pestering Mr. Simon during this time to give you
7 -- pester is pejorative, I don't mean it that way, you're being proactive
8 with Mr. Simon to give you bills during this timeframe, right?

9 A Yes, I was.

10 Q Because you knew that you could add the bills to your
11 damages, and potentially recover those bills under the contract claim
12 against Lange, right?

13 A That's not the reason I was being aggressive, but I agree with
14 part of your statement, just not the first half of your question, that that
15 was the reason I was being aggressive, asking for bills.

16 Q Reflective of that is the August 29, 2017 email from -- it looks
17 like you must have sent it. It says, your office still not has cashed
18 \$170,000 check. And that's in like the subject line. And then Mr. Simon
19 answers you back, I've been too busy with the Edgeworth case, fair?

20 A Correct.

21 Q You had your first mediation scheduled in this case October
22 the 10th; is that right?

23 A I think it's the 20th, sir.

24 Q October the 20th?

25 A I think so. I could be wrong.

1 Q I think it's the 10th. If it's not the 10th Mr. Greene can correct
2 me when I get done.

3 A The second one was November 10th?

4 Q That's accurate?

5 A Yes.

6 Q Okay. So, in anticipation of your first mediation had there
7 been any monies offered, leading up to the mediation by any of the
8 Defendants?

9 A No, I don't think so.

10 Q And going up to your first mediation you wrote Mr. Simon an
11 email that talked about -- I'll just -- settlement tolerance for mediation.

12 MR. CHRISTIANSEN: Sorry, John, that's Exhibit 34.

13 THE COURT: Did you say 34, Mr. Christiansen?

14 MR. CHRISTIANSEN: It is. I can't read the little tiny numbers
15 for the Bate stamp -- 408, Bate stamp 408.

16 THE CLERK: 406.

17 MR. CHRISTIANSEN: 406, sorry.

18 BY MR. CHRISTIANSEN:

19 Q Is this --

20 MR. CHRISTIANSEN: -- and it's 407, too, John.

21 BY MR. CHRISTIANSEN:

22 Q Look like one of your spreadsheets, sir?

23 A Yeah. Simon asked for this to be made, correct?

24 Q This is leading into mediation number one?

25 A Correct.

1 Q And you have sort of three columns, what's non-negotiable,
2 in your view?

3 A Correct.

4 Q All right. And what's negotiable, or I think you say, limited
5 tolerance for negotiation?

6 A Correct.

7 Q All right. Like the stigma damage, that's negotiable?

8 A Limited tolerance for negotiation, correct.

9 Q Trapped capital interest. That's a line item I've not seen
10 before in any of your calculations. Is that something you created?

11 A Craig Marquis told us that we could claim that.

12 Q But you figured how much it was?

13 A Correct. Yes, I did.

14 Q And this is the first time it makes its way into one of your line
15 items of damages?

16 A Correct. Or maybe not, but I'd have to look at all the
17 spreadsheets that were made.

18 Q Prejudgment interest?

19 A Correct.

20 Q Well, what do you think you get 268,000 for in prejudgment
21 interest?

22 A Well, if you prevail in a case -- if you prevail at the end of
23 court you'll get judgment on -- you'll get judgment -- interest on the
24 judgment amount --

25 Q Judgment exceeding --

1 A -- for the amount that --

2 Q -- half of your \$500,000 property claim?

3 A What judgment? You're confusing me with the question.

4 Q Sure. Your property claim you told me is a \$500,000
5 property claim, and you think you're going to get 270 grand in interest?

6 A If it's just simple math, sir. It says the assumptions over
7 here, and then you just take the number, and it's just math from it.

8 Q See the first bill, it says legal bills? The first line, sorry.

9 A Yes.

10 Q That 518,000, that's not all attorney's fees, right; that's fees
11 and costs lumped together?

12 A I think so.

13 Q And then do you see your comment out there to the right?

14 A Likely more comment.

15 Q So you authored this, you had no idea what was coming?

16 A Correct.

17 Q And you had no structured discussions with Danny about
18 pursuing a punitive claim, correct?

19 A You asked two questions. Correct, I had no idea how many
20 more hourly bills would be coming, and correct, we still hadn't had a
21 structured conversation about how to convert into a punitive agreement,
22 correct.

23 Q And the total -- I'm sorry, Mr. Edgeworth, I didn't ask you one
24 I had. The total of your damages with the negotiable and non-negotiable
25 items is just under 3.8 million?

1 A Other than the line items that are --

2 THE COURT: Under the line items what?

3 THE WITNESS: And the two on the side which may, or may
4 not be able to be claimed, yes. See the two I said -- they destroyed the
5 building reputation and, you know, nothing in here for the -- all the
6 thousands of hours that have been wasted, so, yes.

7 BY MR. CHRISTIANSEN:

8 Q And at the very bottom here you write, I'm more interested in
9 what we could get Kinsale to pay and still have a claim large enough
10 against Viking. That's what you wanted to get -- Kinsale is, as you were
11 told, is the Lange Plumbing insurance company?

12 A Insurance carrier.

13 Q So you wanted to get at Kinsale and try to settle them first?

14 A Correct. The same with that email you put up three or four
15 ago, it's roughly saying the same thing. Let's get Kinsale to settle,
16 because it's in their interest for me to pursue the claim against Viking;
17 and they're not doing it at all. And then we use that money so that I
18 don't have to take more loans. They're the weaker link of the two in the
19 negotiation.

20 Q Right. You saw that from a business standpoint?

21 A Yes.

22 Q All right. It turns out you were wrong, right?

23 A Correct.

24 Q Mr. Simon was right, you were wrong?

25 A Mr. Simon didn't rebut that.

1 Q You wanted to go hard at Lange. Lange gave you, pursuant
2 to advice by a different --

3 A This is --

4 Q -- office?

5 A -- not a mediation, a one-day mediation --

6 THE COURT: Okay, sir. You have to let him finish --

7 THE WITNESS: Oh, sorry. I'm sorry.

8 THE COURT: -- asking the question. Only one of you can
9 talk --

10 THE WITNESS: I'm sorry --

11 THE COURT: -- at a time.

12 THE WITNESS: -- I haven't done this.

13 THE COURT: Okay. You need to let him finish. I told him the
14 same thing earlier. It applies to you too. Mr. Christiansen?

15 MR. CHRISTIANSEN: Thank you, Your Honor.

16 BY MR. CHRISTIANSEN:

17 Q All right. How much did -- was offered at the October -- I
18 think it's October 10, if you're right, it's October 20th -- what was offered
19 at that mediation?

20 A I think very little. I think Viking -- I don't even remember. I
21 think Lange said 25 grand. I'm not sure if Viking said anything, or -- I
22 don't remember.

23 Q Okay. So nominal?

24 A Nominal, that's one, correct.

25 Q All right. Do you know what happened from a lawyer

1 standpoint, and a courtroom standpoint, between October and
2 November, at the second mediation?

3 A Do I know --

4 Q Do you know what Danny did, or his office did?

5 A I know some of the things they did, yes.

6 Q And when you went to the November mediation, the case as
7 it pertained to Viking resolved, right?

8 A Yeah. A week later, the mediation -- the mediator settlement
9 you mean?

10 Q Yeah.

11 A Yes.

12 Q So we're clear on the mediator settlement -- let's just back
13 up, we'll get you the -- in this case you provided an affidavit --

14 MR. CHRISTIANSEN: -- John, I 'm not sure which one, this is
15 your group, it's in your list; 9, I think.

16 [Parties confer]

17 THE CLERK: Exhibit 9.

18 BY MR. CHRISTIANSEN:

19 Q You wrote an affidavit dated July 25th, 2017, and it's one of
20 the exhibits I'm sure Mr. Greene will talk to you about. Do you
21 remember authoring that?

22 A Yes.

23 MR. GREENE: Hey, Pete, that's not an affidavit, that's an
24 email.

25 MR. CHRISTIANSEN: I apologize, an email.

1 BY MR. CHRISTIANSEN:

2 Q Just chronologically, that's all I want to question you about
3 now, is what you wrote, it looks like items you were able to locate, or
4 you thought were of some importance, and you wanted Danny and his
5 office to look at, correct?

6 A Correct. I was passing on information.

7 Q Right. And that information came to you 15 days earlier from
8 Ashley Ferrel, who sent you a Dropbox link, from the data doc?

9 A No, sir.

10 Q No?

11 A The email actually tells where that information would come
12 from.

13 Q All right. Well, just help me this way --

14 A Okay.

15 Q -- Ashley's email is dated --

16 A Okay.

17 Q -- 15 days earlier than your email?

18 A Correct.

19 Q In Ms. Ferrel's email she provides a Dropbox link --

20 A Correct.

21 Q -- to the data dump that Viking, in the summer of 2017 finally
22 gave up after a protective order was litigated in the litigation?

23 A Yeah. I think the data dump that they referenced, could
24 come a little later when you dump like seven or 8,000, but the first two or
25 3,000 were in the --

1 Q And this is in Exhibit 80, as well. This is that same day,
2 Danny tells Ashley to send to the experts and to Brian, the Dropbox link,
3 and Ashley says to Danny, holy crap two words, punitive damages.

4 Did I read that correctly?

5 A You read it correctly, yes.

6 Q And at the mediation in November, the one that was
7 successful getting you \$6 million for your property damage claim, do
8 you remember having a disagreement with Mr. Simon about what the
9 mediator's proposal should be?

10 A I believe that was the next day or after, yes.

11 Q Right. You wanted the mediator to propose \$5 million, right?

12 A Correct.

13 Q Danny said, no, let's make him force -- propose 6?

14 A Correct.

15 Q And the case settled for 6?

16 A Correct.

17 Q So between Danny's brother, the mediator's proposal, he
18 made you two and a half million bucks, right?

19 A Not true. I wanted the 5 million for a different reason, but --

20 Q You wanted 5 more than 6; is that your testimony?

21 A No, it's not my testimony.

22 Q All right.

23 A I said I wanted the 5 in the agreement for a very specific
24 reason.

25 Q For example, you had all kinds of ideas in this case, and

1 before the first mediation you wrote, let's go hard at Lange, right out the
2 gate and ignore Viking. Lange doesn't settle until after Viking pays you 6
3 million, right?

4 A Correct.

5 Q Then after the November 10th mediation --

6 MR. CHRISTIANSEN: -- Exhibit 36, Mr. Greene, Bate 409.

7 BY MR. CHRISTIANSEN:

8 Q Danny said, I want authority to tell the mediator to propose 6.
9 You said he should have proposed 5, but you agreed he could do 6, and
10 then Viking paid 6?

11 A No. The mediator -- this is the day after that -- the mediator
12 put the 6 down. The arguments was over how long the two parties got
13 to respond to him. There was something on the docket that made the
14 date, it shouldn't be two weeks or whatever, it should be November 15th.
15 They discussed that. We left, and I'm like I wish you would have
16 proposed 5, to see if they'd bite, and then this is -- I agree, he should
17 have proposed 5.

18 Q But Mr. Simon got you 6, based on his expertise?

19 A The settlement was offered at 6, correct.

20 Q And that was Danny's suggestion --

21 A It was Floyd --

22 Q -- not yours?

23 A -- Hill, actually. There's a mediator guy --

24 Q Yeah. I know all about the mediators. You wanted 5, Danny
25 told him 6, he proposed 6, and they accepted 6; all true?

1 A I didn't want 5, I wanted 5 in the proposal, that's correct.

2 Q All right. Now, let's fast forward, I'm going to leave some of
3 this here, and try to get you through the timeline, Mr. Edgeworth, before
4 the end of today. And your last estimate was October the 5th, and your
5 case was worth, in your view, \$3,764,000 and change. The case settles,
6 on or near November the 10th, right, within about a week?

7 A About, yeah.

8 Q Like when I say settle so I'm being technical with you, the
9 figure was agreed to? The mediator's proposal was accepted?

10 A November 15th.

11 Q And after that you went to Mr. Simon's office and had a
12 meeting. On the day he had court he had to come see Judge Jones, and
13 do some things in your case?

14 A Yeah. He texted me.

15 Q And you brought your wife?

16 A Correct. Well, I didn't bring her, she came.

17 Q Well, your wife was in attendance with you?

18 A Correct, yes.

19 Q And this is the meeting that you felt threatened?

20 A Definitely.

21 Q Intimidated?

22 A Definitely.

23 Q Blackmailed?

24 A Definitely.

25 Q Extorted?

1 A Definitely.

2 Q How big are you?

3 A 6' 4".

4 Q How much do you weigh?

5 A Two-eighty.

6 Q Danny goes about a buck-forty soaking wet, maybe with
7 nickels in his pocket. He was extorting and blackmailing you?

8 A Definitely.

9 Q He threatened to beat you up?

10 A I didn't say that.

11 Q Because you write a letter, an email to him saying, you
12 threatened me, why did you treat me like that?

13 A No.

14 Q Did you tell him in the meeting, you're threatening us, stop it,
15 you're scaring me?

16 A I didn't say I was scared, sir.

17 Q And at the meeting Danny is trying to come to terms with
18 what you told me had never been -- terms have never been come to,
19 which is the value of his services for a punitive damage award, correct?

20 A I'm not really sure what he was trying to do. He kept saying,
21 I want this, I want that. He said, very many things, but he never defined
22 them all.

23 Q All right.

24 A It was a very unstructured conversation.

25 Q And you told the Court that he tried to force you to sign

1 something, but you don't have it?

2 A He didn't give us anything to leave with, that's correct.

3 Q All right. The next thing we have in writing, Mr. Edgeworth,
4 is an email from you, November 21, 2017.

5 THE COURT: What exhibit is this, Mr. Christiansen?

6 MR. CHRISTIANSEN: 39, Your Honor. Bate stamp 413, Mr.
7 Greene, I'm sorry.

8 BY MR. CHRISTIANSEN:

9 Q Did I get those dates right, Mr. Edgeworth?

10 A I'm sorry?

11 Q November 21st --

12 A November 21st, 2017, it says.

13 Q Right. And as of November 21st, 2017, you got legal bills,
14 counsel, experts, et cetera, for 501,000, right, and change, I'm sorry?

15 A Correct.

16 Q And then you agree that there are legal bills not billed yet?

17 A Correct.

18 Q That's left open?

19 A Correct.

20 Q So as of November 21st, 2017, you know you own Danny
21 Simon money?

22 A Well, actually as of the date of his last bill.

23 Q When you wrote this email you knew you owed Danny
24 money?

25 A Correct.

1 Q And when you sue him and claim that your bills have been
2 paid in full, that's not accurate, correct?

3 A The bills were paid in full.

4 Q Not if you still owe him money, Mr. Edgeworth, they're not.

5 A The bill hasn't been presented. Every bill that's been
6 presented was paid in full.

7 Q All right. We'll talk about how you approach that, Mr.
8 Edgeworth, but let's just look at what -- your case has been settled
9 against Viking for 6 million bucks, correct?

10 A Correct.

11 Q And you're trying to tell Mr. Simon in this email, what you
12 think the true hard cost value of your case is, correct?

13 A No. I'm responding to a request from Mr. Simon.

14 Q And his request is for you to do just that, tell him what you
15 think your case was really worth?

16 A Correct.

17 Q And you think your case was really worth \$3.827 million?

18 A No. And I've destroyed a construction business, Brian's time
19 over the last two years, there's a whole bunch of other worth to me. I'm
20 giving --

21 Q Tell me what --

22 A -- him a list he specifically asked for, on the telephone, when
23 he called me.

24 Q Okay. I'm with you.

25 A Okay.

1 Q All right. Tell the Judge the total you put in that bottom box,
2 just read it to her?

3 A 3.827147 spot 96.

4 Q Okay. Tell the Judge what , five or six days before, Mr.
5 Simon was successful in settling your case for?

6 A Six million dollars.

7 Q So you agree with Mr. Vannah's assessment, that as a result
8 of Mr. Simon's work on the punitive aspect of your case you were
9 overpaid, right? Paid more than whole, correct?

10 A Correct. They paid me more than.

11 Q In response to the October 5th -- I'm sorry, the November -- I
12 think that was 21st email from you, where the 3.827 million total, Mr.
13 Simon answered you back in a letter, right? He wrote you a letter?

14 A The email you just had right there?

15 Q Yes, sir.

16 A No.

17 Q He didn't write --

18 A He wrote that because I demanded, on a phone call, four
19 days later. I demanded he start putting something down in writing,
20 because I couldn't understand what he was saying. His discussions were
21 so unstructured, I just wanted something structured, to even understand
22 what he was saying. And I said, I will not talk about this anymore, this
23 bonus, until you give me something that I can sit down, and Angela and
24 I can see. And then the amount came on the 27th.

25 Q Sir, just out of curiosity, bonus is term, right? Mr. Simon

1 never called it a bonus. That's an Edgeworth term, fair?

2 A It's a -- yeah, a bonus.

3 Q Okay. I'm not being pejorative in nature, I'm saying that that
4 is a term you are using, and has never been used by Daniel Simon, as it
5 pertains to his fee, fair?

6 A In the November 17th meeting, he kept saying additional
7 payment . I know --

8 THE COURT: Sir, has he ever used the word bonus?

9 THE WITNESS: No.

10 THE COURT: Okay. The answer is, no. Mr. Christiansen.

11 MR. CHRISTIANSEN: Thanks.

12 BY MR. CHRISTIANSEN:

13 Q Your email again, just so we can do it chronologically, is
14 November 21 --

15 A Correct.

16 Q -- '17? Thereafter, just chronologically, November 27, Mr.
17 Simon writes you the letter that he writes you --

18 A Correct.

19 Q -- correct? And what you do next -- and at the time he writes
20 you the letter, because you and I just looked at it in your November 21st,
21 you know you owe him money?

22 A Correct.

23 Q All right. And what you do, when you get the letter, isn't
24 work out what you owe him, you go hire a new lawyer, correct? You
25 went and hired Mr. Vannah's firm, Vannah & Vannah, the 29th of

1 November --

2 A Correct.

3 Q -- correct? And you did that, and you took the position that
4 you didn't want to pay him because you didn't have a contract, right?

5 A We've always had a contract. I never took that position.

6 Q And deciding to not pay people money that you owe money
7 to is not a unique thing, situated for Mr. Simon, just in this litigation,
8 correct?

9 A No.

10 Q Because Exhibit 24 --

11 MR. CHRISTIANSEN: Bate stamp 396, Mr. Greene.

12 BY MR. CHRISTIANSEN:

13 Q -- was an email from April 18th of 2017, where you tell Mr.
14 Simon you don't want to pay one of the contractors or subs his work,
15 because he doesn't have a contract, right?

16 A That's not what I said.

17 Q We have no contract, and you don't want to pay him, right?
18 I'll give him what the Court allows, that's what you wrote. Fair?

19 A That's what it says, it's not the meaning.

20 THE COURT: What exhibit is that, Mr. Christiansen?

21 MR. CHRISTIANSEN: Exhibit 24, Your Honor. Bates 396.

22 THE COURT: Okay.

23 BY MR. CHRISTIANSEN:

24 Q And the letter from Mr. Simon, Mr. Edgeworth. You just told
25 me --

1 MR. CHRISTIANSEN: -- and I'm sorry, I want to make sure
2 you -- Exhibit 40, Mr. Greene.

3 BY MR. CHRISTIANSEN:

4 Q The November 27 from Mr. Simon, you just told the Court
5 you demanded he write you, put something in writing, correct?

6 A Correct.

7 Q So why in three different affidavits did you tell the Judge, in
8 an effort to not honor attorney's fee, or an attorney's lien, that you were
9 stunned to get the letter from Mr. Simon?

10 A Because of the contents of the letter.

11 Q That's not what you said. You said you were stunned to get
12 the letter that you ordered him to write, right?

13 A I think you're taking it out of context.

14 Q Did you use the word stunned as it pertains to the letter you
15 ordered him to send you?

16 A Yes.

17 Q So you demand something, your lawyer does it, and in an
18 effort to not pay him money you owe him, you write an affidavit saying
19 you were stunned to receive it?

20 A No.

21 Q Can we agree, sir, that a significant, and the majority of the
22 \$6 million that Viking was willing to pay, was based on the potential
23 award for punitive damages?

24 A I don't believe so.

25 Q Well, let's see, let's just see if we can do the math, the time

1 right. In March you were willing to take a million. By November when
2 you took 6, the only thing that happens, Danny Simon has done a bunch
3 of work. There's a real risk their answer, the Viking answer was going to
4 get stricken by Her Honor. She had excluded their expert, and there was
5 a punitive aspect of the case that had never been contemplated before
6 by yourself; is that fair?

7 A By what date do you feel I've never contemplated there was
8 punitive aspect?

9 Q By all the dates where you wrote in emails, you never talked
10 about it, or thought about it?

11 A It doesn't mean I didn't think that Viking was going to settle
12 for a substantial amount of money.

13 Q What line item were they going to put the substantial amount
14 of money in, sir?

15 A They didn't put it in a line item, sir.

16 Q How many \$6 million cases have you settled in your career?

17 A None.

18 Q Zero?

19 A Zero.

20 Q And is the offer for 6 million at the mediation, the time that
21 you're referencing in your affidavit that I've shown you over and over,
22 that only thereafter Mr. Simon wanted a bonus; to use your words?

23 A Can you make it clearer. I don't --

24 Q No. Did you not understand the question?

25 A Exactly. I don't --

1 Q Okay.

2 A -- get what you mean.

3 Q Did you understand the question?

4 A No, I did not.

5 MR. CHRISTIANSEN: Judge, could we maybe have a short
6 break, so I can try to organize, and maybe short circuit some of the
7 remainder of my stuff --

8 THE COURT: Okay.

9 MR. CHRISTIANSEN: -- and conclude by the day's end.

10 THE COURT: Okay.

11 MR. CHRISTIANSEN: If it's okay.

12 THE COURT: Okay. So, we'll take like ten minutes, Mr.
13 Greene.

14 MR. CHRISTIANSEN: Thank you, Your Honor.

15 THE COURT: Okay. And, Mr. Greene, if he's a little early, it's
16 up to you, or would you be more comfortable just waiting and starting
17 your examination of him tomorrow?

18 MR. GREENE: Sure, that would be great.

19 THE COURT: Okay. Because I don't want you guys to ask
20 him a couple of questions, and then have to go take the night. So even if
21 Mr. Christiansen finishes a little early if everybody's okay --

22 MR. GREENE: That makes sense.

23 THE COURT: -- we'll just be done --

24 MR. GREENE: That's fine.

25 THE COURT: -- and then you start tomorrow?

1 MR. GREENE: Makes sense, sure.

2 MR. CHRISTIANSEN: Totally fine with me, Judge.

3 THE COURT: Okay. So, we'll take about ten . . .

4 [Recess at 3:25 p.m., recommencing at 4:11 p.m.]

5 MR. CHRISTIANSEN: Judge, a scheduling issue. I want to
6 talk out of turn, because Mr. Christensen and Mr. Vannah were talking. I
7 don't think I'll finish with Mr. Edgeworth today, and we have a witness
8 here, Mr. Drummond, that's noticed and probably everybody knows
9 about him. I was hoping to maybe -- he has a settlement conference
10 tomorrow, and we can't get him back, maybe get him on and off, and
11 then I'll conclude with Mr. Edgeworth tomorrow?.

12 MR. VANNAH: I don't mind doing that.

13 THE COURT: Okay. It's totally up to you guys, I don't care
14 what order we call the witnesses in.

15 MR. CHRISTIANSEN: I appreciate it, Mr. Vannah.

16 MR. VANNAH: Sure, no.

17 THE COURT: I promise I'm paying attention on everybody,
18 so, it's --

19 MR. VANNAH: No, no. It makes sense, I mean, that works
20 out for everybody.

21 THE COURT: Okay.

22 MR. CHRISTIANSEN: Thank you, Mr. Vannah.

23 THE COURT: Okay. So, Mr. Edgeworth --

24 MR. VANNAH: Am I going to have time to cross-examine
25 him --

1 THE COURT: -- you may be excused --

2 MR. VANNAH: -- if I need to?

3 THE COURT: -- and then we'll recall your tomorrow, okay.

4 [Counsel confer]

5 THE WITNESS: For first thing in the morning?

6 THE COURT: No, I have a calendar, so we're not even
7 starting until 11:00.

8 Okay. So, we'll put Mr. Drummond on.

9 MR. CHRISTIANSEN: Yes, please, Your Honor.

10 THE COURT: Okay.

11 MR. CHRISTIANSEN: And I'll try to get my junk out of Mr.
12 Christensen's way.

13 THE COURT: Okay. We're back on the record in A-738444,
14 Edgeworth Family Trust v. Lange Plumbing and also, A-767242,
15 Edgeworth Family Trust v. Daniel Simon.

16 Good afternoon, Mr. Drummond, if you could raise your right hand.

17 CRAIG WILLIAM DRUMMOND, PLAINTIFFS' WITNESS, SWORN

18 THE CLERK: Please be seated, stating your full name,
19 spelling your first and last name for the record.

20 THE WITNESS: Craig William Drummond, C-R-A-I-G D-R-U-
21 M-M-O-N-D.

22 THE COURT: Okay. Mr. Christensen, your witness.

23 MR. CHRISTENSEN: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. CHRISTENSEN:

1 Q Mr. Drummond, what do you do for a living?

2 A I'm an attorney.

3 Q Where are you licensed?

4 A I am licensed in Nevada, Missouri, 9th Circuit, and the U.S.
5 Supreme Court.

6 Q How long have you been a licensed attorney in any
7 jurisdiction?

8 A Since 2004 in Missouri.

9 Q Can you give us the thumbnail sketch of your work
10 experience?

11 A Sure. I served in the U.S. Army JAG Corps. I was a Federal
12 Military Prosecutor; I was a defense counsel. I was an advisor on ethics
13 issues, I was an advisor on Federal tort claims. In 2009, my last duty
14 assignment was here. I passed the Nevada bar, and in 2010 set up my
15 own shop under Mr. Simon.

16 THE COURT: Did you say under Mr. Simon?

17 THE WITNESS: Under Mr. Simon, yeah.

18 THE COURT: Okay.

19 BY MR. CHRISTENSEN:

20 Q So --

21 THE COURT: And that's in 2010?

22 THE WITNESS: In 2010.

23 BY MR. CHRISTENSEN:

24 Q Could you explain that business relationship? Were you
25 physically in his office?

1 A I was. I operated under his office. I was allowed to set up
2 my own PC, but I operated under his office.

3 Q Okay. What kind of work did you do when you first started
4 with Mr. Simon's firm in 2010?

5 A I was doing about 20 percent military cases, and then I was
6 learning personal injury law. So, I was 80 percent doing personal injury
7 cases, mainly his cases, and that's how I began learning that on the -- on
8 the civilian side.

9 Q What kind of military work were you doing?

10 A Court marshals at Nellis, Irwin, government investigations
11 regarding contractors. There's a lot of cool stuff going on in Southern
12 Nevada, and I still had a security clearance, so I was able to do stuff like
13 that, that I can't really talk about. But that's -- it was about -- it was about
14 ten percent, that's what I knew, and it was a way to make some money,
15 and then the rest of it was injury cases.

16 Q That was after discharge?

17 A That was after discharge, yes.

18 Q Okay. So, there's certain cases that, when appropriate, the
19 JAG Corps are going out and contract with an outside lawyer?

20 A No. A service member has a -- you have a right to a military
21 member, if you're under investigation, or you're charged, or you can
22 actually retain a civilian attorney. And so, here there's Nellis, there's Fort
23 Irwin, and some other stuff. So, when those individuals, either
24 government contractors or members of the military get charged with a
25 crime, or are under investigation, a lot of them, normally senior folks,

1 they'd rather have a more senior attorney.

2 Q I understand.

3 A And so, they'll hire guys like me, or there are some folks who
4 nationally practice.

5 Q How'd you bill on those cases?

6 A On all of my military cases it's all a flat fee on those. On the
7 injury cases it's under a contingency agreement. And then I get a little
8 bit of hourly cases on court-appointed cases. I had about three court-
9 appointed cases that year, and for those cases I would -- I would
10 handwrite my own notes, and that kind of thing.

11 Q Okay. When you were working with Mr. Simon in 2010 on
12 the court-appointment cases that you billed hourly, how did that go?

13 A I would write down my time on a notepad, and I would keep
14 it. There was no billing program in his office. The office, 100 percent
15 was not set up to bill, the phones weren't set up to bill. So, on my time
16 for those two or three cases it was all me keeping that on a notepad, and
17 I think then maybe I went to an Excel spreadsheet, but it was -- it was my
18 own program, there was not a program there.

19 Q Did he have any support staff that were timekeepers --

20 A None.

21 Q -- that you could utilize?

22 A None.

23 Q No.

24 A I would do all of the billing myself. In fact, on the military
25 cases, or the few court appointed cases, I was the only person who

1 worked on those. His staff, every member of his staff. Now, certainly, if I
2 needed something copied, it would be copied, or something of that
3 nature, but the whole office was built around doing personal injury
4 cases, and that was all done on a contingency.

5 Q How long did you work, I guess I'll call it under Mr. Simon's
6 flag?

7 A I worked under him, directly, for about a year, and then
8 branched out and left, and went to a different building and started hiring
9 my own staff and building my own practice, and that was around 2000 --
10 early 2011.

11 Q Where's your office currently?

12 A It is now back at Mr. Simon's building, at 810 South Casino
13 Center. It was for about six years, at 228 South 4th Street, and I moved
14 back just about two years ago.

15 Q Okay. Now, you moved back into the building. Do you have
16 a separate office, or are you like back to being part of his office?

17 A No. We have -- the way the building is set up is there's three
18 wings. There's one wing where actually Mr. Christiansen is, there's one
19 wing which is Mr. Simon's office, and then there's another wing, which
20 is my firm, the Drummond Law Firm. They are all separated by doors.
21 They actually -- each one can lock from each other. So, while it's the
22 same building, it's -- the areas are separate.

23 Q Are you familiar with the contingency fees generally charged
24 in heavily litigated cases?

25 A Yes, I am.

1 Q And what is it.

2 MR. VANNAH: Excuse me, Your Honor. I mean, this is an
3 expert witness, he's not been designated as an expert witness, or -- were
4 you seriously making him an expert here, without telling us?

5 MR. CHRISTENSEN: I don't think that's --

6 MR. VANNAH: That's an expert question, what are generally
7 the charges in the area.

8 MR. CHRISTENSEN: That's a percipient witness question,
9 Your Honor.

10 MR. VANNAH: I don't think so, that's an expert question.

11 BY MR. CHRISTENSEN:

12 Q Let me ask a couple of foundational questions.

13 THE COURT: Okay, please do.

14 MR. VANNAH: They're 40 percent, by the way, we all know
15 what they are.

16 THE COURT: Well, we all do, but --

17 MR. CHRISTENSEN: I'll move on then.

18 MR. VANNAH: All right. Well, we'll agree with that.

19 MR. CHRISTENSEN: Because that's --

20 MR. VANNAH: Normally, I continue to be --

21 MR. CHRISTENSEN: We agree.

22 MR. VANNAH: -- in agreement that for--

23 MR. CHRISTENSEN: We'll move on.

24 MR. VANNAH: -- a heavy litigated case it's 40 percent.

25 MR. CHRISTENSEN: See, we can find common ground.

1 MR. VANNAH: I thought everybody knew that.

2 THE COURT: I like it. Okay.

3 MR. CHRISTENSEN: All right.

4 THE COURT: Okay.

5 MR. VANNAH: All right.

6 THE COURT: So, Mr. Vannah agreed to 40 percent --

7 MR. CHRISTENSEN: Okay.

8 THE COURT: -- so we can move on.

9 MR. VANNAH: Good.

10 BY MR. CHRISTENSEN:

11 Q You described the difficulties that you had with billing when
12 you worked with Mr. Simon. During that period of time have you ever
13 seen Mr. Simon work an hourly case?

14 A To my knowledge, and to my personal knowledge the
15 answer is, no. I never saw him have any hourly case when I was there,
16 and in my relationship, personally and professionally with him, I was not
17 aware of any case that he was billing hourly on.

18 Q Were you back in his building as a renter in 2017?

19 A I was.

20 Q Are you familiar with the Edgeworth case?

21 A I am.

22 Q How are you familiar with the Edgeworth case?

23 A My practice is fortunately growing, and because of that,
24 when we get certain types of cases at certain levels, I'll call it large cases,
25 sometimes I would branch out and bring in other counsel as co-counsel,

1 someone who's more experienced. And I have brought in Mr. Simon on
2 a number of cases throughout the years.

3 And I recall specifically two cases. There was a case that I had, last
4 name Diaz, that was occurring around the early 2017 time frame, and I
5 brought Mr. Simon in as my co-counsel. It was an extremely
6 complicated case, involving a lot of factual disputed issues, numbers of
7 experts. And we had to actually move discovery multiple times, because
8 he was busy with the Edgeworth case, and he and his staff made it very
9 clear that they were working very hard on that Edgeworth case.

10 And, in fact, there was another case, last name of Henderson. It
11 was actually this Department, Your Honor, where I was trying to bring
12 Mr. Simon in, in 2017, and because of the Edgeworth case he did not
13 want to take it on, because he didn't feel that he would have the time or
14 resources to help me with it. And so, it wasn't actually until recently, in
15 this year, that I brought him in on the case, where he helped us get the
16 case resolved.

17 Q You mentioned bringing in other attorneys. Do other
18 attorneys ever bring you in on files?

19 A Yes. I feel fortunate to have had quite a bit of trial
20 experience, and there are a number of law firms here in town that we
21 have tried their cases. Some of them where that's all public, it's all on
22 Odyssey. Gabe Martinez, I tried cases for him. I had tried cases for
23 Aubrey Goldberg, who's a former State Bar President. I've tried cases
24 for Josh Tomsheck, who's a litigator here in town, for Mike Sanft, who's
25 a litigator here in town, for Gabe Grasso. All those individuals I have

1 been brought in to specifically try cases for them on a co-counsel
2 relationship.

3 Q What attorneys have you brought in, on large cases?

4 A Only two.

5 Q And who are those?

6 A Daniel Simon, or P. Christiansen.

7 Q Why do you bring in Mr. Simon on a case?

8 A One, he started out as not only a friend, he started out as a
9 mentor, and teaching me the right way to do personal injury cases. The
10 right way to build up a case, get the right experts. Actually, litigate the
11 cases, read the discovery, prepare for depositions, and I have seen him
12 over the years change cases. He changes the dynamic of the case, and
13 that's not something that always a small firm like mine can see.

14 Sometimes we can't see through those weeds to change that
15 dynamic. And I feel fortunate that he's a friend. I feel fortunate that our
16 offices work well together, and I feel fortunate that he has been very
17 successful in the cases I brought him in. Changing the dynamic, which
18 also changes the value, which also then directly changes the return for
19 the client.

20 Q It sounds like you've worked in a lot of different jurisdictions?

21 A I have.

22 Q What's your opinion of Mr. Simon's ability?

23 A I would consider him a top one percent trial lawyer. I have
24 dealt with military attorneys. I have dealt with civilian attorneys. I've
25 dealt with regular government attorneys. I am on the Federal CJA panel

1 here for the Federal Southern District, where we deal with the select
2 attorneys who can do criminal defense. Most of us who do some
3 criminal defense also do injury cases.

4 I'm on the Clark County Court appointed panel here, for court-
5 appointed work, all the way to murder. I deal with a lot of attorneys on a
6 day-to-day basis. I'm in court every single day -- well, I shouldn't say --
7 most days I am in Court, and I would say he's a top one percent lawyer.

8 Q Other than seeing and hearing that Edgeworth was going on,
9 do you have any particular knowledge about the case?

10 A Not really. Other than I know that it was taking up a lot of his
11 office's time, and it was very clear that that was going on. And I will go
12 over to his office to say hi to him, to say hi to his associates, to say hi to
13 his staff. My office does too. If somebody needs a binder, somebody
14 will walk over. It's a very cordial working relationship.

15 And that case was the one case that we would hear, as far as
16 what's Danny doing, what case is he working on, what experts is he
17 talking about; it was the Edgeworth case. As far as any other details I
18 really don't know.

19 Q Okay. Thank you, Mr. Jones.

20 A Thank you, sir.

21 THE COURT: Cross?

22 MR. VANNAH: Yes.

23 CROSS-EXAMINATION

24 BY MR. VANNAH:

25 Q How are you, Mr. Jones?

1 A Good, sir.

2 Q I think we can agree on one thing, Mr. Simon is a good
3 lawyer, right?

4 A Yes.

5 Q He does a good job, right?

6 A Yes.

7 Q Enjoys a nice reputation?

8 A I think he's earned it, yes.

9 Q Okay. So, let's talk about contingency cases. What's the
10 largest case that you settled with Mr. Simon, where he helped you?

11 A It settled confidentially.

12 Q Is it over a million dollars?

13 A Well over.

14 Q Okay. And did you have a contingency fee agreement with a
15 client on that case?

16 A We did.

17 Q In writing?

18 A We did.

19 Q Are you required to do that?

20 A If you're asking me to give you my expert opinion on Rule
21 1.5, is that what you're asking about?

22 Q Let me just tell you, 1.5 says, quote/unquote, "that you
23 cannot do a contingency fee agreement with a client unless it is in
24 writing;" isn't that correct?

25 A Well, here's what I can tell you, because I want to answer

1 your question. You deserve --

2 Q Let me just ask you to give --

3 A -- the answer. I want to give it to you.

4 Q I like the yes or no stuff. So, let me just -- if you can answer
5 yes or no, we'll start with that. You've read Rule 1.5 right?

6 A I have.

7 Q And doesn't it specifically say that you cannot have a
8 contingency fee agreement with a client unless the agreement is in
9 writing?

10 A I believe there's two parts to that rule, since you're asking me
11 about that rule. There's one part which talks about a prior relationship
12 with a client, and then there is a part that talks about a contingency fee
13 agreement. I can --

14 Q Let me read the rule to you, how's that?

15 A Okay.

16 Q And then we'll go.

17 A Okay.

18 Q I don't mean to -- I don't memorize these rules, either, so I'll
19 be fair to you. Here's the rule, I'll read it to you. Rule 1.5(c), okay. A fee
20 may be contingent on the outcome of the matter for which the service is
21 rendered, except in a matter in which a contingent fee is prohibited by
22 paragraph (d) or the law.

23 Okay? For example, you can't have a contingency fee in a divorce
24 case, but you can have a contingency fee, right? You agree, that the bar
25 allows that?

1 A The bar does allow you to have a contingency fee --

2 Q All right.

3 A -- 1.5(b).

4 Q Let me read the rest of it now, there's the part I want to focus
5 on.

6 A Oh, okay.

7 Q We all know you can do a contingency fee. we all know 40
8 percent's reasonably typical for heavily litigated matters, right?

9 A You're reading 1.5(c), correct?

10 Q I haven't read it yet, but I'm about to read it to you, here it is.

11 A I thought you just did?

12 Q I haven't finished it. Okay. Here's the part that -- yeah, we --
13 well, I think we can --

14 A I don't want to --

15 Q -- agree on 1.5. You can have a contingency fee, certainly on
16 a case like the Edgeworth case, they certainly could have entered into a
17 contingency fee, agreed?

18 A I'm not here to give an expert opinion about the contingency
19 fee in this case. I have not reviewed documents in this case. I'm just
20 being honest with you.

21 Q Okay.

22 A If you want me to look at it, I know --

23 Q Let me just -- you're the one who brought up contingency
24 fees and let me just read this to you. It says, quote, I'm reading this.

25 A Uh-huh.

1 Q "A contingent fee agreement shall be in writing, signed by
2 the client, and shall state in bold-face type, that is as least as large as the
3 largest type used in the contingent fee agreement."

4 Okay. So, you see that a contingent fee agreement has to be in
5 writing, and it has to be signed by the client to be a contingency fee,
6 agreed?

7 A You may want to look at 1.5(b). Can you read that to me?

8 Q 1.5(b)?

9 A Correct.

10 Q Sure, I will. 1.5(b) says:

11 The scope of the representation, and the basis or rate of the
12 fee, and expenses for which the client will be responsible,
13 shall be communicated to the client preferably in writing,
14 before or within a reasonable time after commencing their
15 representation, except when the lawyer shall charge a
16 regularly represented client on the same basis or rate.

17 Okay?

18 A Yes.

19 Q The more specific rule on contingency fee is (c), which says --

20 A No. I think you read the rules together. I read all the rules
21 together. I don't discount --

22 Q So, is it your opinion you can have a contingency fee that's
23 not in writing, signed by the client and be valid?

24 A Hang on, wait a minute. If you could have a contingency
25 fee --

1 Q Is it your opinion --

2 A -- signed by the client --

3 Q -- that you can have --

4 A -- it would be right.

5 Q -- a contingency fee that is not in writing and not signed by
6 the client, and have it be valid?

7 A I am not prepared to give you an expert opinion on Nevada
8 law on that, because I believe you would need to read those rules; (b)
9 and (c) in conjunction, as well as with the case law.

10 Q How many --

11 A I was not prepared to give an expert opinion on that issue.

12 Q That's fine. So, how many times have you represented a
13 client in a personal injury matter on a contingency fee agreement that
14 was not in writing?

15 A I have not.

16 Q Okay. Now, Mr. Simon's been your mentor, which is
17 allottable. Did he teach you that? Did he teach you, if you're going to do
18 a contingency fee you better put it in writing?

19 A Well, I was practicing law for many years before I dealt --

20 Q My question, did he ever tell you that?

21 A I don't recall if Mr. Simon and I have had a discussion as far
22 as what should be in a contingency fee agreement or not. I do not recall
23 if we've had that discussion.

24 Q Okay. Were you aware there is no written contingency fee in
25 this case?

1 A I'm not aware of all of the details in this case, as I --

2 Q One question. Are you aware as to whether or not there's a
3 contingency fee in writing, in the Edgeworth case, in your discussions
4 with Mr. Simon?

5 A I'm aware there are emails.

6 Q My question --

7 A I'm am not aware of what you're defining as a contingency
8 fee, or not defining as a contingency fee. I'm just being honest with you.
9 I did not review documents in preparation for this testimony. I'm not a
10 percipient witness to documents in this case.

11 Q But you talked to Mr. Simon about this case?

12 A Not in detail, no.

13 Q Well, you've talked to Mr. Simon's attorneys. You didn't just
14 show up here today, right?

15 A I have briefly talked to Mr. Christiansen for about three
16 minutes, probably even less than that out there. I was simply asked my
17 knowledge of the billing software, which there was none.

18 Q Okay.

19 A I was asked my knowledge of, did it take up a lot of his
20 office's time, which the answer is, absolutely. Did it affect his ability to
21 earn income when it would have been brought in on large cases with my
22 office, during 2017, absolutely. Those things I have personal knowledge
23 about, and that's what I am a hundred percent solid and able to give you
24 that good honest testimony to those things.

25 Other things would cause me to speculate, or to talk about

1 documents I have not reviewed, or defining a contract which I've not
2 recently read the case law on.

3 Q So, what you're to tell us, all we can get out of this, is Mr.
4 Simon is a good lawyer.

5 A He's an excellent lawyer.

6 Q And he was busy working the Edgeworth case?

7 A He's an excellent lawyer. He was working on the Edgeworth
8 case, and that did take away from him earning money, significant
9 money, by coming in and working on cases with my office, and I would
10 imagine other attorneys as well.

11 Q Are you aware that he's billed nearly a million dollars on this
12 case?

13 A Don't know what the bills are in this case.

14 Q How many cases have billed, nearly a million dollars in
15 hourly billing?

16 A In hourly billing?

17 Q Yes.

18 A None, on an hourly bill, because I don't --

19 Q What's the most you've ever billed any case on an hourly
20 billing? Ever, in your history of mankind --

21 A Well --

22 Q -- hourly?

23 A And I'll try to answer that.

24 Q Okay.

25 A I don't bill any cases hourly, except court-appointed cases.

1 Q How much have you ever -- what's the most you've ever
2 billed on an hourly case ever?

3 A I -- \$100,000, probably close to that, is the honest answer.
4 But all the private clients that we do on the criminal cases I do those on a
5 flat fee, because also my office really isn't set up to do hourly billing
6 either.

7 Q Okay. Now I appreciate you coming today. Thank you, Mr.
8 Drummond.

9 A Thank you, sir.

10 Q Good luck with your settlement conference tomorrow.

11 A Thank you.

12 MR. VANNAH: Thank you, Your Honor.

13 THE COURT: Thank you. Any further questions, Mr.
14 Christensen?

15 MR. CHRISTENSEN: No, Your Honor.

16 THE COURT: Okay. This witness may be excused. Thank
17 you very much, Mr. Drummond --

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: -- for your testimony here today. And we did
20 take Mr. Drummond out of order, but it is 4:30, so if you guys are okay,
21 we'll just recess, and we'll put Mr. Edgeworth back up tomorrow.

22 I have a civil calendar at 9:30, but we should be done by 11:00, so we'll
23 start tomorrow at 11:00.

24 MR. VANNAH: That'll be fine, Your Honor.

25 THE COURT: Okay.

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MR. CHRISTENSEN: Thank you, Your Honor.

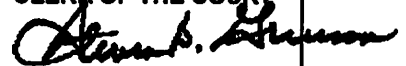
THE COURT: See you guys tomorrow.

[Proceedings concluded at 4:33 p.m.]

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



Maukele Transcribers, LLC
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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 EDGEWORTH FAMILY TRUST;
8 AMERICAN GRATING, LLC,

9 Plaintiffs,

10 vs.

11 LANGE PLUMBING, LLC, ET AL.,

12 Defendants.

CASE#: A-16-738444-C

DEPT. X

13 EDGEWORTH FAMILY TRUST;
14 AMERICAN GRATING, LLC,

15 Plaintiffs,

16 vs.

17 DANIEL S. SIMON, ET AL.,

18 Defendants.

CASE#: A-18-767242-C

DEPT. X

19 BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
20 WEDNESDAY, AUGUST 29, 2018

21 **RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING - DAY 3**

22 APPEARANCES:

23 For the Plaintiff:

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

24 For the Defendant:

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

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

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None

<u>FOR THE LAW OFFICE</u>	<u>MARKED</u>	<u>RECEIVED</u>
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133133
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1 Las Vegas, Nevada, Wednesday, August 29, 2018

2

3 [Case called at 10:36 a.m.]

4 THE COURT: -- A738444, Edgeworth Family Trust vs. Lange
5 Plumbing and Edgeworth Family Trust vs. Daniel Simon.

6 Mr. Edgeworth, if you would come back on the witness
7 stand, we're going to swear you in again because it's a different day.

8 Please raise your right hand.

9 BRIAN EDGEWORTH, PLAINTIFF, SWORN

10 THE CLERK: Please be seated, stating your full name,
11 spelling your first and last name for the record.

12 THE WITNESS: Brian Edgeworth, B-R-I-A-N E-D-G-E-W-O-R-
13 T-H.

14 THE COURT: Whenever you're ready, Mr. Greene.

15 MR. GREENE: I am, Your Honor. Thank you so much. This
16 fabulous spec of tech is not quite giving us --

17 THE COURT: Yes. I don't know what's going on. Do we
18 know?

19 MR. GREENE: The power button always helps, doesn't it?

20 THE MARSHAL: Well, we'll see.

21 MR. GREENE: Okay.

22 THE COURT: We see Brian around for super high tech
23 reasons.

24 THE CLERK: Hold on.

25 MR. GREENE: If you guys are fine, this exhibit, Jim, is in --

1 we talked about it earlier -- this is Exhibit 8, on Page 59.

2 THE COURT: This is Plaintiff's 8, Mr. Greene?

3 MR. GREENE: Yes, Your Honor.

4 THE COURT: Okay. Page 59, is that what you said?

5 MR. GREENE: Yes.

6 THE COURT: Okay.

7 MR. GREENE: I'm going to hit the auto zoom thing, out of
8 focus. I hope it's going to work.

9 THE COURT: It usually just takes a minute to warm up, Mr.
10 Greene. There we go.

11 MR. GREENE: Perfect.

12 CROSS EXAMINATION CONTINUED

13 Q Brian, take a look at this spreadsheet that we just identified
14 Plaintiff's Exhibit 8, Page 59. Does this look familiar to you?

15 A Yes.

16 Q Could this be an example of one of the calculation of
17 damages that you prepared in the underlying litigation?

18 A Yes.

19 Q Looking at the highlighted entries that are legal, it looks like
20 it's dated through what?

21 A Through September 22nd, 2017.

22 Q Based upon this date in legal for September 22nd, 2017, do
23 you have an opinion one way or the other whether this is the last
24 calculation of damages that you were able to provide to Mr. Simon for
25 the underlying litigation?

1 A It looks like I updated it on October 31st. I put interest on the
2 loan, and through October -- do you see the next line down --

3 Q I do.

4 A -- after the highlights?

5 Q I do.

6 A So, I would constantly update this, you know, as I got the
7 bills and stuff in, so I would -- my guess would be it's through Halloween
8 of '17.

9 Q Is there a possibility though, Brad, that you were projecting
10 what the interest on those loans would be for the purpose of the
11 calculation of damages?

12 A It's possible.

13 Q Okay. Let's move to a completely different topic now.
14 Explain to the Judge why you, as the client, decided to settle the Lange
15 litigation?

16 A Well, were just talking about Mr. Teddy Parker, that was the
17 big reason. You know, the day I came to court, he left me a little
18 unsettled. He actually seemed very, very confident, and seemed more
19 energetic than any of the Defendant's attorneys had been up until this
20 point.

21 He brought up a point, which I thought wasn't going to hold
22 true, that I didn't have a contract, because I didn't have a contractor's
23 license, so I wasn't legally entered into -- legally allowed to enter into a
24 contract, but that's going to cost me a lot of money, and it did, you know.
25 Mr. Simon hired another law firm to look at my contract. I think that

1 ended up costing \$5600, and then I paid --

2 Q Hang on a second. What did Mr. Parker do that changed
3 your perspective?

4 A One, his enthusiasm; two, the Contractors Board, and I
5 thought that he would draw the case on and cost me money in legal
6 fees, more and more hours getting billed.

7 Q What do you mean by the Contractor's Board? That wasn't --
8 THE COURT: I was just about to ask that same thing, Mr.
9 Greene.

10 BY MR. GREENE:

11 Q -- that wasn't clear. What do you mean by your concern
12 about the Contractor's Board and Lange?

13 A Well, Ted -- Mr. Parker, I don't mean to disrespect him. Mr.
14 Parker brought up the fact that I didn't have a contractor's license, so I
15 couldn't enter into a contractor's contract, and that he wanted all this
16 analyzed. So, when I checked out Lange at the Contractor's Board, I
17 found out that Lange, at the time they installed the sprinklers in my
18 house, did not have a license -- a contractor's license to install sprinklers
19 in a house.

20 You know, I emailed that to Mr. Simon, and then I looked at Vince
21 Diorio, who they might have done it under his contractor's license. It
22 had also expired before my house. So, I was left in the position these
23 guys might not have had a contractor's license, and this is where Mr.
24 Parker might have found this stuff when he started -- you know, when he
25 came into the courtroom and started talking about contractor's licenses,

1 and there was a good possibility he's going to tell Kinsale Insurance.

2 Q And if Teddy, doing his due diligence, would have told
3 Kinsale Insurance that neither you nor Lange had a contractor's license
4 to -- you had entered into the contract with Lange to install this set of
5 sprinklers in your home, what was your concern as the consumer who
6 owned this case and this potential settlement?

7 A I assumed Kinsale was going to flake. They hadn't paid
8 anything on the claim that seemed cut and dried at the start of it. This
9 would give them an angle. At the very least, I would think this would
10 cause me to spend more and more and more money chasing something
11 that I could actually lose on or only get a judgment against Bernie Lange,
12 who I personally know.

13 First of all, I don't want a judgment against Bernie Lange,
14 because I like him; and, second of all, I don't think he could get half-a-
15 million dollars together. It would probably bankrupt his company, which
16 I have no desire to do.

17 Q Did you have any concern if Lange, he is not licensed, that
18 there would be a coverage issue?

19 A Yes. I figured Kinsale could basically tell Bernie that we don't
20 cover you when you didn't hold up the regulatory laws that you were
21 supposed to hold up in your district, and you don't get insurance in that
22 case.

23 Q Okay. Are there any other concerns you would like to share
24 with the Judge as to what led you, as the consumer, the owner of the
25 claim, to settle against Lange?

1 A Well, the other major point I had was when Mr. Vannah
2 advised me of Mr. Simon's position of how much money I was leaving
3 on the table. Mr. Simon never proposed a contingency. You know, this
4 whole thing was already in action and there's everything, but I want a
5 contingency fee. If you really thought there was a million dollars or a
6 million-seven on the table, why wouldn't you have said, yeah, I'll do this
7 for 40 percent contingency?

8 THE COURT: Are you talking about in the beginning?

9 THE WITNESS: No, this is right at the end, Your Honor. This
10 is after the dispute had already happened, and we were just settling --

11 THE COURT: Right. This is when you're talking to Vannah,
12 but when you're saying if you knew there was a million-four on the table,
13 are you talking about that Mr. Simon knew that at the outset?

14 Sorry, I don't want to be using the term outset, that's been in
15 dispute. Are you talking about at the beginning of this, in 2016?

16 THE WITNESS: No, ma'am, this was early December of 2017.
17 After we had the settlement with Viking, there was a dispute which I was
18 questioning.

19 THE COURT: No, I understand that, Mr. Edgeworth. I need
20 you to listen to my question. When you just said if he knew there was
21 1.4 million on the table, why wouldn't he propose a contingency fee? I'm
22 assuming you're talking about Mr. Simon?

23 THE WITNESS: Correct.

24 THE COURT: And at what point were you -- I mean if he
25 knew it when?

1 THE WITNESS: December 7th of 2017.

2 THE COURT: So, if he knew on December 7th of '17, why
3 wouldn't he propose a contingency fee then?

4 THE WITNESS: Yes.

5 THE COURT: Okay.

6 THE WITNESS: Because he was -- he was pitching Mr.
7 Vannah that I should go after Lange. Even though everything else was
8 settled, I should still pursue against -- the claim against Lange because it
9 was this huge claim, but nowhere did he propose a contingency. If it
10 was really a huge claim it would make sense that he would say I'll do it
11 for 40 percent, because we had already said no, we're going to take the
12 100,000 that Lange has offered and end the case.

13 THE COURT: Okay.

14 MR. GREENE: And we'll cover that in a moment, Your
15 Honor, about what the terms of that contingency fee and the retainer
16 agreement were. Actually, we'll get into that. That's our next --

17 THE COURT: Okay.

18 MR. GREENE: -- the next place that we're going.

19 THE COURT: I'm getting ahead of you. I'm sorry, Mr.
20 Greene. I'm sorry.

21 MR. GREENE: That's okay. That's okay. It's not hard to get
22 ahead of me.

23 BY MR. GREENE:

24 Q But, let's move then to the meeting at Mr. Simon's office on
25 November 17, 2017.

1 THE COURT: And before you go down there, I just want to
2 be clear. The discussions had with Mr. Vannah's office in regards to the
3 Lange settlement that also involved Mr. Simon, there is no argument
4 that those are going to be privileged; is that correct? The discussions are
5 between Mr. Edgeworth and your office, because I think those are
6 absolutely relevant to what we're talking about here, but I just want to
7 make sure so maybe we can avoid the objections.

8 You guys are not objecting to those discussions in regards to
9 something Mr. Vannah talked to Mr. Simon about, about the Lange
10 settlement?

11 MR. GREENE: That's correct.

12 MR. VANNAH: Definitely, anything Mr. Simon and I talked
13 about is not privileged.

14 THE COURT: That you relayed to him?

15 MR. VANNAH: Yeah, that -- I just relayed it to him directly
16 and --

17 THE COURT: Okay. I just want to make sure that there's no
18 privilege issues, because I know we've had some issues with what he
19 discussed with Vannah and Vannah, but I think I need to know what
20 Vannah and Vannah discussed with him in regards to their
21 communication with Mr. Simon, and in regards to settling the Lange
22 litigation because that's a huge issue in this -- this portion.

23 MR. VANNAH: And we'll bring that up when Danny's on the
24 stand. I'll ask him to explain what we talked about.

25 MR. CHRISTENSEN: Judge, I mean I think Mr. Greene

1 inquiring of Mr. Edgeworth what Mr. Vannah advised him effectively as a
2 matter of law waives the privilege.

3 THE COURT: And I agree with that Mr. Christensen. I just
4 want to make sure that I was clear with everybody, because I anticipated
5 there would like be an objection as to when somebody says -- because I
6 anticipate you're going to get up here and say what did Mr. Vannah tell
7 you --

8 MR. CHRISTENSEN: Well, I am.

9 THE COURT: -- and there would be an objection.

10 So, just so we're clear right now, and in regards to this issue
11 of constructive discharge, I mean I think that's absolutely relevant to that
12 issue

13 MR. CHRISTENSEN: Sure.

14 THE COURT: -- as to what he was advised by Vannah and
15 Vannah, and Danny Simon in regards to the Lange settlement.

16 MR. VANNAH: That's fine.

17 BY MR. GREENE:

18 Q Let's then transition into this November 17, 2017, meeting at
19 Mr. Simon's office, okay?

20 A Yes.

21 Q What led to that, briefly?

22 A Mr. Simon sent me a text around 7:30 in the morning and
23 said, can you come down to my office at 8:30 in the morning? And I
24 texted back, you know, what for. I'm in flip-flops, there was a court date
25 that day. I was assuming I needed to go to court or something. And he

1 said -- he texted back that we had a lot to discuss on the case that we
2 needed to go over. So, I called my wife, she was in Summerlin at the
3 time with someone else, and I said, hey, Dan wants to meet us at the
4 office at 8:30. Can you get someone to drive you down and meet me
5 there? And she drove down and met us there.

6 When we entered the office, she had to go to the bathroom. I think
7 there was only one other person in the office at around 8:30. She went
8 into the bathroom, and I went around to find Mr. Simon.

9 Q What happened next?

10 A Mr. Simon started talking about, well, you've gotten way
11 more money than -- than, you know, you deserve, and this is a huge
12 claim. I've done a lot of work on it, and we need to talk about what I'm
13 going to get. And at that point, I said, well, just a second, like Angela's
14 here. Let me go get her before we start talking.

15 And Mr. Simon was visibly angry about that. He's like, you know,
16 what the -- is she doing here? She has nothing to do with this. And I
17 said, I thought we were talking about the case, so I brought her down
18 here. So, like I didn't understand, like, what the big problem with Angela
19 being there and why he was so upset about it.

20 So, I just left his office and went around through the lobby, got her
21 from the bathroom and brought her in. I mean she bought a bunch of
22 gourmet doughnuts for his office, a couple dozen doughnuts. So, she
23 presented them to him and there was niceties exchanged. And then the
24 meeting started.

25 In the meeting, he basically went over a lot of what was in the

1 letter, just with a lot harder language.

2 Q And we need to hear that, Brian.

3 A Yes.

4 Q Please tell the Judge what Mr. Simon told you, and,
5 unfortunately, the language that was used as well.

6 A Well, when he asked why my wife was there, he said, why
7 the F is -- what the F is she doing here, which that's how I knew he was
8 angry, because normally, he actually liked my wife being there, because
9 she's easier to deal with than I am. Then he starting right into the thing.

10 Well, I've done an extraordinary job on this case. This case has
11 made more money than your claim deserved, and it's grown into this
12 huge thing because of what I've done. I've taken huge personal risk on
13 this. All the other attorneys involved in the Defense are going to come
14 after me in the future because of what I've done to them on this case,
15 you know, and I think I deserve -- and the numbers were so vague.

16 He said 1.2 million at one point, then he said a million, then he said
17 a million-and-a-half later on in the conversation, and I didn't know what
18 the numbers really meant.

19 So, I asked him, I said, well, we've already paid you half-a-million
20 dollars. And he's like, no, you haven't. The insurance company's paying
21 you that. I'm like, yeah, but I paid it up front. I took the risk. And he
22 said, and you didn't pay me that anyway.

23 And then he went and there was somebody else in the office in the
24 back corner because he came back with this pages and pages of the
25 costs, and said, I only got -- and I forget the number -- 387,000. That's all

1 you've paid me.

2 And I said, yeah, but there's still a bill outstanding. It is more than
3 three-hundred-and -- you know, it's more than that, and I paid it. And
4 he's like, that's not how this works. And, you know, we were confused.
5 Angela piped in a couple of times. And I said, and what about the fees I
6 paid. And he was very wishy-washy about whether the number he was
7 giving, the 1.2 million, and then you subtract it off or do you add the 1.2
8 million. We couldn't even figure that out.

9 And he said, look, I'm taking a huge risk here. You're not going to
10 get this settlement, it's not done, and if I don't sign it, taking a huge
11 personal risk of my own signature on this thing, there's no settlement. If
12 you don't treat me fairly, then I don't know if I can; one, continue on the
13 case; two, sign your settlement.

14 And we're just like what, what -- we were flabbergasted. Like the
15 whole -- every time we negotiate on anything, there's a back and forth.
16 This was like do this or this happens, and this was not a good result.

17 Q As the owner of the claim, you hear that he's saying I'm not
18 sure I'm going to continue on. How did that impact you and Angela?

19 A We thought the case was going to fall apart. We thought,
20 you know, there's -- he kept re-emphasizing, there's so many dates on
21 the trial. There's -- you know, you held this deposition, which is what I
22 really cared about. I thought that was the crux of the case that was
23 going to break Viking, basically, because no one else had deposed you
24 all, and all these things are going to happen, and I don't know -- if you
25 don't treat me fairly, I don't know if I can continue doing all this.

1 He's -- and I said, but we already paid you 550 an hour. And he
2 said, I've done tons of cases where I get 550 an hour and 40 percent.
3 And then the 40 percent number comes out and that confused the
4 numbers even more. And we're like, what do you mean? It was a back
5 and forth, and he's like you can ask anyone. Go -- you have lawyers for
6 friends, go ask anyone. This is how it works.

7 If you don't agree to what I'm proposing, the Judge will give me
8 the 550 and the 40 percent, because I have a backlog of cases where I
9 can show her that this -- I commonly get paid this and precedence will
10 take because that's how I get paid.

11 And at this point, it's like what -- what? And Angela kept kind of
12 interjecting saying, well, you know, give us something that we can read,
13 you know, look over, and Brian and I will discuss it. And every time we
14 tried to go, there would be some threat. Well, if you don't treat me fairly.
15 I don't know if I'm going to keep losing money. And losing money kept
16 coming up, which, you know, just kind of set us off to leave. We left the
17 meeting probably after a half-an-hour, 45 minutes it could have been.

18 Q Brian, back to the beginning of that meeting, and I'm not
19 asking you to throw out F bombs, but you left a blank when you're first
20 describing, you said, "What the F is she doing here," the second time.
21 Did Mr. Simon say what the F or --

22 A No, he swore, like --

23 Q What was his demeanor?

24 A He was -- he was agitated and that's what probably set the
25 entire meeting off on the wrong foot was he was so agitated just

1 because she was there and that just completely baffled me. It left me like
2 -- I thought we were talking about the case, first of all, and this thing has
3 just settled two days before. I thought we were going to talk about how
4 to wrap it up, and get rid of this, and get it off my life, and, instead, we're
5 talking about something totally random, and we didn't talk anything
6 about the case.

7 Just before we left, Angela's like, well, what -- what about court
8 today? Are you going to go in -- like until we have a contract with Viking,
9 there's no settlement yet. Until we have a signed contract and the check,
10 we don't trust these people. They've done a lot of things. Make sure
11 you keep working on the case.

12 And that led to -- Angela and I drove back to the office. We started
13 discussing what we thought he meant, and we had no idea. We --
14 Angela and I couldn't even agree on a number that we had heard. That's
15 how unstructured the meeting was.

16 Q Let me ask you some different questions. What was -- what
17 do you remember about Danny's demeanor -- Mr. Simon's demeanor
18 towards you and Angela during the course of that meeting? How did he
19 treat you?

20 A He treated us like we were stupid, first of all. He kept -- he
21 used the phrase, you're using your business mind, you don't understand
22 the law. You know, that's when he had told us we can go ask other
23 lawyers, he's entitled to this, and he can get his contingency because
24 that's all he does is contingency. And you can go ask anyone, you're
25 going to get that -- he's going to get that. I apologize.

1 Q So when Mr. Simon said, I got to consider my options, what
2 impact did that have upon you and Angela?

3 A We were scared, like we were scared the whole settlement
4 might go.

5 Q And so I'm looking back, there's a -- we've showed the Judge
6 evidence, a meeting in San Diego in August 8 to 9'ish, of 2017. We've
7 shown her an email of August 22nd, 2017. Both instances, you're asking
8 for a proposal from Mr. Simon?

9 A Correct.

10 Q Fair summary?

11 A Correct.

12 Q Up until this November 17, 2017 meeting, any proposal from
13 Mr. Simon as to what he suggested the fee be changed to?

14 A No.

15 Q So we had this meeting on November 17, was a written
16 proposal presented to you then?

17 A No, he said we had to come to agreement and sign it in his
18 office. We couldn't have something to leave with.

19 Q So what happened next? It's November 17th, you and
20 Angela have just left.

21 A We drive back to the office, and then Mr. Simon calls me four
22 times over the day, saying have you and Angela talked. Have you
23 discussed this? We need to come to an agreement on this. And I kept
24 saying, I'm like Angela's -- I forget where she was, she was in Summerlin
25 or somewhere. I wasn't going to see her until about 10:00 at night.

1 So, he kept calling and asking if I've done something, really
2 agitated as if there was some hurry to do this, which that's not how I
3 operate. Like I would want to go back and forth and take days. And
4 finally, he called me later at night and said, what have you guys
5 decided? I need to know. And I'm like, I haven't seen my wife yet.

6 Q Stop for a minute. After hours?

7 A Yeah, after hours.

8 Q Didn't you hear Mr. Christiansen condemn you for speaking
9 to Mr. Simon after hours?

10 A I know.

11 Q But Mr. Simon called you after hours, what did he say?

12 A He wanted a decision right then and there, and he didn't
13 believe I hadn't spoken to Angela. He basically was calling me a liar that
14 I hadn't seen Angela, and I'm like what's the big rush, you know, what --
15 what's the rush? We can talk about this later. You know, we'll talk about
16 it over the weekend. He's like I leave tomorrow at -- I forget when, it was
17 like 6 a.m. or 7 a.m. I'm like, wait. Where are you going?

18 This blew me away because I had no idea he was going away,
19 because we had to prepare for the UL deposition, which was very
20 technical and very difficult, and really important to this case. And he
21 said that he was going to Machu Picchu. And I'm like, what.

22 And then I didn't expect to hear from him for a week, but he kept
23 calling me on his trip with the same demands, I want an answer. I need
24 an agreement. I need an agreement. And finally, when I'm packing for
25 China on the 25th, he called demanding an answer. This is after he

1 asked me -- he says, send me, you know, your list of costs that we
2 presented, or whatever the thing that I was shown earlier, which had 3.8
3 million plus, plus, plus, plus on it, you know, like I had left a bunch blank.
4 All my time, my business I lost, everything else. Who knows what the
5 value of that is. I sent that to him on the 21st.

6 On the 25th, he called all agitated, saying, oh, as if this is really
7 your F-ing damages. This -- you didn't F-ing lose this much. And I'm
8 like, what are you talking about. Like the whole -- the whole thing was
9 bazaar, and I'm like what are you talking about. He's like, well, you're
10 never going to pay these F-ing loans back.

11 And I'm like -- that really set me off, because he's basically asking
12 me and Angela to give him some more money and to rip off Colin and
13 Angela's mom for the interest. And right there, it was just like it's over,
14 and then I lost it. And I just said, you either send me something in
15 writing that's structured and cogent, or we don't talk about this again.
16 We don't talk about these fees again. Send it.

17 And then he -- and then I packed. I drove to L.A., I flew to Japan
18 for a day, and then I believe when I landed in China, I got the November
19 27th letter.

20 Q Let's talk about that now, but let's not talk about the letter
21 first, let's go to the retainer agreement.

22 MR. GREENE: Your Honor, that is -- and Pete, that's Exhibit
23 4, Page 8, and it's entitled Retainer Agreement.

24 THE COURT: Okay.

25 MR. CHRISTIANSON: Okay.

1 BY MR. GREENE:

2 Q This is the top part of that. Just kind of a brief thumbnail
3 sketch. What type of documents did you get from Danny and how -- Mr.
4 Simon, and how on this November 27th?

5 A By email, there was, I think -- okay, this was attached. There
6 was a letter explaining his point of view. This was attached, and there
7 was some fee agreement that had the breakdown of funds, whatever you
8 would call that.

9 Q Okay.

10 THE COURT: Was this attached to the November 27th letter?

11 MR. GREENE: Correct, Your Honor.

12 THE COURT: Okay.

13 BY MR. GREENE:

14 Q Looking at this Page 8, this looks familiar to you, Brian?

15 A Yes.

16 Q Now earlier you mentioned to the Judge that if this claim
17 against Lange was so valuable, why didn't Mr. Simon produce some kind
18 of a hybrid or whatever agreement that he thought was fair to cover that
19 claim? Do you remember giving that testimony to the Judge?

20 A Yes.

21 Q Is there anything in your understanding of reading this
22 retainer agreement that pertains to any contingency fee agreement for
23 Lange?

24 A No, he's basically saying any future services performed
25 prosecuting Lange Plumbing will be determined by a separate

1 agreement, like another add on. Like it was just --

2 Q Did you ever get a retainer agreement from Mr. Simon that
3 pertains to his proposed ideas on how contingency fees, or a hybrid, or
4 anything thereof, how the scenario can be changed to then reflect him
5 getting a portion of that?

6 A No.

7 Q So, in looking at this retainer agreement, your
8 understanding, I mean you -- you're a smart guy, what was Danny, in
9 your understanding, proposing or demanding, whatever words you
10 choose, from you and Angela from the Viking settlement?

11 A I'm sorry.

12 Q Sure. Another of my many bad questions?

13 A No, I got distracted by the door. I apologize.

14 Q Oh, that's okay. What's your understanding, as the
15 consumer, as the client, what Mr. Simon was now presenting to you,
16 demanding, whatever your word is, from you from this Viking settlement
17 that had been reached now 12 days earlier?

18 A This seemed to suggest that I owed him another
19 million-and-a-half on top of what I had already paid him, which sort of --
20 the other sheet that was attached to this, I didn't understand as much
21 either. So, the whole thing confused me. Even -- we're at the point
22 where I'm getting it in writing, which is what I wanted. I wanted
23 something structured that I could read.

24 But it still didn't jive with me, like I couldn't figure out exactly what
25 was being asked for. It said a million-and-a-half dollars for services

1 rendered to date, and then it says it includes all past billing statements,
2 which makes me think that I would subtract it, but I wasn't positive.

3 Q Then there was a page 2 to this retainer agreement. It has
4 some signature blocks, correct?

5 A Yes.

6 Q Did either you or Angela sign this?

7 A No.

8 Q When Mr. Simon asked you, as you just testified to, to speak
9 with anyone, any lawyer, anyone, with knowledge about what he's
10 proposed, what did you do next?

11 A I started looking for a lawyer after I received the letter.

12 Q Did you Google this guy at the table over my left shoulder?

13 A I looked for a lawyer with Supreme Court experience because
14 that's where I thought it was going. I found Mr. Vannah in Reno, then I
15 tracked him down. And because he had a -- I liked his bio actually. He
16 had an engineering background, which was very numbers oriented, and I
17 thought I could communicate very effectively with someone who's more
18 numbers oriented, like I am.

19 Q When you got the letter dated November 27th, 2017, it was
20 emailed to you, did you read it?

21 A Yes.

22 MR. GREENE: Judge, this is Plaintiff's Exhibit 4, beginning at
23 pages 3 through 7.

24 THE COURT: This is the letter, right?

25 MR. GREENE: Yes, it is, Your Honor. Yeah, we have two in

1 our exhibit, but this is the November 27th one.

2 THE COURT: Okay.

3 BY MR. GREENE:

4 Q Let me put -- this is -- who is this addressed to?

5 A I don't know, no one.

6 Q Nonetheless, was it sent to your email address?

7 A Yes.

8 Q And as you read through these bullet points, Brian, did you
9 form opinions on to the truthfulness or not as to what Danny was -- Mr.
10 Simon was alleging?

11 A There was a lot of hyperbole in there, and then there's some
12 things that were just lies. I didn't feel that the letter was really written to
13 me at all.

14 Q There's one in particular that I want to -- do you remember
15 reading something about Mr. Simon stating that you and he would play
16 devil's advocate upon certain topics?

17 A Yes, I remember the line.

18 Q Can you tell the Judge in -- in what context Mr. Simon
19 related that information to you and what your opinion is of it?

20 A I don't know because that section of the paragraph is not that
21 clear to me. I thought he was saying oh, the meeting of the 17th, I was
22 playing devil's advocate. That's not a term I use that much ever, but it
23 made no sense. I had no idea what he was talking about. I was also
24 jetlagged in China reading this letter, which just created more and more
25 confusion because the letter is very, very hard to read and come to a

1 determination of what it's actually saying.

2 THE COURT: This statement about devil's advocate, is that in
3 this letter?

4 MR. GREENE: It is, Your Honor.

5 THE COURT: Where is it in this letter?

6 MR. GREENE: Let me -- let me find that for you.

7 [Pause]

8 MR. GREENE: It's on page 4 of that exhibit, Your Honor. Let
9 me put that up for you. Where in the heck did I just see that? I know I
10 just saw it. I'm sorry. I may have misspoke, Your Honor, I apologize.
11 I'm quite certain that I -- oh, there it is. Page 5.

12 THE COURT: Page 5? I just want to follow along what he's
13 talking about. Is it in the value of my services?

14 MR. GREENE: It is, Your Honor.

15 THE COURT: I see it.

16 MR. GREENE: Yeah.

17 THE COURT: Okay, I see it.

18 MR. GREENE: I have -- that's page 5.

19 BY MR. GREENE:

20 Q Do you see the value of my services, what we have
21 highlighted there at the top? Would you read that and explain your
22 position on this statement of Mr. Simon's?

23 A "I was troubled at your statements that you paid me hourly
24 and you now want to just pay me hourly, when you always knew that
25 this was not the situation. When I brought this to your attention, you

1 acknowledged, you understood that this was not just an hourly fee case,
2 and you were just playing devil's advocate." This doesn't make sense at
3 all.

4 Q Well, is there anything about --

5 A It's not true.

6 Q -- those statements that are true?

7 A No, it's completely false. And after -- it doesn't even -- why
8 did he send this letter after the meeting if the meeting ended saying, oh,
9 yeah, I'm just playing devil's advocate. What do you want me to do?
10 That's ridiculous.

11 Q I'm going to draw your attention to the last paragraph-ish of
12 Exhibit 4. I'll have you tell the Judge what impact this had on you, okay?

13 MR. GREENE: It's the second to last sentence, Your Honor,
14 on page 7.

15 THE COURT: 7?

16 BY MR. GREENE:

17 Q Do you recognize that signature, Brian?

18 A Yes.

19 Q Have you seen that a time or two? Who's that?

20 A Danny Simon.

21 Q Okay. Why don't you read that for the Judge, the highlighted
22 portion?

23 A "If you are not agreeable, then I cannot continue to lose
24 money to help you. I will need to consider all options available for me."

25 Q Viking had just settled on terms? Had the settlement

1 documents been signed yet?

2 A No.

3 Q What concerns did you have when your attorney is sending
4 you a letter with this sentence?

5 A He's just repeating the threats he made in the November
6 17th meeting. You either sign this or I stop your case. I don't go. And
7 your settlement will fall apart because -- he was saying that Viking was
8 going to demand Danny Simon commit to whatever settlement
9 agreement there was and hold him all accountable and kept saying how
10 much risk there was for him to sign. So, this just reiterates what he said.
11 If you don't do this, you're done.

12 Q So after you get this letter, you've been invited by Mr. Simon
13 to talk to the lawyers?

14 A Yeah, both in this letter he told us to go contact other
15 lawyers and -- in the meeting.

16 Q Despite the November 17th, 2017 meeting, and despite this
17 November 27th, 2017 letter, did you ever fire Mr. Simon?

18 A No.

19 Q What would it have done to you economically even if you
20 had chosen to do so?

21 A Well, my biggest fear was how do I get another lawyer on
22 board with all that's happened in the case? How do I get them ready to --
23 to end my case, argue in court. If the settlement truly falls apart when
24 your lawyer quits, then what do I do?

25 Q So, if you don't sign that retainer agreement and he

1 considers his options, what would have your option been?

2 A Basically, go find another lawyer and see if they have time to
3 sit with me for a few weeks so I can go over the entire case, and they can
4 figure it out, and -- I don't know. The other lawyer had quit on my case,
5 Cia (phonetic), the lawyer for Lange Plumbing, and the first thing that
6 happened was Mr. Teddy Parker came in and asked for a delay. So, this
7 would just extend everything else out through the whole period. It
8 would be a disaster for us.

9 MR. GREENE: The Court's indulgence just for a moment.

10 THE COURT: No problem.

11 MR. GREENE: Let me just converse with -- Your Honor, I
12 have no further questions at this time. Thank you.

13 THE COURT: Okay. Mr. Christiansen.

14 MR. CHRISTIANSEN: Yes, please, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. CHRISTIANSEN:

17 Q Mr. Edgeworth, you understand you're still under oath?

18 A Yes.

19 Q And I ask you that, Mr. Edgeworth, because I want to make
20 sure you understand -- do you agree with me that the truth isn't
21 determined by who asks you the question?

22 A Yes.

23 Q All right. Because when I ask you questions, you don't
24 understand English. You don't know what outset is. You don't know
25 what fantasy is.

1 MR. GREENE: I object, Your Honor.

2 BY MR. CHRISTIANSEN:

3 Q You don't have to look at Mr. Vannah.

4 MR. GREENE: That's bad, Your Honor.

5 THE WITNESS: I'm not looking at Mr. Vannah.

6 MR. GREENE: He can treat the witness with respect, for
7 heaven's sake.

8 THE COURT: Okay. Mr. Christiansen, would you just ask him
9 a question?

10 MR. CHRISTIANSEN: Sure.

11 BY MR. CHRISTIANSEN:

12 Q Isn't it true, a day ago, two days ago, you told the Judge,
13 after you heard Mr. Vannah tell the Judge in opening statement, that at
14 the 11/17 meeting, Danny Simon presented you with a document and
15 tried to force you and your wife to sign it? Isn't it true that was your
16 testimony?

17 A Yes.

18 Q Isn't it also true that just now, when Mr. Greene is up here on
19 direct examination, you denied being forced -- attempted to sign
20 something on the 11/17 meeting; isn't that true?

21 A No.

22 Q Sir, the Judge just finished listening to John Greene ask you
23 questions, you don't have to keep looking at them, Mr. Edgeworth. I'm
24 talking to you.

25 MR. GREENE: He's badgering the witness, and for heaven's

1 sake, he can look at whoever in the heavens he wants to look at.

2 MR. CHRISTIANSEN: Judge, I would ask the witness to not
3 look to his lawyers for coaching, please.

4 MR. GREENE: Coaching?

5 THE COURT: The lawyers are not going to answer any
6 questions. Mr. Edgeworth, you can just answer Mr. Christiansen's
7 questions. They're not helping him answer any questions. I'm watching
8 them.

9 MR. VANNAH: I don't even know what he's talking about.
10 How can we coach him? What we got, flashcards over here or
11 something? I find that offensive.

12 BY MR. CHRISTIANSEN:

13 Q Mr. --

14 MR. VANNAH: Now, let's be polite, okay?

15 MR. CHRISTIANSEN: I apologize, Mr. Vannah.

16 BY MR. CHRISTIANSEN:

17 Q Mr. Edgeworth, you just described for the Court on
18 questioning by John Greene, the meeting of 11/17; did you not?

19 A Correct.

20 Q You did not, in that description, ever tell the judge that
21 Danny tried to force you to sign something; isn't that true?

22 A No.

23 Q You did just tell the Judge that this morning?

24 A Yes, I just said that he said we couldn't leave until we had an
25 agreement signed.

1 Q Sir, that's not what I asked you. When I asked you the
2 question and when Mr. Vannah stood up in opening statement, he told
3 the Court that Danny Simon tried to force you that day, you and your
4 wife, to sign something, right?

5 A Correct.

6 Q But that's not what you just testified to under oath for Mr.
7 Greene. You did not just say that, correct?

8 A Not the same -- exact same words, no.

9 Q So, the truth is not dependent upon who asked the question,
10 fair? Fair?

11 A I don't understand your question, can you rephrase it,
12 because you just end it with fair. So, what am I answering?

13 THE COURT: Is that fair, Mr. Edgeworth? You already
14 answered this question.

15 THE WITNESS: The truth is not --

16 THE COURT: Does not depend on who's asking you the
17 question. He's asking you is that fair.

18 THE WITNESS: The truth is the truth, it's the same
19 regardless of who asks.

20 BY MR. CHRISTIANSEN:

21 Q The truth doesn't depend upon the day you're testifying,
22 correct?

23 A The truth doesn't depend on the day. Correct, it doesn't.

24 Q And when you tell the Judge one version on the first or
25 second day of the hearing, and then on questions from your lawyer,

1 change that version, you've changed your story, right, sir?

2 A If I had done that, but I haven't.

3 Q Well, Her Honor just got done listening to you and that's for
4 to decide, but I'll pull the excerpt from the DBS, where you told me Mr.
5 Simon tried to force you on 11/17, 2017, when you were there at his
6 office with your wife, to sign a document and you guys wouldn't do it.

7 A That's correct.

8 Q And you didn't tell Mr. Greene that just 20 minutes ago.

9 A That's incorrect.

10 Q It absolutely is not. Do you remember in the opening
11 statement when --

12 MR. VANNAH: I move to strike these comments.

13 MR. CHRISTIANSEN: I'll refrain. I apologize, Mr. Vannah.

14 MR. VANNAH: It's just -- this is a running commentary. I
15 don't try to do that --

16 MR. CHRISTIANSEN: Well --

17 MR. VANNAH: -- and you shouldn't either.

18 MR. CHRISTIANSEN: -- fair enough.

19 BY MR. CHRISTIANSEN:

20 Q Mr. Edgeworth, do you remember the notion furthered in the
21 opening statement that Danny's plan to go after Lange for attorney's fees
22 was a secret plan? Do you remember hearing that?

23 A No, I don't remember.

24 Q And, sir, if that was a secret plan, can we agree that he must
25 be -- Mr. Simon must be the worst secret-keeper on the planet, because

1 it wasn't a secret, was it? You knew that's what he intended to do,
2 correct?

3 A Correct.

4 Q Mr. Nunez -- you saw Mike Nunez testify yesterday. You
5 knew -- you heard him say he knew that's what Danny intended to do,
6 correct?

7 A I don't think I heard him say that. I'm not sure.

8 Q Mr. Simon had filed in -- I want to get the dates right --
9 January of 2017, a motion for summary judgment against Lange,
10 correct?

11 A I believe so.

12 Q Right. That was heard in March, and then in April. So that
13 theory to go after Lange for your attorney's fees was never a secret,
14 right?

15 A No.

16 Q You always knew about it, correct?

17 A Yes.

18 Q And you chose -- I want to make sure I pick the day right.
19 After you got -- on the 25th, you had a phone call with Danny; is that
20 right?

21 A Correct.

22 Q That's when you were -- I think you -- and I want -- I wrote it
23 down, but I want to make sure I get it right, you said you lost it?

24 A Correct.

25 Q And you said, don't talk to me again. This is November the

1 25th of 2017, correct?

2 A Correct.

3 Q And from that point on --

4 A About the fee agreement. You left that out, sir.

5 THE COURT: Okay. Hold on, Mr. Edgeworth.

6 THE WITNESS: Oh, I'm sorry.

7 THE COURT: He needs to ask the questions.

8 THE WITNESS: I'm sorry.

9 THE COURT: You just answer them.

10 BY MR. CHRISTIANSEN:

11 Q You said, don't talk to me again about the fee agreement.

12 Fair?

13 A Fair.

14 Q From 11/25 until 11/29 -- I want to make sure I got Mr.

15 Vannah's date correct -- you didn't talk -- you didn't have a verbal

16 conversation with Mr. Simon, correct?

17 A Correct.

18 Q And on the 4th -- by the 4th Mr. Greene -- or it might have the

19 5th, John, to be correct -- By the 5th -- 4th or 5th of December, you had

20 been directed by -- or Mr. Simon's directed you to speak only to Mr.

21 Greene, correct?

22 A On the 5th, I believe, December 5th.

23 Q I think I got that right. And that was four days after the

24 Vannah and Vannah firm signed your release with Viking, correct?

25 A I'm not sure.

1 Q You saw those -- that release with Vannah and Vannah's
2 name on it, did you not?

3 A Maybe, I'm not sure.

4 [Counsel confer]

5 BY MR. CHRISTIANSEN:

6 Q Sir, do you remember who signed the -- or whose name was
7 contained in your Viking release, whether it was Danny Simon's or Mr.
8 Vannah's?

9 A No, I do not.

10 Q Whoever's name was in there would have been the lawyer
11 advising you on it, right? Because you're done -- you're done talking to
12 Danny by this point, right?

13 A You need to define the point, I'm confused. You're saying by
14 this point.

15 Q By the time you're signing the Viking settlement, which I
16 think was executed on the first of December -- okay, do you follow me?

17 THE COURT: Do you have an exhibit number, Mr.
18 Christiansen?

19 MR. CHRISTIANSEN: I'm sorry. This is -- John, I think this is
20 your 5, right, or my 5?

21 MS FERREL: It's our 5.

22 MR. CHRISTIANSEN: Can you guys find that for me?

23 THE COURT: It's Number 5?

24 MS. FERREL: Yeah.

25 BY MR. CHRISTIANSEN:

1 Q So, it's signed in 5. Is that your signature that I just showed
2 you there, Mr. Edgeworth?

3 A Could you just put it up, sir?

4 Q Sure.

5 A Yes, it is, the 1st of December.

6 Q Okay.

7 [Counsel confer]

8 BY MR. CHRISTIANSEN:

9 Q This Section 5-3, for Roman numerally challenged people.
10 Do you see my fingers?

11 A Yes.

12 Q That's Section 5, subpart E, like Edward or Edgeworth?

13 A Yes.

14 Q Who's the lawyers advising you for the settlement, according
15 to the document?

16 A I can't read the whole paragraph, sir --

17 Q Okay.

18 A -- if your finger is on it.

19 Q Sure. It says Mr. Vannah --

20 A Oh, Vannah and Vannah.

21 Q -- and Mr. Greene, correct?

22 A Correct.

23 Q It doesn't say Danny Simon in that; does it? Take your time.

24 A No.

25 Q It does not. All right. And then if I just keep the chronology

1 going, that's the first. By the -- I guess it's the 4th or 5th, the volleyball
2 emails have occurred, right?

3 A Correct.

4 THE COURT: This is December, right, Mr. Christiansen?

5 MR. CHRISTIANSEN: It is.

6 BY MR. CHRISTIANSEN:

7 Q And do you remember those volleyball emails and your
8 testimony for Mr. Greene that you were devastated and some of the
9 words I wrote down that you used, distraught?

10 A Yes.

11 Q That the Board made you do things. Do you remember?

12 A Yes.

13 Q Sir, you and your wife control the Board, right?

14 A That's what I said, yes.

15 Q So you made yourself self-report and fill out a little
16 application, and then want to exaggerate how bad that hurt you because
17 you made yourself do it. Is that my understanding of your logic?

18 A I think it's a compound question, which question do you
19 want me to answer?

20 Q Sure. You forced yourself as a board member to submit an
21 application, correct?

22 A I agreed with it, correct.

23 Q And you controlled the Board?

24 A No. But, yes, I'm on the Board.

25 Q Who's the lawyer on the Board?

1 A Mark Katz.

2 Q That's your lawyer, right?

3 A Yes.

4 Q And your wife's on the Board?

5 A Yes.

6 Q And you're on the Board?

7 A Yes.

8 Q That's three of the four members, correct?

9 A Yes.

10 Q And the fourth is Mr. Herrera?

11 A Correct.

12 Q Who you employed, correct?

13 A Correct. Well, not really, the non-profit does.

14 Q Can we agree that when you forced yourself to fill out an

15 application, that you thereafter want to complain, really caused you

16 distress, that was a self-imposed distress?

17 A No.

18 Q Well, Danny didn't force you to fill out an application; did he?

19 A No.

20 Q Right. And the email says what the email says, and we'll let

21 Her Honor see it, but the email does not accuse you of physically

22 harming anybody, correct? The email, the initial email, not the -- Mr.

23 Herrera's response, not Danny's reply to him, the initial email does not,

24 correct?

25 A May I see it? I'm not sure at this point when he said it.

1 Q Well, sir, if it caused you so much distress and so much
2 anxiety that you had to force yourself as the Board member to submit as
3 an individual, an application, aren't you just making yourself miserable
4 over this?

5 A No.

6 Q Okay. And just so we can give the Court some context or
7 some flavor numerically. Mr. Greene --

8 MR. CHRISTIANSEN: -- John, I'm sorry. I don't have
9 your --

10 MR. GREENE: Which one?

11 MR. CHRISTIANSEN: -- exhibit. I'll find it. I think I --

12 BY MR. CHRISTIANSEN:

13 Q Through September -- do you remember the last calculation
14 you did that Mr. Greene was showing you that had some interest
15 calculations through October 31st, and like seven lines worth of lawyer?

16 A Yes.

17 Q That's up through sort of the end of September, and you
18 thought that was your most recent calculation you had done in the
19 underlying case, and you didn't know if it was done in October or done
20 projecting what the October payments would be.

21 A I don't know when it was done, yeah.

22 Q Is that fair?

23 A Correct, fair.

24 Q Okay. And by that point in time, sir, you had paid Danny
25 Simon in attorney's fees -- attorney's fees and costs, \$231,000,

1 260 -- \$231,264. Does that sound about right?

2 A About right.

3 Q Of that, was 46,000 in costs that had fronted. Sound about
4 right? And you've reimbursed --

5 A Actually, I think your wrong, sir. I think September 22nd, I
6 think it was far higher.

7 Q All right. Well, let's see if --

8 MR. CHRISTIANSEN: This is just a summary, John, of the
9 payments. I'm not going to move to introduce it or anything.

10 MR. GREENE: Okay.

11 BY MR. CHRISTIANSEN:

12 Q Here's a summary of the checks you paid. You paid 38,000
13 for your first payment, right --

14 A Right.

15 Q -- and change?

16 A Correct.

17 Q Thirty-five-thousand and change for your second payment?

18 A Correct.

19 Q One-hundred-and-ten-thousand and change for your third?

20 A Correct.

21 Q Okay. And those costs payments, as I go down there
22 towards the bottom, those are all accurate, too, correct?

23 A No, there's -- you're missing --

24 Q The last cost payment?

25 A Plus, you're also -- you didn't put in the -- that thing when the

1 judge sanctioned -- it's not a huge deal, t's like \$4800. The sanction
2 payment to Simon that went towards costs, you didn't have in there.
3 And you have a bit of an error on your first bill, but it's not huge. You're
4 off by like \$3,000. You just added it wrong.

5 Q Okay. That could be very possible. So, what I'm -- the point
6 I'm trying to get at is, so you heard Mr. Vannah tell the Court that you
7 agree -- and you told me, you agree you owed Danny money?

8 A Yes, I agree.

9 Q And you received a bill -- what's the superbill, you guys call it
10 superbill -- exhibit.

11 [Counsel confer]

12 Q You received a bill for time from the last payment forward,
13 both from Danny and from Ashley? I'm sorry, Ms. Ferrel and Mr. Simon,
14 correct?

15 A Can you define the time? I'm sorry.

16 Q Sure. From the last invoice you paid, sir, which was
17 September, correct?

18 A 22nd, yes.

19 Q From that invoice forward, there -- you have received, you
20 got it like in January, attached, I think you told me, to a motion to
21 adjudicate a lien. Two bills, one for Danny -- one for Mr. Simon, and one
22 for Ms. Ferrel?

23 A Yes.

24 Q Included --

25 A I received it on the lawsuit, correct.

1 Q Included within those bills are time entries for both Mr.
2 Simon and Ms. Ferrel from the end of September to, I think, about
3 January 8th, correct?

4 A I believe so.

5 Q All right. And you agree you owe that money, correct?

6 A Not the money on that bill, no, I don't agree with that.

7 Q No, listen to my question. You agree you owe the money for
8 the entries made by Ashley Ferrel and Danny Simon from the end of
9 September through January 8th? Do you agree you owe that money?

10 A If they are honest and accurate billing entries, I agree.

11 Q Okay. And you, as you sit here today, don't have any
12 evidence, admissible or otherwise, that those entries are not honest or
13 accurate, correct?

14 A No, I do not.

15 Q All right. So, absence some evidence coming up as we go
16 forward here, you agree you owe that money?

17 A I owe something from the 22nd through the end, yes, correct.

18 Q All right. And --

19 THE COURT: You mean September 22nd?

20 THE WITNESS: Yes, September 22nd was the last bill I paid,
21 Your Honor.

22 BY MR. CHRISTIANSEN:

23 Q And I did the math, and I might be wrong, so I had Ms. Ferrel
24 do the math.

25 THE COURT: She's a lawyer, too, Mr. Christiansen, and you

1 know what they say about our math.

2 MR. CHRISTIANSEN: I do, Judge. That's why we all went to
3 law school, except for Mr. Vannah, who's an engineer, I learned.

4 MR. VANNAH: I did go to law school, though.

5 MR. CHRISTIANSEN: I know that, too. I wasn't being
6 pejorative. Ashley, what was the total?

7 MS. FERREL: \$418,742.50.

8 BY MR. CHRISTIANSEN:

9 Q If Ashley's -- Ms. Ferrel, I apologize, if her math is correct and
10 the entries from that end of September through the end of -- through
11 January 8, total \$418,742, you agree you owe that money?

12 A No, I do not.

13 Q You just told me you didn't have any evidence those entries
14 weren't honestly made, correct?

15 A Correct.

16 Q It's the rates at which you told Her Honor, and we can -- we
17 won't quibble about when you learned about it, but it's the rates you
18 agreed to pay, correct?

19 A Correct.

20 Q And if those are the entries at the rates you agreed, and they
21 total \$418,742, you owe the money, correct? Yes or no?

22 A It's a small -- no.

23 Q All right. I didn't think so. You testified yesterday, you told
24 Mr. Greene -- you told the Judge in response to questions from Mr.
25 Greene, that it was in July of 2017, that you realized there was going to

1 be a big payout in this case. Do you remember testifying to that?

2 A Yes.

3 Q Okay. And do you remember when I showed you your
4 affidavit, the very first one, where, in that affidavit, you say after a big
5 sum of money was offered -- and I'm summarizing, not quoting you on
6 this -- in a case that blossomed, Danny wanted to change the bill,
7 correct?

8 A Correct.

9 Q Had that case blossomed just in your mind, sir? Because
10 that timeline fits with your testimony, that you thought there was going
11 to be a big pot of money in July, that thereafter, you started writing the
12 emails that came after you thought there was going to be a big pot of
13 money, and then you sign an affidavit that reflects that exact chronology.
14 Right?

15 A Can you restate the question?

16 Q What part of that didn't you understand?

17 A You asked several things in some of your questions, sir. It's
18 confusing. Maybe you can just chunk them down for me?

19 Q I'll go real slow. It's amazing -- I'll go slow. You agree you
20 told the judge yesterday that you thought the case was turning into a --
21 going to turn into a lot of money in July of '17?

22 A Late July, correct.

23 Q You agree -- you signed an affidavit March -- I'm sorry,
24 February the 2nd of '18 for this hearing, it was in anticipation of this
25 hearing, in which you stated that after a large chunk of money was

1 offered, you then wrote the August 22nd email, called contingency,
2 correct?

3 A Correct.

4 Q My question to you, sir, is did that -- and within the
5 paragraph from March -- February the 2nd, you also stated that it was
6 after -- that you didn't write the email until a Defendant's conduct had
7 been exposed and a large sum of money had been offered, correct?
8 That's in your affidavit.

9 A Can you repeat that? I'm sorry. You lost me.

10 Q Your affidavit says that you wrote an email that says
11 thereafter, a Defendant's conduct was exposed, and they offered a large
12 sum of money. Significant is the word you used.

13 A After all four of those events --

14 Q Yeah.

15 A -- they occurred at different calendar dates, correct.

16 Q Then you wrote that August 22nd email?

17 A After the affidavit?

18 Q No, after a Defendant offered a significant amount of money?

19 A No.

20 Q Okay. We'll agree to disagree with what the paragraph says.
21 My question to you, ultimately, was did that blossoming or significant
22 sum of money, was that just in your mind because you thought it was
23 going to make some money come July?

24 A Correct.

25 Q Right, because nobody had offered any money in July, right?

1 A No.

2 Q Nobody had offered any money in August, right?

3 A I don't know, maybe by August. I'm not sure.

4 Q Nobody had offered any money in September, correct?

5 A Same answer, I'm not sure on exact dates.

6 Q And what your email, both of August 1st and August 22nd,

7 reflect, as you told Mr. Greene, is your attempts to reach a new

8 agreement on a new part of the case that you could have never

9 contemplated at its origination, correct?

10 A Can you repeat it again?

11 Q Sure.

12 A Not with two and the one.

13 Q Your August 1st email, it talks about punitive damages, and
14 your August 22nd email, it talks -- it is entitled contingent -- contingency.

15 Both of those --

16 A My August 1st email, sir? Sorry.

17 Q Yeah, you wrote an email that talked about punitive damages
18 August 1st. Do you remember that?

19 A No. Can you show me?

20 Q No, I don't want to show it to you. You don't remember it? I
21 showed it to you enough the other day. The Judge is ready for me to be
22 done. Do you remember it?

23 A No.

24 Q Your emails that talk about punitive damages, to quote you,
25 reflect your understanding that you had to reach a new deal about a new

1 part of your case against Viking that could never have been
2 contemplated when you hired Danny Simon in May of 2016, correct?

3 A No.

4 Q Sir, don't you actually say the words, could have never been
5 contemplated in your August 22nd email?

6 A I agree with that.

7 Q Okay. And don't you actually say the words that punies
8 (phonetic), you need to figure out a deal for punies that incents us both?
9 Incents, your word not mine.

10 A Yes. I wanted us both to sign it, correct.

11 Q Right. You wanted to create a new deal about a portion of
12 the case that was never contemplated before you started sending those
13 emails, right?

14 A No, you're wordsmithing a bit.

15 Q Just tell me yes or no.

16 A No.

17 Q Gotcha. So, they weren't your efforts. That's what you're
18 telling the Judge now, they were not your efforts, those two emails?

19 MR. VANNAH: He's answered your question. He's not
20 telling the Judge anything. If you ask bad questions, you will get bad
21 answers. That's my objection.

22 MR. CHRISTIANSEN: Is it your witness, Mr. Vannah?

23 MR. VANNAH: You know what, I just -- you can't do that.

24 THE COURT: Mr. Christiansen, what was the question?

25 MR. CHRISTIANSEN: Sure.

1 BY MR. CHRISTIANSEN:

2 Q The two emails, where you are discussing punitive damages,
3 August 1st, August 22nd. You just got done telling me they weren't your
4 efforts to memorialize or reach an agreement about a new part of the
5 case, fair?

6 A They weren't my efforts to memorialize a new part in the
7 case?

8 Q Correct.

9 A No, it's the same case.

10 Q And do you agree that in your August 22nd email, you said
11 punies could have never been contemplated?

12 A I agree.

13 Q So, it was a new part of the case, correct?

14 A No, it's the same case. It's the -- a new aspect of the case.

15 Q Okay. And for that new aspect, I'll use your words, you
16 wanted to reach a new deal, correct?

17 A No, I wanted to reach a new deal on the entire thing. I
18 wanted to renegotiate our fee contract.

19 Q And what you wanted and what you told the Judge
20 yesterday, is to pay back -- I think your mother's name is -- mother-in-
21 law's name is Margaret; is that correct?

22 A Correct.

23 Q I don't know her last name, so I'll just use -- that's what you
24 referred or as, so I don't want to be pejorative.

25 A Margaret Ho.

1 Q H-O?

2 A Yes.

3 Q Ms. Ho, you wanted to pay her back?

4 A Correct.

5 Q And this is what's prompting you to discuss this new aspect,
6 to use your words, of the case that you entitled punitive damages,
7 correct?

8 A That's one aspect.

9 Q Okay. And that was what was prompting you to author the
10 emails, correct?

11 A Not just that, no.

12 Q You borrowed -- how much was your first loan from Ms. Ho?
13 I think it was 350, right?

14 A No, it was 300, I believe.

15 Q Okay. And by September -- I'm sorry, August of 2017, how
16 much did you owe her?

17 A I would have to see the sheet, sir. I can't do it in my head. I
18 don't know. A lot.

19 Q You're -- and those notes, do you recall the email that I
20 showed you where you were asking if Danny could write the promissory
21 notes, and he directed you to have the other guy on your Board, Mr.
22 Katz, your estate lawyer, do it?

23 A Yes.

24 Q Those notes were authored by you, correct -- or by your
25 lawyers?

1 A I agree.

2 Q You set the terms?

3 A I agree.

4 Q You borrowed the money from your mother-in-law and from
5 your friend from college?

6 A No, from high school.

7 Q From -- I apologize, from high school.

8 A Sorry, it's just a small point.

9 Q That's okay, I got it wrong. Correct me if I do. And those
10 loans were guaranteed by the case, correct?

11 A Yes.

12 Q And those loans, the terms of which you set, correct?

13 A Correct.

14 Q So, you agreed to pay your high school friend and your
15 mother-in-law about -- between 35 and 36 percent a year on loans,
16 correct?

17 A It's 29 or whatever. I didn't want to say no and have you
18 back and forth, so it's 29 to 36, 37, correct.

19 Q Right. And it's from those loans that you would thereafter
20 testify here in court that you, Mr. Edgeworth, bore all the risk in this case,
21 right?

22 A I beg your pardon. Just --

23 Q Sir, in other words, you didn't pay Danny Simon Brian
24 Edgeworth's money? You borrowed money from your best -- your good
25 friend and your mother-in-law, fixed your house, paid your lawyer?

1 A Correct.

2 Q Right. And if we do the math, you're willing to pay those two
3 people you borrowed money for -- from, more in interest than you want
4 to pay your lawyer, right?

5 A Correct.

6 MR. GREENE: Objection. What's the relevance of that, Your
7 Honor?

8 MR. CHRISTIANSEN: He answered the question.

9 MR. GREENE: He's paying back a contractual obligation that
10 he has to these people. He's paying back a debt. He's never --

11 THE COURT: Mr. Christiansen, what's the relevance of this?

12 MR. CHRISTIANSEN: It goes to the Brunzell factors, Your
13 Honor.

14 THE COURT: Okay.

15 MR. GREENE: How does the skill of an advocate go to
16 whether or not Brian honors an obligation to pay back a lender?

17 MR. CHRISTIANSEN: I'm going to get into whether he had to
18 pay them back next, Your Honor.

19 MR. GREENE: It has nothing to do with the Brunzell factor.

20 THE COURT: Whether he had to pay back who, the mother-
21 in-law and the friend?

22 MR. CHRISTIANSEN: Right.

23 THE COURT: Okay. Move on to the next question, Mr.
24 Christiansen.

25 MR. CHRISTIANSEN: Yes, Judge.

1 BY MR. CHRISTIANSEN:

2 Q The notes were secured by the case, correct?

3 A Correct.

4 Q You were the maker of the notes?

5 A Correct.

6 Q And you had -- if you didn't pay the notes back, they could
7 come after you?

8 A Personally.

9 Q Personally. Your mother-in-law and your dear friend were
10 going to come get you personally, right?

11 A Correct.

12 Q That's what you were so scared about, that you wanted
13 Danny Simon to give you back all the money to repay Margaret? Fair?

14 A Incorrect. I wasn't scared, sir.

15 Q Okay. Well, I mean, maybe scared is -- that's what you
16 were -- I'm trying to think of the word you used when describing
17 being -- I think you said you were nervous or you didn't like being
18 overextended in this August, '17 time frame when you were trying to
19 renegotiate the deal with Mr. Simon. I'm not being pejorative; I'm trying
20 to make -- get on the same page as you. Is that an accurate statement?

21 A I was nervous, and it was causing stress that I owed a lot of
22 money, correct.

23 Q All right. And so, you wanted to borrow -- you wanted Mr.
24 Simon, if he wanted to strike a deal on this new aspect of the case, and
25 you wanted to strike a deal on this new aspect of the case, to essentially

1 give you back whatever 300,000, plus the 24 to 36 percent interest that
2 you had been carrying that note, right?

3 A Option or partial.

4 Q And that would have meant you wanted Mr. Simon to give
5 you a loan as your lawyer, right?

6 A No.

7 Q Well, what was --

8 THE COURT: Mr. Christiansen, can you clarify what you
9 mean by give him back? Like is he asking Mr. Simon for the money? Is
10 he asking Mr. Simon that the settlement --

11 MR. CHRISTIANSEN: Sure.

12 THE COURT: -- be more so he can pay them back? Like I'm
13 not --

14 BY MR. CHRISTIANSEN:

15 Q I took from your testimony yesterday, sir, that in August,
16 when you started writing the emails that we've discussed, in an effort to
17 reach an agreement on the new aspect of the case, as you've testified
18 about, that one of the things you were really interested in is paying
19 Margaret, Mrs. -- Ms. Ho back her initial loan, at that moment in time,
20 correct?

21 A I don't agree with everything in your statement. That's why
22 I'm having difficulty saying correct or incorrect. It wasn't a new aspect of
23 the case, it was the same case, but one of the reasons that I wanted to
24 renegotiate, to stop paying hourly and maybe go to anything -- and there
25 was three different things. I could -- you could either pay a fee, you

1 could pay a lower fee and give up some of the upside of the case, or you
2 could take money back from fees already paid and maybe give a
3 different percentage. There's a lot of levers you could negotiate here.
4 That's what I meant.

5 Q Those were your words, levers. I couldn't recall what you
6 called them.

7 A Yeah.

8 Q Those are levers that you were --

9 A Yeah, if one goes up, the other might go down. One might
10 be in my interest,, one might be a better risk profile for him. It depends.
11 That's how you negotiate different deals.

12 Q And one of the things you desired, as you told the Court, you
13 testified to yesterday, was the desire to pay that first loan back?

14 A Yes.

15 Q To relieve some stress?

16 A Correct.

17 Q Okay. That loan would have been in excess of all the monies
18 you would have paid in attorney's fees by that point in time, August,
19 correct?

20 A I don't know the exact date, but it would be substantial.

21 Q So, that would have -- in effect, had been asking Mr. Simon
22 for a loan --

23 A No.

24 Q -- to be your lawyer on your case, correct?

25 A I disagree.

1 Q Well, I mean you talk about all the charities that you give to
2 and the like. Do you remember that testimony yesterday? It was about
3 the first 30 minutes of your --

4 A Yes, I do.

5 Q All right. In recent years, has anybody on your Board, or
6 yourself, or your volleyball charity, given money to any other charities,
7 sports charities, here in the Las Vegas area?

8 A Has anyone --

9 Q Like you donated money to Gorman, for example, where
10 your kids go to school?

11 A Yes.

12 Q Recently?

13 A Three or four weeks ago. I don't know, my child just started
14 at Gorman, sir.

15 Q All right.

16 A I think I've donated \$6500 to Gorman.

17 Q I just want to go back in time. Do you remember when I
18 showed you your second email? I'm sorry, your second affidavit dated
19 the 12th, that it says that it's your work, in singular, that caused the case
20 to increase in value. Do you remember that?

21 A Yes.

22 Q Sir, tell me the rule of criminal procedure that would allow
23 into evidence the U.K. stuff you located in a case against Viking.

24 A I don't know.

25 Q That's interesting because criminal rules -- this is a civil case.

1 You didn't understand the distinction, right?

2 A Correct.

3 Q And you don't know the Rules of Evidence, correct?

4 A Correct.

5 Q You don't know the Rules of Civil Procedure?

6 A Correct.

7 Q You don't know how to make an offer of judgment?

8 A Correct.

9 Q Sir, did you understand that when Mr. Simon, on your
10 behalf, offered, with your express consent, Lange to settle for a million
11 dollars, the entire case, in March of 2017, that, in fact, he was trying to
12 uncap or open up the Lange insurance policy?

13 A Yes, I did. He explained that to me. I didn't understand it
14 before.

15 Q Okay. And so, when you were telling the Judge yesterday
16 that it didn't make any sense to you that Lange might have to pay more
17 than their one million, you sort of forgot the portion where Mr. Simon
18 had explained that policy likely had been opened for their refusal to
19 settle with you for one million, correct?

20 A Correct.

21 Q Okay. Do you know what makes evidence admissible?

22 A No.

23 Q Okay. So, can we agree all the things you found, you don't
24 even know if they could ever been used at a trial?

25 A They wouldn't need to be.

1 Q Well, actually, sir, things have to be admissible for lawyers to
2 think they can affect the outcome of a case.

3 MR. GREENE: Is that a question?

4 BY MR. CHRISTIANSEN:

5 Q Did you know that?

6 A I disagree.

7 Q Okay. And, sir, early on -- and I'll keep the timeframe for you
8 -- but when you told me Danny was helping you as a favor initially on
9 the 27th, 28th of May. Do you remember that time frame?

10 A Correct.

11 Q He wasn't billing you like your other hourly lawyers have
12 billed you every single month, fair?

13 A No, he actually did bill me for the 27, 28.

14 Q Sir, maybe I'm asking an inartful question. Was he -- he was
15 not billing you like at the end of May 2016, the end of June 2016. That
16 didn't occur, right?

17 A Oh, periodical?

18 Q Correct.

19 A No.

20 Q He was doing it as a favor, right?

21 A No, I was billed.

22 Q And when you got the bills, you know they weren't for all his
23 time, right?

24 A Of course they were.

25 Q I don't have them, but do you remember that big pile of

1 emails that sat over here in like six or seven or eight boxes?

2 A The 5,000?

3 Q Yeah, five-ish thousand.

4 A Emails, yeah.

5 Q They seemed like five million when I was trying to get
6 through them, but there are a lot of emails, right?

7 A Right.

8 Q On the initial bills that you got, there is no way in heaven you
9 believed that you were getting billed for all those emails, correct?

10 A Sure, he could have read them.

11 Q He could have?

12 A Just ask the initial bills.

13 Q I know, sir. That's -- well, let's do that. So, do you remember
14 yesterday with Mr. Greene and John --

15 [Counsel confer]

16 BY MR. CHRISTIANSEN:

17 Q -- you were looking with Mr. Greene at this spreadsheet you
18 put together.

19 A Yes.

20 Q Do you remember that?

21 A Yes.

22 Q And you were telling -- you were testifying that you had
23 some, my term and not yours, some misgivings about the bills?

24 A Yes.

25 Q And that you put those in the spreadsheet that you had, and

1 I'm bad with technical terms, but I think you converted a PDF to an Excel
2 and were having some difficulties with the conversion?

3 A Yes.

4 Q Right. And when Mr. Greene asked you questions -- and I'll
5 just use an example, you had Day 1 and Day 2, where you were telling --
6 or you had the opinion that you had been overbilled or double-billed. Do
7 you remember that testimony?

8 A This isn't one of them, sir, no.

9 Q No, it was when Mr. Greene was asking questions, then Her
10 Honor asked you some questions, and you agreed this was likely a
11 mistake.

12 A This one, yes, it was likely.

13 Q All right. And you got a bunch of likely mistakes on here,
14 right?

15 A Likely. There's hundreds of entries, there's likely mistakes.

16 Q Right. And this is something you prepared in an anticipation
17 of testifying that you didn't want to pay Mr. Simon any more money,
18 correct?

19 A No.

20 Q Did you prepare it?

21 A I prepared it.

22 Q And you're here testifying, right?

23 A Yes.

24 Q In an effort to not pay Mr. Simon, correct?

25 A No.

1 Q And one of the things, the areas you dealt with --
2 MR. CHRISTIANSEN: -- was it the 8/20 and 8/21, Ms. Ferrel?

3 MS. FERREL: Yes.

4 BY MR. CHRISTIANSEN:

5 Q Is that you patched together --

6 [Counsel confer]

7 BY MR. CHRISTIANSEN:

8 Q -- you told the Judge that you thought you were -- the bills
9 weren't fair. You didn't want to pay them because this is -- I guess this is
10 the old bills, is that right? There's some entries on 8/21, do you see
11 those?

12 A Yes, I do.

13 Q For emails, including to Pancoast, discussions with client,
14 and AF, Ashley Ferrel, review file and finalize reply to opposition to
15 motion to compel. Did I get those right?

16 A Correct.

17 Q And then you told the Judge, likely -- you used the word
18 seemed impossible because you don't -- you didn't know for sure that
19 these same bills, or these different entries on the 20th of August looked
20 the same to you, and you thought they're probably for all the same stuff.

21 A Very possible.

22 Q Possible, right?

23 A Correct.

24 Q Sir, do you know that we don't, in the course of law, talk
25 about possibilities, we talk about probabilities? Did you know that?

1 A No.

2 Q And so, when you prepared this to come in and talk about
3 what you possibly -- it didn't happen in your case, that's all this reflects
4 was possibly didn't happen in your case, correct?

5 A Yes, it's possible.

6 Q You don't have one way or another knowing if you were
7 double-billed or if those bills that you received in January of this year are
8 100 percent accurate?

9 A It's impossible to know.

10 Q You don't know?

11 A It's impossible to know.

12 Q And I'll just make it super easy, using -- to give you an
13 example. On the 20th of August, you sent -- well, it's actually not
14 impossible, is it, Mr. Edgeworth? You have all your emails, right?

15 A Most of them probably.

16 Q So, if you wanted to tell Her Honor, I know what I sent him
17 on the 20th, and it's the exact same thing that he billed me for on the
18 21st, or vice-versa, you could just go compare your emails, right?

19 A The emails depend when the person reads them versus
20 when you send them, sir.

21 Q Because you sent 12 on the 20th, and then you sent ten on
22 the 21st.

23 A Okay.

24 Q That was pretty typical Brian Edgeworth back in August,
25 right? You're inundating these lawyers with emails on a daily basis,

1 correct?

2 A Correct.

3 Q For which now you oppose their efforts to get paid, correct?

4 A No, I'm not opposing their efforts to get paid, sir.

5 Q Well, would you agree that when yesterday you tell Her
6 Honor that you think you were double-billed for August, the 20th and
7 August, the 21st, that was an effort to convince the Judge that you
8 shouldn't have to pay both invoices, right?

9 A No, it was to demonstrate there's anomalies through this,
10 and I don't have enough information to know whether they're valid bills
11 or not.

12 Q Right. And who's decision was that to end communications
13 with the law office of Danny Simon? It was yours, right?

14 A Yes.

15 Q It was yours done in conjunction with the advice from Vanna
16 and Vannah, these nice lawyers, correct?

17 A Correct.

18 Q It was yours from -- you told Mr. Greene this morning,
19 November the 25th, when you said, stop talking to me about fees, Mr.
20 Simon. I want it in writing.

21 A About the fee agreement --

22 Q Right.

23 A -- he was proposing to change, not about fees.

24 Q Okay. And then on the 5th, Mr. Greene said, just direct
25 everything to me, John Greene.

1 A Correct, to pass on.

2 Q Right. After they had advised you on the settlement of the
3 Viking case, correct?

4 A Well, I'm not sure about the time and the dates, but possible.

5 Q And that two days before they had you sign the consent to
6 settle, saying that you were walking away from the Lange claim for a
7 hundred grand, correct?

8 A It seems the right date.

9 Q And you never tested -- that was, as you told me,
10 inconsistent with the advice Mr. Simon gave you relative to Lange?

11 A Yes, it was different.

12 Q Right. And you chose -- I think you said you were impressed
13 with Teddy -- Mr. Parker, and you chose to not test Mr. Simon's theory,
14 and instead, heed the advice of Mr. Vannah and Greene, correct?

15 A No, I did a risk for reward analysis on the whole thing.

16 Q At the end of your risk for reward analysis, you decided to
17 heed or listen to these gentlemen's advice, correct?

18 A I took the settlement, correct.

19 Q And to disregard Mr. Simon's advice, correct?

20 A Correct.

21 Q And from that point forward, you have not had any verbal
22 conversations with Danny Simon?

23 A Correct.

24 Q And when you many, many times yesterday, told Mr. Greene
25 you had no explanation, you couldn't figure it out, that's because you

1 stopped talking, and listening to, and trusting your lawyer, right? Mr.
2 Simon?

3 A What -- figure what out, sir?

4 Q The bills that you had all these questions about, that you
5 tried to impugn Mr. Simon with yesterday.

6 A No, we asked you guys questions too, the counsel.

7 Q I don't know what you're talking about Mr. Edgeworth. Mr.
8 Edgeworth?

9 A Yes, sir.

10 Q You stopped talking to Mr. Simon, right, not the other way
11 around?

12 MR. GREENE: I think we covered this, Your Honor, about -- a
13 few times.

14 MR. CHRISTIANSEN: I'll move on, Judge.

15 THE COURT: Okay. Proceed.

16 BY MR. CHRISTIANSEN:

17 Q In terms of -- do you remember today telling the Judge that
18 Mr. Parker had raised an issue about the contract and whether it was
19 valid or enforceable, et cetera, relative to Lange?

20 A Yes.

21 Q And did you get advice from the Vannah firm that that
22 contract was not valid?

23 A No.

24 Q They did not tell you that?

25 A Pardon me?

1 Q Never mind. I'll let it stand. And the rate you're willing to
2 pay lawyers to stop you or prevent you from paying Mr. Simon is 925 an
3 hour?

4 A No.

5 MR. GREENE: Objection, irrelevance.

6 MR. VANNAH: And it wasn't the purpose of the contract.

7 MR. GREENE: It really wasn't, Your Honor. We're talking
8 about the amount of fees or not that Mr. Simon's law firm is entitled to
9 receive based upon the work he's performed.

10 MR. CHRISTIANSEN: Okay.

11 MR. GREENE: All this other stuff is irrelevant.

12 MR. CHRISTIANSEN: It goes to the reasonableness of the
13 hourly fee, Judge. It's not --

14 THE COURT: Okay. Well, Mr. --

15 MR. CHRISTIANSEN: It sets it. It sets it.

16 THE VANNAH: It might be by your fee, and you can't
17 compare my fee to --

18 THE COURT: Okay, okay. Mr. Vannah, I'm going to have to
19 ask that you not object when it's not your witness. I understand. I
20 understand.

21 MR. VANNAH: But you -- but you ordered me to give the
22 contract to them so they can see the date.

23 THE COURT: Right.

24 MR. VANNAH: I did that.

25 THE COURT: And read the contract.

1 MR. VANNAH: And to see the scope of the work.

2 THE COURT: And if you would let me finish, Mr. Vannah,
3 what I was about to say is the contract is in evidence. I've seen it. We've
4 all gone over the fees, and we're going to move on.

5 MR. VANNAH: Thank you.

6 BY MR. CHRISTIANSEN:

7 Q Mr. Edgeworth, you don't have an expert to testify in this
8 hearing; is that fair? You did not disclose an expert?

9 A I don't think so.

10 Q You're not an expert in the area of legal fees, can we agree
11 on that?

12 A No, I'm not.

13 Q Tell me the ruling in the *Hallmark* decision.

14 A I don't know.

15 Q Do you know that's the ruling that the Judge relied upon to
16 exclude Viking's experts?

17 A Yes.

18 Q But you don't know the ruling?

19 A No.

20 Q So, that was Danny Simon's work that got that result?

21 A Correct.

22 Q And can we agree that in January you got the superbills?
23 The two, one from Ashley, one from Danny?

24 A It was attached. I've never received them. I only got them on
25 the thing from the Court, but, yes, it was late January.

1 Q And from the time you received them to today's date, you've
2 not written Mr. Simon a check for those entries from the last day, the end
3 of September through the end of January, right?

4 A No, I thought that's why we're here.

5 Q And that's the same as when you owed restoration money
6 and you said, well I don't have a contract, so I'm not going to pay them
7 either. Do you remember that email?

8 A I paid restoration, sir.

9 Q Not at the time I showed you the email. You weren't paying
10 them, because you didn't have a contract. Do you remember that?

11 A We had a contract. It was the next day, Mark Jaberdie
12 (phonetic throughout) came to the office. Mr. Simon knows this. He
13 called, and Mark Jaberdie admitted that he had signed something when
14 the first day they came, which committed American Grating to it.

15 Q Sir, do you remember the email that says we don't have a
16 contract?

17 A Yes, I do.

18 Q Okay. We'll let the Judge figure -- if she recalls it, too.

19 THE COURT: Mr. Christiansen, we're going to go until 12,
20 and then we're going to go to lunch. So, are you going to be done or
21 no?

22 MR. CHRISTIANSEN: Judge, if you want to stop now, I might
23 be done, and maybe I could just look at my notes over the lunch hour,
24 and then come back and I might have a tiny bit more, but I think I'm
25 probably real close to being done.

1 THE COURT: Okay. Well, then let's just do that.

2 MR. CHRISTIANSEN: Okay.

3 THE COURT: Let's just break for lunch right now. We'll be at
4 lunch for an hour-and-a-half. We'll be back at 1:30.

5 And then, Mr. Christiansen, you can look over your notes,
6 and then, Mr. Greene, I'll give you an opportunity if you have some
7 follow-up question, but that's totally your call, no pressure. I mean it's
8 totally your call.

9 MR. GREENE: It's going to be very, very, very short.

10 THE COURT: Okay. And then we will -- Mr. Edgeworth will
11 finish testifying today?

12 MR. GREENE: Yep.

13 THE COURT: If we all keep our fingers crossed?

14 MR. CHRISTIANSEN: Yeah, yeah.

15 THE COURT: Okay.

16 MR. CHRISTIANSEN: And Ms. Ferrel's next, Judge. Just
17 so -- I told Mr. Vannah that.

18 THE COURT: Okay. I didn't know if, you know, you guys --
19 so just so I can inquire, if you guys aren't keeping any secrets, who are
20 these other 12 people?

21 MR. CHRISTIANSEN: Judge, I think from our standpoint,
22 from the Simon standpoint, the witnesses will include Ms. Ferrel, Mr.
23 Simon, and Mr. Kemp.

24 THE COURT: Okay.

25 MR. CHRISTIANSEN: And then that's it for us. I can't speak

1 for these fine gentlemen.

2 MR. VANNAH: Well, it was their witnesses, that we had a list
3 of 14, so. I'm not -- and I'm glad we're paring them down; I'm not
4 complaining about that.

5 THE COURT: Okay.

6 MR. VANNAH: So, we're going to have in the future then, so
7 I don't prepare people I don't need to prepare for. Ms. Ferrel.

8 MR. CHRISTIANSEN: Today.

9 MR. VANNAH: Mr. Simon.

10 MR. CHRISTIANSEN: Tomorrow.

11 MR. VANNAH: And Mr. Kemp.

12 MR. CHRISTIANSEN: Tomorrow.

13 MR. VANNAH: That's it.

14 THE COURT: Okay. And then who would you guys call?

15 MR. VANNAH: Well, we just finished with our client.

16 THE COURT: Right.

17 MR. VANNAH: Oh, are you going to call --

18 THE COURT: But I thought Mrs. Edgeworth, because I know
19 yesterday there was a discussion about whether she was going to be
20 called.

21 MR. VANNAH: Well, that's why they asked us to have her
22 here so they could put her on the stand, so we brought her.

23 THE COURT: All right.

24 MR. CHRISTIANSEN: I think I'm going to be able to, with Mr.
25 Edgeworth, to get -- because everybody --

1 THE COURT: Everybody here is a trial lawyer. We know how
2 that works.

3 MR. CHRISTIANSEN: Things were all agreed to and admitted
4 without my -- I didn't know, as you guys remember, from Day 1. So, I
5 think with Mr. Edgewood, I can get what I need to and may not have to
6 call Mrs. Edgewood.

7 THE COURT: Okay. And I was just inquiring for timing. Like
8 we all know who this works, you know, sometimes you get somebody,
9 one witness, so you don't even call anybody else. I totally understand.

10 MR. CHRISTIANSEN: I'm going to try to do that, Judge.

11 THE COURT: Okay.

12 MR. CHRISTIANSEN: So that is probably my last area of
13 inquiry.

14 THE COURT: Okay.

15 MR. VANNAH: And it looks like a good chance we're going
16 to finish tomorrow. What time is Will coming?

17 MR. VANNAH: Oh, you are so optimistic, Mr. Vannah.

18 [Recess at 12:00 p.m., recommencing at 1:31 p.m.]

19 THE COURT: -- American Grading v. Daniel Simon.

20 Mr. Edgeworth, if you could, just come back on the stand.
21 And I would like to remind you, sir, that you're still under oath.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Okay. Mr. Christiansen, you were doing your
24 redirect.

25 MR. CHRISTIANSEN: I was, Your Honor.

1 BY MR. CHRISTIANSEN:

2 Q Mr. Edgeworth, I want to focus your attention on the month
3 of August 2017 and start you with the trip that you and Mr. Simon make
4 down to San Diego, to my understanding, to deal with some expert
5 issues.

6 A Correct.

7 Q It was about August 8, August 9? In that area?

8 A Nine, I believe.

9 Q Nine?

10 A Yes.

11 Q Okay. And you told Mr. Greene yesterday that that was at a
12 time that Lange had a better expert than you guys did, that you were not
13 too happy with what your expert -- you and Danny weren't too happy
14 with what your expert or experts were doing?

15 A We weren't -- yeah, we weren't happy with some of his
16 explanations and stuff.

17 Q And sir, did you know that, in fact, Lange hadn't disclosed
18 any experts? Their experts weren't even due yet?

19 A They made a lab report right at the start, sir.

20 Q So, they didn't have any disclosed experts? You were talking
21 about a lab report from right at the start?

22 A Yes. Kinsale had an expert at the start.

23 Q Gotcha. And again, if we just stick with that time frame in
24 the August-ish time frame, that's when you -- I want to try to keep things
25 in order -- authored the --

1 MR. CHRISTIANSEN: -- John, this is page 27, I'm sorry.

2 BY MR. CHRISTIANSEN:

3 Q The August 22nd email we've all looked at. I'm not going to
4 beat the horse. I just wanted to put it up in front of you, so you see
5 that's --

6 A Yes.

7 Q -- the date. And that's your email entitled contingency --

8 A Right.

9 Q -- about -- and what you write is, obviously, that could not
10 have been done earlier since who would have thought this case could
11 have -- would meet the burden of punitives from the start. Those are
12 your words?

13 A Correct.

14 Q Okay. This is the time when yesterday, you were describing
15 to Mr. Greene, you wanted a better deal, right? That's what you were
16 looking to negotiate was a better deal for you --

17 A Not --

18 Q -- right?

19 A -- exactly.

20 Q Sir, I didn't ask you if that's exactly what you wanted. I'm
21 asking you if that's not exactly what you told Mr. Greene yesterday.

22 MR. GREENE: Your Honor, he answered the question.
23 Maybe he wants a different answer, but he answered the question.

24 MR. CHRISTIANSEN: This is a speaking -- coaching
25 objection. It's not proper.

1 THE COURT: Okay. Your question was, wasn't he trying to
2 negotiate a better deal for himself?

3 MR. CHRISTIANSEN: Yeah.

4 THE COURT: And then his response was not exactly?

5 THE WITNESS: Yeah.

6 THE COURT: Okay. So, you weren't trying to negotiate a
7 better deal for yourself?

8 THE WITNESS: About a risk reward profile as explained
9 yesterday.

10 THE COURT: Okay.

11 BY MR. CHRISTIANSEN:

12 Q I counted, when I watched it again last night, five different
13 times you told Mr. Greene that during this time frame what was
14 motivating you or going through your head was trying to get a better
15 deal for you, correct?

16 A Sort of the way you --

17 Q Okay.

18 A -- say it, yeah.

19 Q And on what you've told me today to use your terms was a
20 new aspect of the case, correct? That's what you said today, right?

21 A I don't know that I said -- there was new evidence in the case,
22 correct.

23 Q Didn't you, in fact, before lunch, call it a new aspect?

24 A I'm not sure if I used that exact phrase.

25 Q You don't remember right before lunch?

1 A No.

2 Q That's fine.

3 A I don't remember the exact phrase I used to describe
4 something.

5 THE COURT: Okay. But you meant like a new area of the
6 case, right, Mr. Edgeworth?

7 THE WITNESS: No, ma'am. What I meant was that the case
8 had far more potential than Mr. Simon had originally said that it had. At
9 first, it was only a \$500,000 damage case.

10 THE COURT: Right. I've got that Mr. --

11 THE WITNESS: Yeah.

12 THE COURT: -- Edgeworth, but I believe you said new
13 aspect, but you don't remember if you used that word exactly, but you
14 said something along those lines right before lunch?

15 THE WITNESS: Yeah.

16 THE COURT: Okay.

17 THE WITNESS: It was a new opportunity.

18 MR. CHRISTIANSEN: All right.

19 BY MR. CHRISTENSEN:

20 Q And you never were able to negotiate or reduce to writing a
21 better deal for yourself, correct?

22 A No.

23 Q That's not fair or that is fair?

24 A Well, that's a weird question. I was never able to negotiate a
25 better deal for myself.

1 Q Okay. And the case settled on or about the middle of
2 November with at least as to the number, the six million of Viking?

3 A Correct.

4 Q And after the case settled, Mr. Simon asked you to put in
5 writing what you thought the value of your case was, the true damages
6 that you incurred?

7 A He asked me to send him the spreadsheet I've been sending;
8 correct.

9 Q And that is from --

10 MR. CHRISTIANSEN: Mr. Greene, I'm sorry.

11 MR. GREENE: That's okay.

12 MR. CHRISTIANSEN: Thirty-nine.

13 MR. GREENE: Thank you.

14 THE COURT: That's your 39, Mr. Christiansen?

15 MR. CHRISTENSEN: It's my 39, Your Honor.

16 THE COURT: Okay.

17 BY MR. CHRISTIANSEN:

18 Q And the new spreadsheet is dated November 21, from you,
19 Brian Edgeworth, to Daniel Simon, and it's entitled -- the subject line is,
20 this is the updated sheet of costs?

21 A Correct.

22 Q Right at the top, you say, it does not include any of my time
23 on the case or lost profits?

24 A Correct.

25 Q And this was the one that I think, right before lunch, to Mr.

1 Greene, right before I started questioning, you testified that the number
2 3.8, in your mind, was plus, plus?

3 A Yeah. The three pluses that were still there are legal bills not
4 yet paid because there's a whole bunch of hours, so he hadn't billed yet
5 for it at that point. It basically destroyed my construction business that
6 actually has a value. And me and Mark spent a ton of time, correct.

7 Q Right. You wanted to be paid for all your time, correct?

8 A Correct.

9 Q All right. And your construction business, isn't it true, Mr.
10 Edgeworth, the house that flooded was the first home from beginning to
11 end, this construction business of yours had ever completed?

12 A From beginning to end, yes.

13 Q Oh, okay. And so, did you have an expert to line item in your
14 lawsuit the loss of your construction business to go into here?

15 A No.

16 Q Okay. So, that's just a soft number in your mind that you
17 wanted to recover for it?

18 A I wouldn't call it soft.

19 Q Okay. You didn't have an expert, fair?

20 A Fair.

21 Q All right. And when you tallied this all up -- and you were
22 free to do this on your own, right? In other words, Mr. Simon is not
23 causing you any undue hardship to do another one of these
24 spreadsheets --

25 MR. CHRISTIANSEN: -- I'm sorry. I didn't think I did that.

1 THE COURT: It's not you, it's fine.

2 MR. CHRISTIANSEN: I could have --

3 BY MR. CHRISTIANSEN:

4 Q In other words, you did this of your own free will?

5 A Yes, I did.

6 Q And the number you came to was \$3,827,147.96?

7 A Correct.

8 Q And included in that is Mr. Simon's brother-in-law's figure
9 for a million-five?

10 A Correct.

11 Q So, if we just assume your math is right, after the case is
12 settled and excluding all the soft costs that you didn't have experts to
13 support, like your lost construction business, you thought you had been
14 overpaid 2.2 million, roughly?

15 A That's not the words I would use.

16 Q You got six, right?

17 A Correct.

18 Q You put 3.8 in change on this sheet, correct?

19 A Correct.

20 Q The difference is about 2.2 million, correct?

21 A Correct. I just wouldn't call --

22 Q And then if --

23 A -- it overpaid.

24 Q And then if I happen to back out what Mr. Simon's brother-
25 in-law added to the value of the case, you were overpaid 3.8 million,

1 right?

2 A Same objection. I wouldn't use those words, but I --

3 Q Sir, you just have to answer my question. You don't need to
4 make objections. The number -- the math --

5 A The math.

6 Q -- would simply be --

7 A Correct.

8 Q -- 3.8 million, right?

9 A About 2.3, I think you said, sir. You said subtracted out --

10 Q Right.

11 A -- it would be about 2.3.

12 Q And you got how much?

13 A Six.

14 Q So, you were overpaid 3.7?

15 A I still don't agree with that, yeah.

16 Q The difference in the math is 3.7 million?

17 A Correct.

18 Q And, similarly, if we did math, and we put Mr. Greene's
19 hourly rate at 925 on the hours spent by Danny Simon and Ashley Ferrel
20 and submitted it to you in the big superbills, two superbills, do you know
21 what that math comes out to?

22 A I have no idea, sir.

23 MR. GREENE: Object to the relevance. That has nothing to
24 do with the fee agreement that Mr. Edgeworth has testified that he and
25 Mr. Simon reached back in June of 2016.

1 MR. CHRISTIANSEN: Your Honor, respectfully, that's an
2 evidentiary objection. That's testifying.

3 MR. VANNAH: No, it's not.

4 MR. GREENE: No, it's not.

5 THE COURT: Well, he made a relevance objection.

6 MR. GREENE: Exactly.

7 THE COURT: What's the relevance of this, Mr. Christiansen?

8 MR. CHRISTIANSEN: The relevance is they've established an
9 hourly rate and I -- by turning over what they're willing to pay as a fair
10 hourly rate, and I use Mr. Greene, not Mr. Vannah, intentionally, and I
11 want to just know has he done the math to the hours performed by Ms.
12 Ferrel and Mr. Simon to that rate.

13 MR. GREENE: There's still absolutely no relevance in the
14 agreement that he needed to reach with our firm versus what was clearly
15 patterned and reached with Mr. Simon's firm.

16 THE COURT: Right. And we got the 550 an hour, so is this
17 just a numbers thing, Mr. Christiansen?

18 MR. CHRISTIANSEN: It was, Your Honor. It was just
19 numbers.

20 THE COURT: Okay. You can answer the question, sir, if
21 you've done the math. Have you done the math?

22 THE WITNESS: No.

23 THE COURT: Okay.

24 BY MR. CHRISTIANSEN:

25 Q Would it surprise you to know it's about 2.3 million?

1 A I have no idea.

2 Q And, sir, remember right before or sometime in my last
3 session with you we talked about the volleyball emails that we've sort of
4 all referred to that way, and then how it came about you felt the way you
5 felt. Remember those discussions?

6 A Yes.

7 Q And you told the Court on questions from Mr. Greene that
8 you felt threatened when you got Mr. Simon's November 27th response
9 to your November 21st email; do you remember that?

10 A Correct.

11 MR. CHRISTIANSEN: And just so I'm clear, John, this is
12 exhibit -- Mr. Greene, this is Exhibit 40.

13 MR. GREENE: Okay.

14 MR. CHRISTIANSEN: Okay.

15 BY MR. CHRISTIANSEN:

16 Q And that's -- so we're all clear, this is -- Mr. Simon's
17 November 27th letter is exactly what you had told him you wanted;
18 something in writing, fair?

19 A Something in writing, correct.

20 Q In response to your November 21st breakdown that you
21 could evaluate yourself?

22 A Correct.

23 Q And this was -- you told him that on the, I think you recalled
24 specifically, the November 25th phone call where you said, I've had
25 enough?

1 A Correct.

2 Q Give it to me in writing?

3 A Correct.

4 Q And the way it ends, and Mr. Greene shows you this, it says,
5 if you're not agreeable, then I cannot continue to lose money to help
6 you. I'll need to consider all options available to me.

7 A Correct.

8 Q Did it say in this letter that he would try to ruin your
9 settlement?

10 A Yes, I think that does.

11 Q That says I'm going to try to ruin your settlement?

12 A In context with what was said in his office, definitely.

13 Q That's sort of like when you made yourself fill out an
14 application to get checked at the volleyball club, right? That's like a self-
15 imposed distress, because that's not what the words say, right, sir?

16 A No. The implication is clear.

17 Q The words don't say that, right?

18 A Yes, they do, sir.

19 Q Does it say withdraw?

20 A No.

21 Q That was something you were worried about?

22 A Yes.

23 Q That was another self-imposed distress, correct?

24 A No.

25 MR. CHRISTIANSEN: I'm sorry, Your Honor. I'm almost

1 done. John, Exhibit 42.

2 BY MR. CHRISTIANSEN:

3 Q Mr. Edgeworth, this is the one area I just wanted to ask you.
4 Have you seen this email from your wife to Mr. Simon?

5 A I was copied it, yes.

6 Q I didn't hear you, sir. Somebody coughed.

7 A I was copied on the email.

8 Q Oh, you were?

9 A Yeah.

10 Q I apologize. It's dated that same day that Mr. Simon's letter
11 came to you?

12 A Yes.

13 Q And this is -- your wife writes. As you know, Brian is out of
14 town and in China at the moment. I will need a couple of days to discuss
15 this with him. We will be glad to meet once he is back. Did I read that
16 accurately?

17 A Yes.

18 Q We would need to have our attorney look at this agreement
19 before we sign. In the meantime, please send us the Viking agreement
20 immediately so we can review it. Angela Edgeworth. Correct?

21 A Correct.

22 Q This is about 10 days after the meeting you described, that
23 first meeting?

24 A Correct.

25 Q There's nothing in here about being threatened, fair?

1 A Fair.

2 Q Nothing in here about being blackmailed or extorted?

3 A Fair enough.

4 Q And in fact, what Mrs. Edgeworth is saying is that you all will
5 be glad to meet with Mr. Simon once Mr. Edgeworth, Brian, is back from
6 China?

7 A Correct.

8 Q And the day you got -- as I understand your testimony from
9 Mr. Greene yesterday, actually what happens is the day you get back
10 from China, you go right to Mr. Vannah's office and hire him?

11 A That is correct.

12 THE COURT: And I have one question about that, Mr.
13 Christiansen. So that email was sent before you returned from China?

14 THE WITNESS: Yeah. Your Honor, I was still in China. It's
15 confusing because --

16 THE COURT: Okay. I just need a yes or no, Mr. Edgeworth.

17 THE WITNESS: Yes. Sorry, yes.

18 THE COURT: I'm trying my best to stop your testimony
19 today.

20 THE WITNESS: I'm sorry, ma'am. I --

21 THE COURT: , that email was sent by your wife. You were
22 CC'd on it, but you were still in China?

23 THE WITNESS: Yes, I was.

24 THE COURT: And when did you return from China?

25 THE WITNESS: The 29th.

1 THE COURT: Okay. And then that's the day you guys met
2 with Mr. Vannah?

3 THE WITNESS: That's correct.

4 THE COURT: So, who is the attorney that she's referring to
5 in the email? She says, we need to meet with our attorney. Who is she
6 talking about? Do you know?

7 THE WITNESS: I don't know. I didn't --

8 THE COURT: Okay.

9 THE WITNESS: I didn't really --

10 THE COURT: And then is that email being sent in reference
11 to the Viking settlement agreement?

12 THE WITNESS: Yeah. She's asking where is the Viking
13 settlement agreement.

14 THE COURT: Right, but you need to meet with your attorney,
15 and then she says, please send us the Viking settlement agreement, but
16 the whole purpose of that email is about the Viking settlement
17 agreement?

18 THE WITNESS: I believe so.

19 THE COURT: Okay.

20 BY MR. CHRISTIANSEN:

21 Q In one of your -- Mrs. Edgeworth's emails, she changes the
22 female pronoun her; does that that help? When referring to a lawyer,
23 would that help you understand who she was talking about?

24 A She was speaking to two of her friends. I know who she
25 spoke with, but I didn't speak with them. Can I testify about that?

1 THE COURT: No, I asked you if you knew --

2 MR. CHRISTIANSEN: The Judge -- yeah.

3 THE COURT: -- who she was referring to --

4 MR. CHRISTIANSEN: I was just trying to help.

5 THE COURT: -- was the question.

6 THE WITNESS: I know who she spoke to. I don't know
7 whether she had the intention to speak to them when she sent that.

8 THE COURT: Okay. Who was the lawyer that she spoke to,
9 Mr. Edgeworth?

10 THE WITNESS: She spoke to Lisa Carteen and Miriam
11 Shearing.

12 THE COURT: Okay.

13 BY MR. CHRISTIANSEN:

14 Q Justice Shearing?

15 A I believe she's a Chief Justice here, yes.

16 Q She was at some point.

17 THE COURT: Yes.

18 BY MR. CHRISTIANSEN:

19 Q I just want to show you, This is my -- I think my last exhibit
20 for you, Mr. Edgeworth.

21 MR. CHRISTENSEN: John, this is 41. I'm sorry.

22 MR. GREENE: Uh-huh..

23 BY MR. CHRISTIANSEN:

24 Q This is Mr. Simon's response to your wife's email, and you're
25 copied on it, as well, fair?

1 A Yes.

2 Q He offers to meet with your wife, correct? If you'd like to
3 come to the office or call me tomorrow, I would be happy to explain
4 everything in detail, right?

5 A Correct.

6 Q My letter also explains the status of the settlement and what
7 needs to be done?

8 A Correct.

9 Q Due to the holiday, they probably were not able to start on it.
10 I'll reach out to the lawyers tomorrow and get a status. I'm happy to
11 speak with your attorney, as well. Let me know. Thanks. Did I read that
12 all right?

13 A Correct.

14 Q No threats in that email, right?

15 A No.

16 Q No -- in fact, he expressively says he'll continue to work on
17 your behalf, correct?

18 A Oh, I will reach out to the lawyers part?

19 Q Yeah.

20 A Correct.

21 MR. CHRISTIANSEN: That concludes cross-examination.

22 Thank you, Mr. Edgeworth.

23 THE COURT: Mr. Greene, do you have any re -- well, I guess
24 it's kind of -- we're kind of doing it opposite. That's kind of the cross and
25 yours will be a redirect.

1 MR. GREENE: Well, whatever we are. Let me just -- let me
2 just confer for one second, please.

3 THE COURT: No problem. Take your time.

4 [Counsel confer]

5 MR. GREENE: We are so close to being done.

6 THE COURT: Okay. I'm keeping my fingers crossed, Mr.
7 Greene. I'm not rushing you in any way. Go ahead. Take your time.

8 MR. GREENE: Okay.

9 RECROSS EXAMINATION

10 BY MR. GREENE:

11 Q Let's just finish with this meeting with Mr. Simon at his office
12 on November 17th of 2017, okay? Brian, you testified earlier that there
13 was a pile of documents that was brought in by Mr. Simon or a staff
14 member and put on his desk; do you recall that testimony?

15 A Yes.

16 Q Did Mr. Simon ever indicate to you what was in that pile of
17 papers?

18 A We went over some of it. It was listing all costs and stuff, but
19 it didn't sum -- he explained that his software doesn't sum. It just puts
20 negatives in, so I just had to ignore it and look at the end, and it was to
21 show how much I paid in costs and how much he got.

22 Q Okay. At any time while you were there then at Mr. Simon's
23 office on that day in November, did you -- did he present to you some
24 kind of written proposal for you to sign concerning changing the fee
25 agreement?

1 A You -- he basically was going over a bunch of different
2 options, and said we need to print something out and sign something,
3 and present it, basically an agreement, you know. That's my view of it,
4 and he said we need to sign. Did he physically present it? No, he did
5 not, and he would not allow us to leave with anything when Angela
6 asked for the agreement, so we could read it over on the way home. He
7 didn't give it to us. He said first we needed to agree on how much he
8 was getting.

9 Q Let me just wrap up with one final short line of questions.
10 Earlier, Mr. Christiansen made this out to be that you had approached
11 Danny for selfish reasons for you to benefit from a change in the fee
12 agreement; is that your understanding?

13 A No. I wanted something that, from his perspective, was a
14 win-win. Something that he would say, oh, I think this case is worth so
15 much money that maybe my perception -- the one percentage was worth
16 more to him than me. It's a role of perception on what the case is going
17 to cost, what he might get in fees for the rest of the case versus his
18 impression. So --

19 Q Well, hang on. If Mr. Simon had given you a written
20 proposal in August of 2017, for a contingency hybrid fee agreement
21 based upon the expected value of the case, at that time, with you being a
22 numbers guy, wouldn't he have benefitted economically, as well?

23 A It would all -- yes, if his perception of the settlement was
24 better than mine, it would all -- it would show a lot to me as a client on
25 how much he thought the settlement was going to be. If it settled for the

1 six --

2 Q Okay.

3 A -- million.

4 Q Okay. Despite that he was going to benefit economically
5 from a hybrid contingency fee agreement in August of 2017, did he ever
6 present you with one?

7 A No. He didn't even present me with just a proposal on a
8 piece of paper to start negotiating.

9 MR. GREENE: Let me show you one final billing entry, and
10 then --

11 THE COURT: Sure.

12 MR. GREENE: -- I promise, Scout's honor, I'm done. I'll keep
13 saying that until I am. And this is going to be the last page of Mr.
14 Simon's billing entry for what we call the superbill, the new bill in
15 January of 2018.

16 THE COURT: So, that's Exhibit 5?

17 MR. GREENE: Yes. I'm just finding the page number, Judge,
18 and getting the exhibit --

19 THE COURT: Okay.

20 MR. GREENE: -- number. That's on page -- of all things, 79.

21 THE COURT: Okay.

22 MR. GREENE: It's also page 79 of Mr. Simon's bill.

23 BY MR. GREENE:

24 Q I draw your attention to the highlighted part, Brian.

25 A Yes.

1 Q Review all emails concerning service of all pleadings, 135
2 hours. Do you see that?

3 A Yes.

4 Q Now, if my math is right, and I used the calculator, assuming
5 that Ms. Ferrel's math is right, and I am assuming that, \$418,742 of total
6 hours and fees billed from September 23rd through January 8th of 2018.
7 Again, assuming simple math that 135.8 hours times \$550 per hour
8 equals \$74,690. If the simple math shows that that's \$334,052; any
9 reason to dispute that number, math guy?

10 A No.

11 Q What are your feelings as the consumer, the client, upon
12 getting a block billing entry without a date for 135.8 hours?

13 A It's just not reasonable. It's \$75,000. It's just not a
14 reasonable way to bill, and it seems incredulous.

15 Q You ever receive a billing entry like that in all the years that
16 you've been in business and using lawyers and professionals?

17 A Absolutely not.

18 MR. GREENE: That's all I have, Your Honor.

19 THE COURT: Okay. Thank you, Mr. Greene.

20 MR. CHRISTIANSEN: Super quick, Judge, just on the areas
21 Mr. Greene brought up.

22 John, may I see that little piece of paper you had?

23 MR. GREENE: Sure.

24 MR. CHRISTIANSEN: That last one.

25 FURTHER REDIRECT EXAMINATION

1 BY MR. CHRISTIANSEN:

2 Q Sir, one way or another, are you aware of this time entry that
3 Mr. Greene was just talking to you about, whether you were billed for the
4 emails referenced in that 135 hours and paid for those hours in any of
5 your four invoices?

6 A It would appear so. They were --

7 Q I didn't ask you -- I don't want you to guess. Do you know
8 whether you did?

9 A I do not know.

10 MR. VANNAH: Wait. I'm sorry. This has nothing to do with
11 the four prior invoices. This is for the September 22 to January 18, this
12 is that bill for that time, not the prior invoices. I think there may be some
13 confusion there.

14 THE COURT: This bill is for September 22nd to -- well, my
15 Exhibit 5 shows that this bill --

16 MR. CHRISTIANSEN: It's not, Judge.

17 THE COURT: -- started in May.

18 MR. CHRISTIANSEN: Mr. Vannah is just wrong. It's --

19 MR. VANNAH: You know what? If I'm wrong, I want to at
20 least have -- I want to understand it.

21 MR. CHRISTIANSEN: It is, Bob. It's from the beginning.

22 THE COURT: Yeah. This started in May. The bill starts in
23 May.

24 MR. VANNAH: So, all this -- this 135.8 goes all the way back
25 to May?

1 THE COURT: Well, I mean, I don't know that that's in
2 evidence, Mr. Vannah, but what I'm saying is my Exhibit 5 starts May
3 27th of --

4 MR. CHRISTIANSEN: It does.

5 THE COURT: -- 2016. And so, I think what Mr. Christiansen is
6 asking him is did he, on any of those previous invoices which go back
7 that far, had he paid for the reading of these emails that he knows.

8 MR. VANNAH: And I guess that's the reason -- I guess that's
9 the problem. I have no idea what that means, because we didn't do any
10 discovery in the case, and I guess we're going to ask that of Daniel. I
11 just --

12 THE COURT: Well, I guess -- yeah, Mr. Simon is going to
13 testify, and you can ask him that.

14 MR. VANNAH: No, I made the assumption and maybe I'm
15 wrong that that number was for September 22 until January 8th, but if
16 it --

17 THE COURT: Right. And I don't have anything in evidence
18 right now that tells me. I have no idea what that number is for.

19 MR. VANNAH: Oh.

20 THE COURT: I think we have to wait for Mr. Simon to testify.

21 MR. VANNAH: You know what that's a really good point. I
22 might've made the wrong assumption here.

23 THE COURT: Yeah, I didn't -- I have no idea. Like from the
24 testimony I've heard in the last three days, I don't know.

25 MR. VANNAH: I have no clue either. Okay. Thanks. I wasn't

1 trying to be obstructive. It was just trying to make sure I understood.

2 THE COURT: No, I think you were trying to clarify things in
3 case Mr. Christiansen was confused, but I think I understood you to say --

4 MR. VANNAH: Yeah.

5 THE COURT: -- did you previously pay for the reading of
6 these emails in any of those previous bills that you know.

7 BY MR. CHRISTIANSEN:

8 Q And I think, Mr. Edgeworth, your answer was you don't
9 know?

10 A No. My answer would be yes, because they're detailed all
11 the way -- thousands of lines above every single email.

12 Q Okay. And you would agree because of all the things we've
13 talked about, there's never been, to your knowledge, a conversation from
14 Mr. Greene to Mr. Simon saying, hey, explain this stuff to me. I mean,
15 clearly, there's still some discrepancy, right?

16 A I don't know what Mr. Greene said.

17 Q All right. And the document -- I'm trying to grasp -- I'm
18 trying to talk to you just about the last thing Mr. Greene did, which was
19 the November 17th meeting that when we start, you had told me a
20 document was placed in front of you, and you were asked to sign it.

21 A It was on his desk, and he insisted that we come to an
22 agreement, sign the agreement before we leave. We asked for the
23 document, he had never given to us until we got the email 10 days later.

24 Q Do you agree that just now, you told Mr. Greene you never
25 actually saw what he wanted you to sign?

1 A No, I couldn't like grasp it. I couldn't grab it.

2 Q Okay. So, you couldn't tell the Judge what it looked like?

3 A No.

4 Q You couldn't tell the Judge details of it?

5 A No.

6 Q You couldn't tell the Judge what it was entitled?

7 A No.

8 Q All right. And then your testimony over lunch became that
9 you were prevented from leaving with it, correct?

10 A Prevented? Maybe not -- that's not the right term. We
11 weren't allowed to have it. He would not give it to us until we agreed --

12 Q So, in other words, you asked? You said, Danny, can I have
13 those documents on your desk and take them with us?

14 A My wife insisted on we having something driving home to
15 read, yes.

16 Q You asked and he refused. He said, you can't have these
17 documents.

18 A He said not until we come to an agreement.

19 Q Okay, but you don't know what the documents were?

20 A Well, the new fee agreement would be my assumption.

21 Q Okay. So, you're just assuming, again?

22 A Yes.

23 Q Thanks, sir.

24 THE COURT: Any follow-up on that, Mr. Greene?

25 MR. GREENE: No, Your Honor.

1 THE COURT: Okay. This witness can be excused. Mr.
2 Edgeworth, you can be excused. Thank you very much.

3 Is there a next witness?

4 MR. CHRISTIANSEN: Ashley Ferrel, Your Honor.

5 THE COURT: Okay.

6 THE MARSHAL: Please raise your right hand.

7 ASHLEY FERREL, PLAINTIFF'S WITNESS, SWORN

8 THE CLERK: Please be seated, stating your full name,
9 spelling your first and last name for the record.

10 THE WITNESS: Ashley Ferrel, A-S-H-L-E-Y, F-E-R-R-E-L.

11 THE COURT: I'm sorry. I just had to laugh. It's always
12 amazing that we have to always remind the lawyers to raise their right
13 hand so they can be sworn, but all of our lay witnesses just get up here
14 and raise their hand.

15 MR. CHRISTIANSEN: I took his Post-its and [indiscernible].

16 DIRECT EXAMINATION

17 BY MR. CHRISTIANSEN:

18 Q Ms. Ferrel.

19 A Yes.

20 Q Good afternoon.

21 A Good afternoon.

22 Q What do you do for a living?

23 A I'm an attorney.

24 Q How long have you been an attorney?

25 A I have been licensed for seven-and-a-half years.

1 Q Can you give us a little thumbnail sketch of your work
2 history?

3 A Yeah. For about four-and-a-half years, I worked with Mr.
4 Eglet and Mr. Adams over at the Eglet Firm, and then for the last three-
5 and-a-half -- three years, I've worked with Mr. Simon.

6 Q When you've been working for Mr. Simon, have you had
7 experience on a variety of cases?

8 A I have.

9 Q What kinds of cases?

10 A Personal injury, product liability, med mal.

11 Q Done any trials?

12 A Yes, sir.

13 Q Done any large document cases?

14 A Yes, sir.

15 Q Do you have any experience with hourly billing?

16 A Absolutely none.

17 Q Have you ever done any -- did you do any hourly billing over
18 at Mr. Eglet's firm?

19 A No, sir.

20 Q Have you done any hourly billing other than, I guess, the
21 attempts in this case over at Mr. Simon's office?

22 A No, sir. Not other than this case.

23 Q Does the law office have any billing software?

24 A No. Law office -- Mr. Simon's?

25 Q Yes.

1 A No.

2 Q Does the law office -- Mr. Simon -- I'm just going to say law
3 office.

4 A I understand now.

5 Q Okay.

6 A Sorry, I just wanted to be sure.

7 Q Does the law office have any timesheets?

8 A No.

9 Q Any experienced timekeepers?

10 A No.

11 Q Are any of the staff experienced at hourly billing?

12 A Not that I know of, no.

13 Q Okay. Are you familiar with the Edgeworth case?

14 A Yes, sir.

15 Q What kind of a case was it?

16 A It was -- I mean, a complex case. It was a product defect case
17 and also a breach of contract case.

18 Q And have you worked such cases in the past?

19 A Yes, sir, I have.

20 Q And have you worked such cases with Mr. Simon in the past?

21 A Yes, sir, I have.

22 Q Was Mr. Edgeworth a demanding client?

23 A He was demanding, I mean, yes.

24 Q Let's see if we can flesh that out a little bit.

25 A I mean, so Mr. Edgeworth -- when I first met Mr. Edgeworth,

1 it was my understanding he was a close friend of Mr. Simon's. I kind of
2 get pulled in on cases that Mr. Simon is working on, and so I just wanted
3 to make sure I did everything I could for Mr. Edgeworth because it was
4 my understanding that he was a close friend of Mr. Simon's.

5 Q Were there a lot of phone calls from Mr. Edgeworth?

6 A Yes, sir. Once I started working on the case, there were.

7 Q Can you quantify the number of phone calls that were made
8 by Mr. Edgeworth as compared to some other client in a product defect
9 case?

10 A Well, I mean, I can say this. Mr. Edgeworth had my cell
11 phone number at some point, I mean, in the litigation. I gave him my
12 cell phone number. I just don't give my cell phone number out to any
13 other client. And so, I mean, I would -- he would call, and I would
14 answer his phone call as best I could. I mean, if I was in the middle of a
15 deposition or something like that, I wouldn't answer his phone call, but I
16 would take his phone call whenever -- at the office whenever I could.

17 Q How about emails?

18 A He liked to email. There were a lot of emails. I mean, we
19 would go back and forth, I mean, on things, probably -- I mean, on
20 average, I could say probably five, six emails a day during the -- and but
21 sometimes there were like 12, sometimes there were like 15. I mean, but
22 we would be going back and forth on chains.

23 Q Did you ever have an occasion to see any expressions of
24 temper by Mr. Edgeworth?

25 A Yes. He never got angry with me, specifically, but he did --

1 he was very -- he did get angry sometimes during the depositions.
2 Sometimes, you know, when things weren't necessarily favorable in the
3 case, he did get a little angry, yes.

4 Q Did he ever make any expressions of temper, anger, or
5 disagreement towards any Defense counsel?

6 A Towards the end. He didn't really care for the attorneys out
7 of Los Angeles, and Ms. Pancoast, as well. I don't really know about Ms.
8 Dalacas. It was more so because we were more focused on Viking, and
9 he didn't really care for them. At one point, I think he said he wanted to
10 file a bar complaint or something, or just asked about a bar complaint.

11 Q Did he ask you or Mr. Simon?

12 A It was a conversation. I don't know if it was specifically at
13 me, but I know that -- I don't know if the question was directed at me or if
14 it was directed at Mr. Simon, but I was in the room when we discussed it.

15 Q Did you folks, and by that, I mean yourself and Mr. Simon,
16 pursue that?

17 A Oh, we did not. No, sir.

18 Q Were there times that Mr. Edgeworth, for lack of a better
19 term, tried to act like a lawyer during the case?

20 A Yeah, I think so. Yes.

21 Q Can you give an example?

22 A Yeah. I mean, like so one that came to my mind would be
23 request for admissions, which are written discovery, obviously, and --
24 well, I had already drafted them, and he sent over a whole list that he --
25 of stuff he wanted to admit that we were able to -- that I responded, that

1 was forwarded -- either he forwarded it to me or Mr. Simon forwarded it
2 to me, and I responded back, these are already all in there. Another -- I
3 mean, sometimes in regard to motions, you know, he would want a
4 specific section in the -- like a factual section in there, and we would say,
5 well that's already in there because it was something we had already all
6 discussed and what not, that kind of thing, and the motion had already
7 been filed.

8 Q Okay. And that's not to say -- did he ever come up with
9 something that was useful?

10 A Oh, no. He came up with stuff that was useful sometimes.

11 Q Okay.

12 A I mean, he was pretty smart on the factual stuff.

13 Q Okay. He did have a habit of raising issues that had already
14 been addressed?

15 A Yes, sir.

16 Q Okay. Any other examples of them in ones you've talked
17 about that jump to mind?

18 A Well, with regard to the activations, maybe -- I don't know if
19 I'm jumping ahead, but --

20 Q Well, we can get to activations in a bit.

21 A Okay.

22 Q You said that you understood that Mr. Edgeworth was a
23 Simon family friend?

24 A Yes, sir.

25 Q A friend of Mr. Simon's?

1 A A friend of Mr. Simon's, at least. Yes, sir.

2 Q Okay. Did the office have that understanding?

3 A I think so. I mean, Mr. Edgeworth pretty much dealt with me
4 and Mr. Simon, but I mean he would -- he would kind of -- He would
5 come back behind the reception desk, and -- like the way our office is set
6 up, you've kind of got to go through a door, and the receptionist usually
7 will seat you in a conference room, but he would just come on back, and
8 he would go right to Danny's office or right to my office. I mean, and
9 then at a couple depositions and stuff -- I mean, he basically had free
10 reign in the office. He didn't do anything like bad, but it was just he
11 would -- I think the office staff knew who he was, and they knew that he
12 was a friend of Mr. Simon's.

13 Q Any other clients given free rein to the office?

14 A Not typically; no.

15 Q Given Mr. Edgeworth was a demanding client, did he ever
16 make any acknowledgment of that to you?

17 A Verbally, I don't think he ever said that directly to me, I mean,
18 but I think he had to know that he was -- I mean, the office was pretty
19 consumed. The office, meaning Danny and I were definitely consumed
20 with his taste, and that's basically all we were doing.

21 Q Let's focus in on some bills for a bit. Did you learn, at some
22 point, that Mr. Simon wanted to generate an hourly bill on the
23 Edgeworth case?

24 A Yes, sir.

25 Q Do you recall about when that occurred?

1 A It was around November-ish, sometime. It was in the fall.
2 So, it was like November -- it was right around the ECC. Danny said we
3 needed to -- he was like hey, remember that -- we had a case, we need to
4 come up with -- he needed to come up with an hourly bill, and we were
5 going to put a bill together for the Lange, because the Lange contract
6 had a provision in it for attorney's fees.

7 So, part of the calculation -- part of that, part of our damages in the
8 16.1 initial disclosure in November, needed to be a calculation of
9 damages and we needed to bill out our attorney's fees.

10 Q Was that --

11 THE COURT: And this is November of what year?

12 THE WITNESS: 2016. I apologize.

13 THE COURT: '16.

14 BY MR. CHRISTIANSEN:

15 Q And that was in preparation for an early case conference
16 disclosure?

17 A Yes.

18 Q What did you respond to Mr. Simon when he brought up the
19 issue of an hourly rate?

20 A Well, so what I said to him, I was like, well hey, remember
21 earlier this year, we had that mis -- there was a case that mistrialed, and
22 we had to file a motion in front of Judge Israel asking for attorney's fees
23 and costs, so we had to bill out all of our hours, him and I both. And in
24 that case, he charged \$600 an hour, I charged \$300 an hour.

25 And so, we took those because Judge Israel had approved them,

1 and we figured the Defense couldn't balk at those. They couldn't, you
2 know, think that they were unreasonable, and then we cut it down a little
3 bit. Danny's was 550 and mine was -- well, at that point in time, mine
4 was not 275, but later down the road in April when I started billing, that's
5 where I get my basis, too, is 275.

6 Q Okay. That was the Ash case?

7 A Yes, sir.

8 Q And that was mistrialed in front of Judge Israel in
9 Department 28 --

10 A Correct.

11 Q -- in this building?

12 A Yes, sir.

13 Q Okay. And that's where the 550 number came from?

14 A Yes, sir.

15 Q Was Mr. Edgeworth involved in the decision of setting the
16 550 rate?

17 A No, sir. I mean, not part of that discussion; no.

18 Q Okay. As I understand it, that discussion occurred, and then
19 Mr. Simon said okay and used the 550 number?

20 A Yes, sir.

21 Q And that was in November of 2016?

22 A Correct.

23 Q When did you start working on the Edgeworth case?

24 A Well, I started working on it in January of 2017, on the bill. I
25 did do -- our paralegal was out, so I did do a download on December

1 20th of 2016. That is in -- that's technically, I guess, the first number in
2 what's the timesheet, that's also been referred to as the superbill for my
3 time, but I started working on the case in January of 2017.

4 Q What were you doing at that time?

5 A What was I -- at that time, I was just helping Mr. Simon. We
6 were getting ready to -- he filed -- we were getting ready to file a motion
7 for summary judgment, which was ultimately filed later that month, and
8 we were just kind of ramping it up. Basically, it was -- he had been doing
9 some stuff on it. I hadn't really been working on the case yet, and he
10 asked if I could help him.

11 Q Okay. When did you start billing on the file?

12 A I didn't start billing until April.

13 Q Of 2017?

14 A 2017. I apologize, yes.

15 Q Okay. Is it fair to say that you didn't bill for your January
16 through April 2017 time until the generation of the timesheets that were
17 submitted in this hearing that some folks have been calling the superbill?

18 A Yes, sir.

19 Q Going back to the first bill that Mr. Simon generated on the
20 Edgeworth case, do you have an understanding of the purpose of that
21 bill?

22 A As I just said, my understanding was it was to support the
23 calculation of damages. It was because there was an attorney's fee
24 clause in the Lange contract.

25 Q Sorry, I'm jumping around a little bit, but why the delay from

1 January to April 2017, in including your time and your work on the bills
2 that were sent to Mr. Edgeworth and that were disclosed in the
3 litigation?

4 A Because it was my understanding this was Danny's friend I
5 was just helping out. The bills weren't really bills. They were only
6 supposed to be for calculation of damages. So, but then in April, we
7 realized after -- I think it was Judge Bonaventure, on April 25th, denied
8 our motion for summary judgment to put a moratorium on discovery.
9 We've got to start taking depositions, we've got to start doing all this on
10 written discovery and all that stuff.

11 So, at that time, I'm working on the case, I need to start billing my
12 time so we can add it to the computation of damages.

13 Q When you started billing your time, did you bill all your
14 work --

15 A No, sir.

16 Q -- and all your time?

17 A Oh, I'm sorry.

18 Q All your work and time, did you bill it?

19 A No, I did not.

20 Q Why not?

21 A Well, because again, this was Danny's friend. I billed the
22 substantial things -- like the substantial documents, like the motions that
23 I did, the depositions I attended, the court hearings I attended. Basically,
24 I didn't bill any emails, I didn't bill any telephone calls. This was Danny's
25 friend, and this was just us putting together bills for the calculation of

1 damages. Plus, I'm not a great biller. I don't have any billing software. I
2 don't know, you know -- and so I mean, I didn't think to really bill that
3 way. That was just when I was putting together the substantial stuff.

4 Q Was there an office effort to bill on this file?

5 A No, sir. Not at that time.

6 Q To your knowledge, have any paralegals ever billed any time
7 in this file?

8 A No.

9 Q Any assistants?

10 A No.

11 Q Were you involved in the document management of this
12 case?

13 A Yes, sir, I was.

14 Q Do you have an understanding of the size of the file and the
15 documents produced?

16 A Yes. It was huge.

17 MR. CHRISTIANSEN: Your Honor, I'd like to bring in a
18 demonstrative piece of evidence --

19 THE COURT: Okay, which is?

20 MR. CHRISTIANSEN: -- for the Court's --

21 MR. GREENE: It would be nice if we could have seen it first.

22 MR. CHRISTIANSEN: It's going to be very technical and hard
23 to understand.

24 MR. GREENE: Generally, before you show exhibits to
25 witnesses, you show them to either side, don't you?

1 MR. VANNAH: No surprises.

2 MR. CHRISTIANSEN: Is this your witness, Mr. Greene?

3 MR. GREENE: Yeah. No, we have terrible way about each
4 other, apparently.

5 MR. CHRISTIANSEN: I've noticed.

6 MR. VANNAH: I didn't know.

7 MR. CHRISTIANSEN: [Indiscernible].

8 MR. VANNAH: I can understand that.

9 MR. CHRISTIANSEN: It's not that.

10 MR. VANNAH: Whatever.

11 MR. CHRISTIANSEN: I know.

12 THE COURT: And what is this, Mr. Christiansen that requires
13 four people to hold the door open? So, now I'm nervous.

14 MR. VANNAH: It's a big bulletin.

15 MR. CHRISTIANSEN: It's some boxes, Your Honor.

16 MR. VANNAH: Oh my God.

17 MR. CHRISTIANSEN: It's boxes.

18 MR. VANNAH: If somebody gets a bad back out of all this,
19 I'm not responsible.

20 THE COURT: I'm not liable either, Mr. Vannah.

21 MR. VANNAH: Oh my gosh. Are we filming this?

22 MR. CHRISTIANSEN: We're building a wall. It's like a
23 concert I went to once, a long time ago.

24 THE COURT: Oh, my goodness.

25 MR. CHRISTIANSEN: While the folks are bringing in the

1 boxes --

2 BY MR. CHRISTENSEN:

3 Q Ms. Ferrel, while the folks are bringing in the boxes --

4 A Yes, sir.

5 Q -- how many documents were produced in discovery in the
6 Edgeworth case?

7 A Just discovery alone were 122,458 pages.

8 Q Did you do any research into how many pieces of paper fit
9 into a standard bankers box?

10 A Yeah, 5,000 pieces of paper.

11 Q So, do the math for us and round up, if you would, how
12 many banker's boxes of paper was that equal to?

13 A It's 24.5, so 122,458 divided by 5,000 is 24 -- approximately
14 24.5 boxes. So, 24.5 boxes just in the production.

15 Q So, that would be 25 boxes?

16 A Twenty-five boxes. Yes, sir.

17 Q Okay. We're not quite there yet. Did you have the lovely
18 opportunity to look at all those pieces of paper?

19 A Yes, sir.

20 Q Now, the boxes that we're, I guess, still bringing in, would
21 that include the pleadings that were filed in the case?

22 A No, sir.

23 Q Motions?

24 A No, sir.

25 Q Depositions?

1 A No, sir.

2 Q Exhibits attached to depositions?

3 A No, sir.

4 Q Research?

5 A No, sir.

6 Q And of course, the emails, we know were in a whole bunch of

7 additional boxes behind those?

8 A Yes, sir.

9 Q Okay. So that would be in addition to the 25 boxes?

10 A Yeah, that's just the discovery produced in the case.

11 Q I'd like to talk a little bit about the timesheets that were

12 submitted during the adjudication process.

13 A Okay.

14 Q I think we've been calling them superbills today.

15 A Yes, sir.

16 Q Okay.

17 A I understand what you're talking about.

18 Q All right. Those are exhibits 13, 14, and 15?

19 A Yes. I believe so, yes.

20 Q Did you have a role in the creation of those --

21 A Yes, sir.

22 Q -- timesheets?

23 A Yes.

24 Q What was your role?

25 A Well, I did all of mine, and then I also helped with Mr.

1 Simon's.

2 Q I think there was an allegation that you all sat around a
3 conference table and dreamed up the numbers contained in the
4 timesheets; is that true?

5 A No, sir. We did not do that.

6 MR. VANNAH: I'm going to object to that. I don't remember,
7 and I'm pretty good at reading, but I don't remember anybody saying
8 anybody sat around a conference table and dreamed up anything. Can
9 we just come up with crap like that with no background? Can we not do
10 that?

11 THE COURT: Well, I mean, I don't recall that, Mr.
12 Christiansen, anybody saying that.

13 MR. VANNAH: Yeah. If you want to show me where I ever
14 alleged in a pleading that you guys sat around the table holding hands,
15 praying, and coming up with a time out of the blue, I'd like to see that.

16 MR. CHRISTIANSEN: I will provide it.

17 MR. VANNAH: Okay. Well we'll --

18 MR. CHRISTIANSEN: Tomorrow.

19 MR. VANNAH: Maybe Mr. Simon can --

20 MR. CHRISTIANSEN: I didn't anticipate your standing up and
21 contradicting that, but we'll give it to him.

22 THE COURT: Okay.

23 MR. CHRISTIANSEN: We'll provide it.

24 THE COURT: Okay.

25 MR. VANNAH: All right.

1 BY MR. CHRISTIANSEN:

2 Q So, what went into your timesheets?

3 A What went into my -- the superbill timesheets?

4 Q Correct.

5 A So, basically, we billed -- so, I guess you could kind of split it
6 up into two things. From September 19th, so like September 20th, I think
7 it is, through when we stopped working on the case, which mine is
8 sometime in January 2018. That was all hours that we were working on
9 the case. Everything before that -- and I'm just talking about mine. I
10 don't know if I clarified that. All of mine before that, we went back to
11 May of -- I didn't start working the case until May, until January, except
12 for that one December 20th, 2016 date. In January from that point to
13 September 19th, all of those bills were emails, and telephone calls, and
14 downloads -- WIZnet downloads, that I did that I had not billed for
15 previously. And --

16 Q Was that a time consuming process?

17 A Yes, sir. I had to go through all of the emails.

18 THE COURT: Okay. I'm sorry, Mr. Christiansen. I have a
19 question. So, your bills, in this superbill --

20 THE WITNESS: Yes, ma'am.

21 THE COURT: -- everything from January of 2017 to
22 September 19th of 2017, is for emails, telephone calls, and WIZnet
23 downloads that you hadn't previously billed for?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Okay. And that's what's included in this

1 superbill?

2 THE WITNESS: Yeah. And I believe if you look at mine,
3 that's all that's in there are telephone calls for my cell phone --

4 THE COURT: Okay.

5 THE WITNESS: -- and WIZnet downloads, and also emails.

6 THE COURT: But from September 20th to January 2018,
7 that's the hours you worked on this case?

8 THE WITNESS: Well, that's the hours I worked on this case,
9 including -- but I also incorporated in my downloads, also my emails,
10 and my telephone calls in there, as well.

11 THE COURT: So, that's in that calculation --

12 THE WITNESS: Yes, ma'am.

13 THE COURT: -- on the superbill? Okay.

14 BY MR. CHRISTIANSEN:

15 Q Do the timesheets capture all the work?

16 A No. So, the timesheets -- when we had to go back and do it
17 for this adjudication process, we had to show -- because it's my
18 understanding we had to show the Court how much work we did on the
19 file, and so we went back, and we only put entries on there that we could
20 support with documentation.

21 So, that's why the emails were added, that's why the cell phone
22 records were added, and that's also why the WIZnet filings were added,
23 as well. And so, basically -- and because we had a hard document. If we
24 didn't have a hard document, we didn't capture it on the bill. We didn't
25 put it on there. Any discussions with Mr. Simon that I had, you know, 10

1 minute discussions -- there are a few discussions on the bills that are on
2 there, those aren't captured.

3 Any calls from the office that we did with regard to this case,
4 whether it be with Mr. Edgeworth, whether it be with experts, whether it
5 be whoever, any calls from the office we weren't able to get, we
6 subpoenaed the records from Cox and were not able to obtain those, so
7 those aren't include on there -- included on there.

8 But what we did to get those dates on that superbill was we had to
9 choose a landmark date. So, with regard to the WIZnet filings, because I
10 needed something -- I needed a landmark date for each of those filings, I
11 went to the date that that thing was filed, the date that the pleading was
12 filed and that's the date that I put it in on.

13 I know there's been some allegations about a 22 hour day, which I
14 know we're going to talk about in detail, but that kind of explains that
15 because I -- and I mean, again, I talked about it in detail. Everything that
16 was filed, for example, on September 13th, I put on September 13th for
17 the WIZnet filings. Every email that was received on September 13th, I
18 put on September 13th, and then I also gave all of the WIZnet documents
19 .3 hours, because what I did was I would review the -- when it came in on
20 WIZnet -- I was the one working on this case. We didn't have a paralegal
21 in this case. I was the one that did it. I would open the WIZnet
22 document, review it, download it, save it, and send it out to wherever it
23 needed to do. Some of these, super quick, maybe not .3. Some of them,
24 way longer than .3.

25 So, we had to have a base mark number for all of the WIZnet

1 filings, so that's why we chose .3 for the WIZnet filings, which are
2 identified as -- I can tell you, if you'd like. On my bills, review, download,
3 and save, and then I put the name of the document, and that's a WIZnet
4 filing. So anytime you see review, download, and save, that's a WIZnet
5 filing.

6 Same thing with emails. Our base calculation, I had to put a base
7 calculation, it was .15, and then if the email was more time consuming,
8 the appropriate number was put on there. This is with regard to my bill.

9 Q So, I heard a couple of things. One, I heard no paralegal.

10 A Yes, sir.

11 Q So that's why there are no paralegal bills?

12 A Yes, sir.

13 Q Okay. Thanks for clearing that up. Let's take the WIZnet
14 filings as an example. What did you do with a WIZnet filing when it was
15 made in this case, in the Edgeworth case?

16 A I would -- like a WIZnet, like any filing?

17 Q Like someone filed a motion. One of the Defendants filed a
18 motion.

19 A When the Defendants filed a motion, I would download it, I
20 mean, review it, save it, and then send it out to Danny, send it out to
21 Brian, send it out to whoever. And I didn't send it to Brian every single
22 time, but some of the more important things, I know Brian was very
23 active in the case, and like he wanted to be in charge -- like not in charge.
24 Informed of the stuff going on. So, I would sometimes send it to him,
25 too.

1 Q Okay. And is that different from any review you would do if
2 you were say taking the lead on drafting an opposition to a motion?

3 A Well, yeah. I would review it to see what it is. I mean, do I --
4 and then I would also have to like calendar it or what not, too. I mean,
5 and if I was supposed to do an opposition, so for example, with your
6 example, a motion. A motion comes in, the review, download, and case
7 only incorporates the review, download, and save. If it was a motion,
8 then I -- and I was going to do an opposition to it, I would review it later.
9 I wasn't reviewing it at that time to draft the opposition.

10 Q Okay. You indicated that you did some -- that you helped Mr.
11 Simon with his timesheets?

12 A Yes, sir; I did.

13 Q What did you do --

14 A Some of it.

15 Q -- for Mr. Simon?

16 A Well, I did -- I took his cell phone records. Again, because we
17 weren't able to get the office records, so I took his cell phone records and
18 I plugged in his cell phone records into the bill, and then I also -- I'm the
19 one that put the infamous, on Exhibit 13, a Plaintiff review of all emails
20 concerning service of all pleadings, (679 emails), without a date. So,
21 would you like me to explain that?

22 THE COURT: I would.

23 THE WITNESS: Okay.

24 MR. CHRISTIANSEN: Yeah, I'd like to hear about it, too.

25 THE WITNESS: So, what that is, is that's the WIZnet filings.

1 If you look at any of Mr. -- if you look at Mr. Simon's superbill, there are
2 no WIZnet filings in his. And so, when I would send the WIZnet filing -- I
3 sent every single WIZnet filing to Mr. Simon.

4 So, what that number is -- or so what is, there were 679
5 emails, and I had multiplied that by .2 because he would have to open it,
6 and then analyze it or whatever, and then that was it. And if he wanted
7 to do more to it, then he could choose to do more to it, but because there
8 was a formatting issue, plugging every one of those 679 emails in -- so
9 those are all WIZnet filings. Those WIZnet filings are for the entire case,
10 679. So, that goes from May -- well, I guess the complaint wasn't filed
11 until June, so June of 2016 through -- I guess the attorney lien is when
12 we kind of stopped counting. That's when we stopped counting any of
13 the WIZnet filings in the case.

14 MR. CHRISTENSEN: Okay.

15 THE COURT: So, that's through the attorney lien?

16 THE WITNESS: Yes, ma'am. The amended attorney lien in
17 January.

18 THE COURT: And do these include some of the same WIZnet
19 filings that are in your bill?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Okay.

22 THE WITNESS: But we would both -- I mean, he would read
23 them as I -- he didn't download them. He just read them when I would
24 send them to him.

25 THE COURT: And what did you -- what was the time per --

1 THE WITNESS: .2.

2 THE COURT: .2. Okay.

3 BY MR. CHRISTIANSEN:

4 Q Did Mr. Simon enjoy billing?

5 A No.

6 Q How do you know?

7 A He was super grumpy about it, and he had lots of Post-Its
8 everywhere, and he just -- he absolutely did not enjoy billing. I don't
9 know how many times he said he didn't know how to bill.

10 Q Let's talk about the Edgeworth Exhibit 9.

11 A Okay.

12 Q Have you seen Edgeworth Exhibit 9?

13 A Yes, sir.

14 Q What did you do when you first received Edgeworth Exhibit
15 9?

16 A Well, I looked at it. I added up -- not that I'm great at math,
17 but I think I'm decent enough. I added up just to make sure their hours
18 were all, and the math -- the chart was right. And then I looked at all of
19 the boxed ones, because I assumed those were the ones that they had
20 issue with, and then I pulled the bills for -- if -- because some of them are
21 prior to the superbill. I pulled the paid hours and the new hours, the
22 superbill hours, and I compared them to see what their issue was or
23 what I thought their issue was with it.

24 Q Okay.

25 A So I could review it.

1 Q And just for clarification of the record, it's Edgeworth Exhibit
2 9, Bate 8 through 12; is that what you have?

3 A I believe it's 7 through 12.

4 Q Oh, did I miss one?

5 THE COURT: Yes, it starts on 7.

6 MR. CHRISTIANSEN: Okay. I apologize. I missed one.

7 THE COURT: Well, Ms. Ferrel starts on 8, but the --

8 THE WITNESS: Oh, I do --

9 THE COURT: Right. There's beginning with Mr. Simon on
10 page 12.

11 THE WITNESS: Sorry, Judge.

12 MR. CHRISTIANSEN: Okay.

13 THE COURT: I mean on 7.

14 BY MR. CHRISTIANSEN:

15 Q So, there was some discussion about email billing for Mr.
16 Simon on 8/20 and 8/21/2017.

17 A Yes, sir.

18 Q Do you recall that earlier today?

19 A Yes, I do.

20 Q Okay. So, what did you find when you took a deeper look
21 into those boxes on this exhibit?

22 A On Mr. Simon's 8/20 and 8/21, or just --

23 Q Correct.

24 A -- all boxes? On those boxes, it was different things. A lot of
25 -- what I think the common error is, and maybe Mr. Vannah can correct

1 me if I'm wrong, but it's the emails, the WIZnet filings, and the telephone
2 calls that were added that put all of these -- that put -- that I think they're
3 questioning these hours, because -- and again, like I just told you, I had
4 to use a landmark date.

5 So, whether I opened, reviewed, and downloaded on that specific
6 day, or whether it was the next day, or the next day, I mean, it happened
7 within a few days of that, but I used a landmark date because again, I
8 wanted to have support for everything I put into the superbill.

9 Q Talking, specifically, about the Sing [phonetic] work old, new,
10 on 8/20/2017, that's listed on Bated page 10 of Exhibit 9 for Mr. Simon.

11 A Oh, I apologize. Yeah. Well, what I found on there is that he
12 had -- they're different. It's actually different stuff.

13 Q Okay. Those are the emails that Mr. Christiansen showed to
14 Mr. Edgeworth earlier today?

15 A I believe so, yes.

16 Q And copies of those emails are in Exhibit 80 that's been
17 submitted to the Edgeworth counsel and to the Court?

18 A Yes, sir. And I believe one of them, and I can't tell you which
19 date right now, one had 10 emails and one had 12 emails.

20 Q Okay.

21 A And on one of those days, I believe it was 8/21, he hadn't
22 billed for any emails at all.

23 Q So, let's take a look at some of these issues on here. There's
24 a 22 hour day on here.

25 A Yes, sir.

1 Q 9/13/2017. That's on page 10 of Exhibit 9.

2 A Yes, sir.

3 Q What's going on there?

4 A Okay. So again, what I think happened, if you look at the --
5 it's the very last entry on that page. On the paid bills, it was -- I had eight
6 hours, 8.75 hours, and then on the new superbill, there's 14.10 hour, and
7 if you look at the new bill, all of the time is review, download, and save
8 the WIZnet filings. But, also, on that day, and I know for a fact because
9 that was right after -- we had to do out-of-state commission. We're like
10 ramping everything up. This case was incredibly fast at the very end.

11 Q Let me interrupt you for just a second.

12 A Okay.

13 Q Did something happen the day before that date on 9/13?

14 Was there a deposition or something that went on?

15 A Well, on 9/7 --

16 Q Okay.

17 A -- Mr. Carnahan -- yeah, Carnahan, he was deposed.

18 Q Okay.

19 A And he was our expert for like seven hours, and so then one
20 of their other complaints they have is the one right above that -- or not
21 complaints. I apologize. One of the other issues that they had boxed
22 was the 9/8/17 date.

23 Q Okay.

24 A And that was the date after Mr. Carnahan's deposition, and
25 there was a ton going on that day because of what Mr. Carnahan had

1 testified to, we were -- I mean, we were resetting depositions, we were
2 starting the motion to strike, we were noticing all these depositions over
3 that course of between the 8th, the 13th. I mean, and it just all happened
4 in a short period of time, Viking people in Michigan.

5 So, on the 13th one, which you were talking about a minute ago, a
6 lot of those downloads were for Michigan people, okay? The Viking
7 counsel refused to accept service on a lot of them, so we had to file
8 applications to take out-of-state commission, deposition, out-of-state -- I
9 think everyone knows what I --

10 THE COURT: Out-of-state depositions?

11 THE WITNESS: Yeah, the commission to take an out-of-state
12 deposition. There we go. So, we had to file that. But then you had to
13 also file all of the paperwork with the Court in that jurisdiction. Well, in
14 Lansing, you have Ingham and Eaton, and that's where some of these
15 were at, and then some of them were in Grand Rapids, which is a
16 different county, and you had to fill out documents each time you did.

17 So, some of these, yeah, it was, you know, an amended
18 deposition notice, okay, but each time I filed that deposition notice, I had
19 to resubmit the paperwork to the Court, which took time. I mean, and it
20 was, yeah, I had some of it filled out. It was a little quicker the next
21 times, but you know, that's why it took so long each time I did it, even
22 whether it was amended or the first notice.

23 BY MR. CHRISTIANSEN:

24 Q We were talking about some of the WIZnet filings with regard
25 to the 22 hour entry on 9/13.

1 A Yes, sir.

2 Q So, you know, I use WIZnet, sort of, right? I get an email, I
3 can open it up, I can download something. I don't always do it that day.
4 Sometimes I do it the following day when I get to it. What were you
5 doing in this case?

6 A What was I doing in the WIZnet --

7 Q Yeah, with the WIZnet.

8 A -- with regard to WIZnet?

9 Q Did you open them every day as soon as they came in? How
10 did that work?

11 A No. I mean, yeah, I would try to do that, but there was,
12 again, a lot of stuff going on with the case. I mean, if I'm working on a
13 motion to strike, I'm not going to stop my motion to strike when I see,
14 you know -- just when I'm downloading, when I know I just filed 10 or 12,
15 you know, deposition notices, especially in the ones Viking counsel's,
16 you know, taking -- that they're accepting service of.

17 I'm not going to stop working on my motion to strike and/or reply,
18 or opposition, or motion to compel, or whatever I'm working on, to
19 download that day. It may have been the next day or the next day, but it
20 would've had to be within two or three days because we had to keep up
21 to date on this case all the time.

22 Q So, I mean, why does it take you to do this work, just to do a
23 WIZnet for a notice of taking deposition?

24 A Okay. So, what happened in this case is they had a
25 confidentiality order, right? A protective order. I know that's super

1 common in these big document cases and things like that, but this one,
2 they had actually threatened us because a document got served that was
3 confidential, and they sent a letter to us threatening to sue us if --
4 because we violated -- not sue us, but they were going to take action
5 against us, because we violated the protective order.

6 And so, they told us to withdraw it and then we had to do all this
7 other stuff from that. So, because of that, I was the one that was doing
8 all of this.

9 Q Well, is calendaring also an important issue in a large
10 complex litigation?

11 A Yes.

12 Q I mean, you have to keep track of all the different parts, right?

13 A Yes.

14 Q But do you keep track of all the different parts and do this
15 kind of labor on a smaller case?

16 A No.

17 Q Only the larger cases?

18 A I mean, this is the only one that I typically do all of it on. I
19 mean, we have a paralegal who is very competent and has done --
20 worked for Mr. Simon for 20 years, so she does most of it, but with
21 regard to this case, because again, it was kind of a -- it was a very -- it
22 was his friend, it was a very fast moving case. We didn't want to miss
23 anything. That's why I was doing all of it.

24 Q When you performed your review of these box entries, did
25 you find any errors?

1 A On?

2 Q On any of the billing? Did you go and see -- like for the 22
3 hour day, did you go back and see, yeah, there were however many
4 WIZnet filings that day and --

5 A Oh, yeah. No. Sorry. I didn't quite --

6 Q Yeah.

7 A -- understand. Yeah. So, no, I did. I took that day, and I
8 pulled -- you know, I pulled the paid hours, and then I also pulled the
9 new hours, and I compared them, and these are an exhibit, if you needed
10 them, but -- and there were no -- I recalculated everything because I
11 anticipated that they were going to talk to me about the ones in the box
12 -- in the boxes.

13 Q Okay.

14 A So, I just wanted to make sure that I didn't screw up, so if I
15 did screw up, I could at least say that it was my fault.

16 Q Okay. Well, are you padding bills?

17 A No, sir.

18 Q Was that your intent?

19 A No, sir.

20 Q Long days happen when you're an attorney?

21 A Yeah. Especially a trial attorney, yes.

22 Q Okay. And especially in document intensive cases?

23 A Yes, sir.

24 Q I think your testimony is that you probably didn't work 22
25 hours on 9/13 because of the WIZnet filings?

1 A Yeah. I don't think I worked 22 hours on 9/13, however --

2 Q And --

3 A -- I do --

4 Q Have you worked 22 hour days before?

5 A I have one hundred percent worked 22 hour days before.

6 Q Okay. Can you --

7 A When I --

8 Q -- explain that a little bit?

9 A Yeah. When I worked over with -- at Mr. Eglet's firm, we did
10 -- I worked hand-in-hand with him and Mr. Adams, and a couple of other
11 attorneys on the endoscopy cases, and those were huge, complex cases,
12 very similar -- I mean, not similar in fact and stuff to this case. I mean,
13 but when we were preparing for it, I mean, we're talking hundreds and
14 thousands of documents. Yeah, we would. We would work, I mean, on
15 average, 15, 16 hour days. That was an average day for us if we were in
16 trial.

17 Q Okay.

18 A There were -- I can think of at least a dozen days where we
19 worked all through the night, me and Mr. Adams, and I went home, I
20 would shower, and I'd come right back to work, and we'd go right to
21 trial. Did it happen on this day? No. I didn't do 22 hours on this day
22 specifically, but again, that -- I have worked 15 hour -- yeah, I have
23 definitely worked 15, 16 hour days on this case.

24 You know, I mean, and so there was a lot of times I would even
25 work from home. I think it was said, and I don't remember who said it,

1 but I heard the testimony, or it may have been in opening that, you
2 know, I was working from my -- there is no way someone could work
3 from their office for that long. Well, I have remote access, and so I'm -- I
4 work a lot of times at home until 1 or 2:00 in the morning. I live by
5 myself with my dogs, so, you know, I mean, I don't have a lot of
6 interruptions.

7 And so, you know, I mean, I work from home a ton. I'm at the --
8 but in this case, I had to be at the office for a lot, and so it was very
9 common for me to be there 12, 13 hour days, and then I would go home
10 and work from home. And I have email on my phone, I have email --
11 remote access on my laptop. So, I mean, I would work long hours.

12 Q Did you do all the work that you billed for?

13 A Yes, sir; I did.

14 Q Did you get the right date on all the work that you billed for?

15 A Well, I mean, I think I did. Yeah, with what we've just talked
16 about, I mean, with the exception of those -- with the WIZnet filings
17 maybe being the next day or the following day within that time range;
18 yes, I did.

19 Q Okay. And on that same theme, we've got a 135 hour block
20 entry for Mr. Simon. How do you know that he was reviewing these
21 emails that you gave him credit for?

22 A Because he would respond back to the email with the WIZnet
23 filing attached.

24 Q Okay.

25 A Like he would -- like I would send the email, and then he

1 would respond to the email, and the WIZnet filing would be at the
2 bottom. You know how an email is.

3 Q So, he was on top of it?

4 A Yes, sir.

5 Q Okay. Let's talk a little bit about the review of these
6 produced documents and the assertion by Mr. Edgeworth that he was
7 solely responsible for the blossoming value of the case. Is it fair to say
8 that you get the first look at any document production?

9 A Yes.

10 Q Was the first major production on July 6th, 2017?

11 A Yeah, that's the first one that was like thousands and
12 thousands of pages. It was a lot more. They had only produced like a
13 couple hundred pages or maybe a thousand pages before that one.

14 Q Okay.

15 A That's the first big one.

16 Q And that was by Viking, I believe?

17 A Yes, sir.

18 Q Okay. So, this is Exhibit 88. It's the law offices, Exhibit 88.
19 So, this appears to be an email from you, Ms. Ferrel, on July 6th; is that
20 correct?

21 A Yes, sir.

22 Q And that's 2017?

23 A Yep. Yes. Sorry.

24 Q And it seems to be a -- as these emails are set up, as we can
25 see, it's a forward on top of an email from Janet Pancoast --

1 A Yes, sir.

2 Q -- to some of the other lawyers in the case, including
3 yourself?

4 A Yes, sir.

5 Q So, first of all, can you tell me a little bit about what had gone
6 on in the case prior to this time about disclosures and attached
7 documents?

8 A Yeah. So, what Viking was doing when they were producing
9 their documents and, actually, Lange was doing it, too, is they'd serve
10 the pleading without any documents attached, unless it was like six
11 pages or something like that, or maybe even like 20 pages. I don't -- you
12 know, but a small amount. And then they'd send a disc in the mail, and
13 so we would wait three days, four days, or however long the mail took to
14 get it. And I mean, that's -- and when a case is moving this case, you
15 kind of need the documents then.

16 So, I said something to Janet -- Ms. Pancoast, and so then that's
17 why she sent the email before they would serve a pleading, or the day
18 they'd serve the pleading, and it let -- she then would email us and tell
19 us, hey, we're going to serve this today. Let me know if your runner is
20 going to come pick it up.

21 So, I would send a runner to pick it up, so then they would put it --
22 so it wouldn't get put in the mail. The runner would come back, bring it
23 to me, so then I could start going through it as soon as I get it.

24 Q Did that happen with this production on July 6th?

25 A Yes, sir.

1 Q So, the runner went and picked up the production on July
2 6th?

3 A Yes, sir.

4 Q And then you started in on it?

5 A I downloaded it and started in on it right as soon as I got it,
6 and this is at 9:12 in the morning, so she went and picked it up pretty
7 early.

8 Q About how much was the -- that download? The July 6th
9 download?

10 A Twenty-two -- 24,000 pages. I don't know exactly, but it was
11 at least 22, but it may have been 24,000.

12 Q I want to show you what's been marked as the Law Office
13 Exhibit Number 89. It's an email. So, it looks like you sent an email on
14 July 10, 2017, at 10:26 a.m.

15 A Could you bring it down just a little bit? Oh, 10:26. Yeah,
16 never mind. I see what you're saying. Yes, sir.

17 Q You see that? Right --

18 A Yeah.

19 Q -- in the middle?

20 A Yes.

21 Q And you wrote, holy crap, two words, punitive damages.

22 A Yeah.

23 Q And then you mention there's a ton of documents, and then
24 you talk about sending a Dropbox link out to folks for their review?

25 A Yes, sir.

1 Q Is that fair?

2 A Yes.

3 Q Okay. What did you find?

4 A In there? I mean, there was so much stuff. So, kind of go
5 back a minute. The reason why I said that was, holy crap, punitive -- two
6 words, punitive damages, is because on May 3rd, Scott Martorano, who
7 was the 30(b)(6) witness for Viking was deposed for the first time, and he
8 had said that there were 46 activations, okay? Activation is something
9 that Mr. Edgeworth testified to, and it's all throughout this entire case.

10 Q It's when a sprinkler brings rain to everyone --

11 A Yes.

12 Q -- below it and everything below it?

13 A Correct.

14 Q It's when one of those sprinklers goes off.

15 A Yes.

16 Q The 457s. Okay.

17 A Correct. And so, in his deposition, he testified 46 activations.
18 So, when reviewing these, there was a ton of emails, and I don't know
19 how many emails there were. There was a ton of emails. There were
20 also a ton of other documents and things like that. Well, in these emails,
21 they kept referencing another activation, another activation, another
22 activation, another activation. Oh, we had two go off this weekend. Oh,
23 we had two go off this weekend, or -- and even some of these emails
24 were from Viking. Some of these -- I mean, they all came from Viking.
25 Some of them were from people, it turns out, in Southern California,

1 talking about other activations. Well, just looking at it, you could tell that
2 it had it up to weigh more than 46. So, he had basically lied under oath
3 or misrepresented, you know, 46 activations. There were definitely more
4 than 46 activations.

5 Q When you reviewed the July 6th documents, were you
6 looking for something to drive some sort of a punitive damages claim?
7 Was that the part of your thinking?

8 A Well, yeah, that's just something that we do. That's
9 something that I've learned as, you know -- that is -- that's kind of how
10 you kind of change a case, I guess, you know, to say -- I don't know how
11 to exactly say it other than that, but when you find out people are hiding
12 things. When you find out, you know, things like that. We're always
13 looking for ways to, you know, change it and get punitive damages in the
14 case.

15 Q You had done that in other cases to drive value?

16 A Yes. Multiple.

17 Q Without violating any confidentiality provisions, is it fair to
18 say that the law office has recovered a number of seven and eight figure
19 cases using this method?

20 A Yes, sir.

21 Q I'd like to show you what's been marked by the Office as
22 Exhibit 80. This is Bates stamp 6751. It's an email from you to Brian
23 Edgeworth; is that correct?

24 A Yes, sir.

25 Q And this is July 10, 2017, at 11:40 a.m.?

1 A Yes, sir.

2 Q And is it fair to say that via this email, you were providing
3 him with a link to the Dropbox where you had loaded that Viking
4 production into?

5 A The sixth supplement; yes, sir.

6 Q Okay. And then again, looking back to -- let's take a look at
7 the time here that's 11:40 on July the 10th, and going back to Exhibit 89,
8 the time here is 10:26 a.m.; is that true?

9 A Yes, sir.

10 Q Okay. So, you'd already looked through these and had
11 located evidence to support the punitive damage claim, or at least get it
12 up and running --

13 A Yes, sir.

14 Q -- before these documents were ever provided to Mr.
15 Edgeworth --

16 A Yes, sir.

17 Q -- is that accurate? Okay. Now, Mr. Edgeworth talked about
18 an email summary in the last couple of days?

19 A Yes, sir.

20 Q Do you recall the email summary?

21 A Yeah. It was based off of that sixth supplement. There --
22 again, there were thousands and thousands of pages of emails, and so
23 we created an email summary. I created an email summary of what
24 those emails said with Bates stamps, and so it was easier for us to
25 locate. And at that point, activations were, I mean, key for us, so I bolded

1 anywhere it kind of referenced something that was activation related.

2 Q Okay. So, the email was sent around on July 19 via -- or the
3 summary was sent to around on July 19 via email?

4 A I believe so; yeah.

5 Q Okay.

6 MR. CHRISTIANSEN: I'd like to mark Plaintiff's next in order,
7 it's 91. This is 91.

8 MR. GREENE: And what is that?

9 MR. CHRISTIANSEN: It's the e-mail summary --

10 MR. GREENE: Okay.

11 MR. CHRISTIANSEN: -- that Brian talked about earlier today,
12 or maybe it was yesterday. I forget.

13 THE COURT: So, this is the email summary that Ms. Ferrel
14 prepared?

15 MR. CHRISTIANSEN: Correct.

16 THE COURT: Okay. Exhibit 91.

17 [Law Office's Exhibit 91 Received]

18 MR. CHRISTIANSEN: Your Honor, if I could -- yes?

19 THE COURT: Defense has got it. Okay.

20 MR. CHRISTIANSEN: If I could approach the witness?

21 THE COURT: Yes.

22 MR. CHRISTIANSEN: I have a courteous copy for you.

23 THE COURT: I was going to say; do I have a copy. Yeah.

24 MR. CHRISTIANSEN: You sure do.

25 THE COURT: This way I can follow along.

1 MR. CHRISTIANSEN: And you can have a Post-It.

2 THE COURT: Well, thank you.

3 MR. CHRISTIANSEN: There you go.

4 BY MR. CHRISTIANSEN:

5 Q When did you put together Exhibit 91?

6 A Well, I started putting it together after we received the -- it
7 was sometime between July 6th -- I probably -- I didn't start it on the 6th.
8 It would've been the 7th, 8th, sometime after that.

9 Q Okay.

10 A After we received the document production. It took a while.
11 It's a lot of emails.

12 Q When did you finish it?

13 A Well, I sent it out on July 19th.

14 Q Okay. Do you recall if you finished on the 19th or on the
15 18th?

16 A It could have been the 18th. It could have even been the 19th
17 depending on what time the email -- I sent the email. I'm sure I sent it
18 out after.

19 Q Fairly quickly?

20 A Yes, sir.

21 Q Okay. So, tell me a little bit about the work that went into
22 this.

23 A Well, I looked at the email, I would write Bates stamp down,
24 any key phrases kind of that would jog my memory. I mean, I guess it
25 was more geared towards me, but it was also for everybody else to look

1 at. Description of the email, date, from, to. I mean, I just kind of filled in
2 the --

3 Q You also had the Bates number of the particular document
4 that you're discussing?

5 A Correct.

6 Q Okay. And this was sent around to everyone, including
7 Brian?

8 A Yeah. Yes.

9 Q All right. It looks like the very first entry addresses Harold
10 Rogers?

11 A That was who the email was to, yes.

12 Q Okay. Was that the same Harold Rogers that we heard Mr.
13 Edgeworth discuss yesterday?

14 A I believe it was, yes.

15 Q Okay. Without going through -- how many pages is this?

16 A Twenty.

17 Q Okay. You counted it?

18 A I just counted it, yeah. I recounted it.

19 Q Okay. Thank you. How many activations were you able to
20 identify that are reflected just on this email summary, Exhibit 91?

21 A Well, so in --

22 MR. VANNAH: I didn't understand your words. How many
23 what?

24 MR. CHRISTIANSEN: Activations.

25 MR. VANNAH: Activations. Thank you. Thank you.

1 MR. CHRISTIANSEN: Sorry.

2 THE WITNESS: So about 83, but the other thing that's in
3 here is there's an email of 91 in the U.K. So, that was something that
4 was -- I mean, 91 in and of itself, that one email. So, it shows that it's
5 over 46, right? But setting that 91 email aside, there was at least, I
6 believe, 83 to 85. I'd have to go back and count exactly again, which is
7 obviously more than 46, so.

8 BY CHRISTIANSEN:

9 Q The 80 some activations were here in the U.S.?

10 A Yeah, those were in the U.S.

11 Q And then we had 91 in the U.K.?

12 A Right. and that was kind of a distinction. I should've made
13 that distinction because whether the U.K. ones were going to come in or
14 not, I mean, that was kind of a fight we were having with -- you know, in
15 the case, but there were definitely over 46, in the 80s referenced in here,
16 you know, at the time I did the summary.

17 Q The Defense were fighting introduction of activations in a
18 different country?

19 A Yes, they were.

20 Q On evidentiary grounds?

21 A Yes, they were.

22 Q Of course, the U.K. is traditionally a little bit colder than the
23 western United States, especially California, southern California?

24 MR. VANNAH: Is that an expert opinion on the weather?

25 Objection. Some days it's colder, some days it's not.

1 THE WITNESS: I'm not an expert on it. I know Southern
2 California gets warm.

3 MR. CHRISTIANSEN: Whenever I see those guys on the golf
4 channel, they always look cold when they're in the U.K.

5 MR. VANNAH: During the summer, it's not as bad.

6 THE COURT: Mr. Vannah is probably pretty much an expert.

7 MR. CHRISTIANSEN: He could be.

8 MR. VANNAH: Mr. Christensen -- he's not here.

9 MR. CHRISTIANSEN: Christiansen.

10 MR. VANNAH: He just got -- yeah, but he just --

11 THE COURT: Oh, he's here.

12 MR. VANNAH: He's an expert because --

13 MR. CHRISTIANSEN: He's in the back.

14 MR. VANNAH: He's got a daughter that's living in Scotland,
15 right?

16 MR. CHRISTENSEN: Yeah, I do.

17 MR. VANNAH: So, he can be an expert, but I don't think she
18 can.

19 MR. CHRISTIANSEN: I hear he sends her sweaters like every
20 week, because it's so cold.

21 MR. VANNAH: Maybe a bikini, too. Who knows?

22 MR. CHRISTIANSEN: Oh, stop.

23 MR. VANNAH: I'm talking about summer.

24 MR. CHRISTIANSEN: You know --

25 THE COURT: Oh, we are so far -- oh, Mr. Greene, just come

1 save us.

2 MR. CHRISTIANSEN: So, moving on, Your Honor. Moving
3 on.

4 BY MR. CHRISTIANSEN:

5 Q Taking a look at Number 91, was that the extent of the work
6 that you did on activations?

7 A No. This was just kind of the beginning of it. I mean, no -- I
8 mean, this is -- the activations turned into a huge thing, and Mr.
9 Edgeworth created -- I believe he's testified to, a big chart that had -- I
10 think he said -- I don't even remember anymore. There was a lot, over a
11 hundred activations on this chart that were broken down, that he
12 testified to in his --

13 Q Did you --

14 A -- direct.

15 Q -- see the chart from Mr. Edgeworth?

16 A Yes. He sent it. Each time he would add stuff to it, he sent it.

17 Q Okay. Was the starting point of the chart some of the
18 activations on Exhibit 91?

19 A I believe it was. That's one of the first times that we got
20 detailed, you know -- we got detailed, like Bate stamps, because in his
21 chart, he had Bate stamps, and like he had the addresses and things like
22 that. Again, other than the emails, there were a couple other things in
23 there.

24 Q Did you send this around -- 91 around in Excel form?

25 A No. No, it was a PDF.

1 Q Oh, okay. Was Mr. Edgeworth's chart useful?

2 A Yeah.

3 Q Okay. Did you discover evidence of more activations during
4 discovery?

5 A Yes, we did.

6 Q And that was through a use of what I would call traditional
7 discovery?

8 A Yes.

9 Q Interrogatories, request for production of documents --

10 A Motions to compel.

11 Q -- motions to compel. Okay. So, that information combined
12 with -- did Mr. Edgeworth ever independently find an activation?

13 A Maybe -- I'm sure he found activation. Yeah, I'm sure --

14 Q Okay.

15 A -- he did. There was lots of them. I mean --

16 Q All right.

17 A -- so yeah.

18 Q So, those were all used?

19 A Yes.

20 Q Okay.

21 A I mean -- yeah. I think -- yeah, we used the chart. So, yes.

22 Q All right.

23 MR. CHRISTIANSEN: Can I have just a moment, Your Honor?

24 THE COURT: Yes.

25 [Counsel confer]

1 MR. CHRISTIANSEN: No more questions, Your Honor.

2 THE COURT: Okay. And, Mr. Vannah, would you mind if we
3 took like 10 minutes before you start so I didn't have to stop in the
4 middle, because I'm going to need use the restroom before you finish
5 with her. So, if we just go now, then we can do it, and I won't have to
6 cut you off in the middle.

7 MR. VANNAH: I think that's a great idea.

8 THE COURT: Okay. So, we'll take 10 minutes. We'll be back
9 at 3:00.

10 [Recess at 2:55 p.m., recommencing at 3:08 p.m.]

11 THE COURT: Okay. Are you guys ready? We're going to go
12 back on the record in 9738444, Edgeworth Family Trust, American
13 Grating, v. Daniel Simon doing business as Simon Law.

14 Mr. Christiansen, you were finished?

15 MR. CHRISTIANSEN: Yeah.

16 THE COURT: Mr. Vannah --

17 MR. CHRISTIANSEN: Yes, Your Honor.

18 THE COURT: -- your witness.

19 CROSS-EXAMINATION

20 BY MR. VANNAH:

21 Q Do you mind if I call you Ashley?

22 A That's fine.

23 Q We've known each other a long time.

24 A Yes, we have.

25 Q You used to work over at the house of Eglet that I helped

1 build, right?

2 A Yes, we did.

3 Q All right.

4 THE COURT: Mr. Vannah, we just actually had a discussion
5 as to whether you were ever partners with Eglet. I wasn't sure.

6 MR. VANNAH: Well, I own half the building, but he put his
7 name on there. He had more votes than I did. I think Mr. Christiansen
8 voted for him; didn't he?

9 THE COURT: You wanted to call him out.

10 MR. GREENE: I think he did.

11 MR. VANNAH: I don't want to get into that. It's now the
12 house of Eglet, though, but I pay half of it. Okay. I think that was the tie.
13 That was before the endoscopy, I think.

14 THE WITNESS: Yeah.

15 MR. VANNAH: It was me they were looking to, not him. All
16 right.

17 BY MR. VANNAH:

18 Q So, if you don't mind if I just call you Ashley? I don't mean
19 any disrespect. I've just known you that way. It's hard to --

20 A That's fine.

21 Q Okay. So, I just wanted to clarify some things. So, do I
22 understand correctly -- we've seen four invoices and the superbill, right?

23 A Yes, sir.

24 Q All right. And I just wanted to clarify and make sure I
25 understand it. Somebody had to actually prepare those; was that you?

1 A Well, so let me -- the superbill -- I prepared my own superbill,
2 or the timesheet, the big one. And then I prepared all my own invoices.
3 So, I started invoicing, is it April? So, I only did the last two, and I would
4 only prepare my own invoices.

5 Q Yeah. And I may be -- so, let me just back up and make sure I
6 understand it. And I'm not trying to confuse you or make -- either one.

7 A Of course.

8 Q So, I think of four invoices that got paid, I think that way.

9 A Yes.

10 Q Are you with me, up through --

11 A Yeah.

12 Q -- September 22, 2017?

13 A Yes, sir.

14 Q Where there was four separate invoices?

15 A Correct.

16 Q All right. So, let's start with that. Somebody actually had to
17 sit down and prepare that, and kind of what I was listening to is that
18 somewhere in late 2016 or so, that you and Danny had a conversation
19 about the fact that, hey, we need to send an invoice out, right?

20 A Yes, sir.

21 Q Is that right?

22 A Yeah. It would have been like the fall. It was in November-
23 ish.

24 Q Okay.

25 A Yes, sir.

1 Q Of 2016?

2 A Yes, sir.

3 Q And that's the invoice number one --

4 A Yeah, that's invoice number one.

5 Q -- can we call it?

6 A Yes, sir.

7 Q Okay. Fair enough. So, my question to you is that
8 somebody, a human -- some human being, prepared that invoice,
9 actually went through and put it together. Was that you?

10 A No.

11 Q Okay. Who did that?

12 A I believe it was Mr. Simon.

13 Q Okay.

14 A I'm not sure. I did not do it.

15 Q Not a problem. Let's talk about invoice number two --

16 A Okay.

17 Q -- that had been paid.

18 A Yes.

19 Q Did you have any input in preparing that invoice?

20 A No, sir. I did not do that invoice either.

21 Q Do you know -- again, was that Mr. Simon, to your
22 knowledge, that did that, or do you know?

23 A I don't know.

24 Q And as to invoice number one, do you actually know or is
25 that just kind of a guess on your part?

1 A I know I've physically seen Danny typing into that invoice,
2 whether the actual final one was the one that was -- you know, he did it
3 all. I don't know.

4 Q Okay. Let me ask you about invoice number three.

5 A Yes.

6 Q Did you have any input in preparing invoice number three?

7 A Yes.

8 Q What -- did you prepare the entire invoice number three?

9 A No, sir. The one that's -- okay, so invoice number three --

10 Q Yes.

11 A -- it had a cover sheet on it, if I remember correctly, and then
12 it had an invoice for Daniel S. Simon, and then it had the chart, and then
13 after that it had invoice for Ashley M. Ferrel. So, everything that was
14 identified as invoice for Ashley M. Ferrel, I prepared.

15 Q All right. I appreciate that.

16 A Uh-huh.

17 Q Now, how did you go about making the document? What do
18 you physically do?

19 A So, I actually used, as I told Mr. Christiansen, we had put
20 together an hourly bill for a case in Mr. Israel's court -- Judge Israel, with
21 regard to hours for that mistrial earlier in 2016, so I actually just used
22 that template. It was a Word document that I -- that had four columns in
23 it -- and I think it's four. Three. I apologize. It had a date -- well, that's
24 Danny's. Yeah, it had three. Date, description, and time.

25 Q Okay. So, if I understand correctly then, that's a two-part

1 document, invoice three?

2 A Yes, sir.

3 Q And one part is Danny's time and one part is your time,
4 right?

5 A Yes, sir.

6 Q And you use that template and you prepared -- completely
7 prepared the portion of invoice number three of your time, right?

8 A Yes, sir.

9 Q Okay. Invoice number four, same question. Tell me -- the
10 same question I'm going to ask you is do you know who prepared that?
11 Is that when you prepared your portion and Danny prepared his?

12 A Yes, sir. And I believe in that one Mr. Miller also had one.

13 Q Okay.

14 A He has like a single sheet, and I believe his format is very
15 similar to mine, and it's just a single sheet, and he did that himself.

16 Q Okay. But you did your share of that --

17 A Yes, sir, I did.

18 Q -- for your time?

19 A Yes, sir.

20 Q And when you say format, I think I sort of get it. So, the
21 format -- normally on a bill that I see from law offices, I've sent a
22 hundred -- probably millions, millions of those, maybe billions of those.

23 A Uh-huh.

24 Q But on bills, normally, you have something that says the date
25 you do the item.

1 A Yes, sir.

2 Q A description of the item, the number of hours, and
3 sometimes off to the right, some people multiply that out, but a lot of
4 times, just at the bottom, they add up the hours and then put down the
5 rate and come up with the amount; is that how you did that?

6 A Yes, sir. It just had three columns. Date, description, time,
7 and then at the bottom, I think the last page had -- I mean, it will say -- I
8 don't have a full copy of it up here, but it had like total hours, and then it
9 would multiply by \$275, because that was for --

10 Q Okay. Very good. Now, I want to kind of back up to a
11 conversation that you and Mr. Simon had when the first invoice was
12 going out. And I may be wrong about that, so I just want to make sure I
13 understood it. My understanding was that in late 2016, whenever that
14 was, that you and Mr. Simon had a conversation where Mr. Simon says,
15 you know, we need to send a bill -- an invoice out to the client. Do you
16 remember that? Am I right about that? Did you have that conversation
17 before the first invoice went out?

18 A It was with regard to creating an invoice for purposes of the
19 calculations of damages because of the attorney's fee provision in the
20 Lange contract. That was the discussion we had for it. I don't recall
21 anything with regard to him sending this to the client or anything like
22 that. The discussion was just with regard to the hourly rate and how we
23 could do the hourly rate, and that's where the *Sarah Ash* case came in.

24 Q Okay. So that conversation -- how did that conversation
25 come about? I mean, why were you having this conversation, because

1 you're not going to be doing it in billing? Why is he talking to you about
2 it?

3 A Well, we talk about all of our cases.

4 Q Okay.

5 A I mean, and so I'm sure I was just talking to him about a case
6 that was going on or a couple issues that I had in other cases not related
7 to this case. And I mean, we just sat down, and we were talking, and I
8 think he just brought it up. It was one of -- because he was working on
9 the Edgeworth case. At that point in time, you know, he wasn't like fully
10 consumed as he was at the end of the Edgeworth case. You know, and
11 so it was kind of more just us talking about it, and he had to put together
12 a bill for that disclosure.

13 Q Yeah, so I'm just trying to get my brain around the whole
14 thing. So, do you remember the conversation?

15 A Yeah. I mean, the verbatim, no, not the exact.

16 Q But you remember the conversation occurring?

17 A Yes, sir.

18 Q Okay. So, here it is. You're not working on the case, but you
19 guys are talking about it, right?

20 A Yes.

21 Q He's telling you; you know, I need to put together an invoice
22 -- a billing invoice on the case, on the Edgeworth matter, right? He tells
23 you; I need to get an invoice put together?

24 A He may have said sprinkler case, but yeah, we all knew it was
25 Edgeworth -- I knew it was the Edgeworth case.

1 Q What did you guys call it?

2 A The sprinkler case. The Edgeworth case.

3 Q That's --

4 A Same thing.

5 Q You're like me. It's easier to think of the sprinkler case. Yes.

6 A Yes, sir.

7 Q Okay. So, you talk about the sprinkler case. I need to do an
8 invoice to the client, right?

9 A Yes, sir.

10 Q All right.

11 A I've got -- sorry. An invoice for the calculation of damages. I
12 don't know whether or not at that point he was sending it. It was -- the
13 hours he was working, I don't know if he was actually going to send it to
14 the client at that time. In the conversation, I don't know.

15 Q That's fair.

16 A Okay.

17 Q So, out of curiosity, there in the firm, people always ask me
18 questions. Did you ask them at that point in time, by the way, what are
19 your -- what are the terms of our engagement in that case? Did you ask
20 him during that period of time? What exactly is our billing arrangement
21 with him?

22 A No. I kind of leave the money stuff to him.

23 Q Okay, and that's fair. So, was there -- okay. So, we know
24 you didn't know anything about the billing arrangements by the end of
25 2016. You don't have any clue what the billing arrangements are, right?

1 A Correct.

2 Q On the sprinkler case?

3 A Other than what I just told you.

4 Q That he needed to put together a bill?

5 A Correct.

6 Q Right, but you didn't talk about whether it was hourly,
7 whether it was contingency, whether it's an hourly plus a contingency, or
8 how much the hourly was if it was; none of that discussion, right?

9 A Well, with regard to the *Sarah Ash*, it was the five -- we chose
10 the 550. We discussed what he should put.

11 Q Okay.

12 A So, the five -- that's where the 550 came from was -- there
13 was a discussion about his hourly rate at that time.

14 Q And that's -- I want to make sure I get all of the parts of the
15 conversation.

16 A Okay. Sorry.

17 Q And then that's why I've been asking you a little more
18 penetrating questions, so.

19 A Okay.

20 Q So, in this conversation in 2016, late two-thousand -- can I
21 call it late 2016?

22 A That's fine. Yes, sir.

23 Q All right. So, now that you thought about it, you do
24 remember, and I think you might've said that earlier -- you do remember
25 that as part of the conversation, there was a discussion about what was

1 going to be the billing of rate? There was a discussion about that?

2 A Yes, sir.

3 Q And let me involve myself on that. Did Mr. Simon tell you, I
4 don't have an agreement with the client on an hourly rate, so I need to
5 come up with something that I can justify or something like that? How
6 did that come up about the hourly rate?

7 A Well, I mean, he didn't specifically -- I just remember he
8 needed to come up with an hourly rate, and so I said, why don't we use
9 the *Sarah Ash* thing, so --

10 Q So, okay, I want to make sure I get it.

11 A Yeah.

12 Q So, Mr. Simon is looking to you for your thoughts and says
13 to you, I don't have an hourly rate, I don't have an agreement with the
14 client for an hourly rate. Does he say, what do you think would be a
15 good hourly rate or just exactly how -- can you remember the details of
16 that conversation?

17 A All I know is we were talking about the case, and that he
18 needed to -- he was coming up with an hourly rate, and I suggested
19 using the *Sarah Ash* order from Judge Israel. And so, in that one -- do
20 you want me to just talk? I'm sorry. I don't --

21 Q Yeah, go ahead.

22 A Okay.

23 Q I don't mind.

24 A In that one, it was \$600. Judge Israel, \$600 for himself. And
25 so, he decided to just knock it off so the Defense wouldn't complain,

1 balk, whatever word you want to use, wouldn't complain about the rate,
2 because Judge Israel -- if they were to complain about the rate, we had
3 an order from Judge Israel saying that the rate was, you know, approved
4 earlier that year.

5 Q Right. So, if I understand correctly, you have a mistrial?

6 A Yes.

7 Q And Judge Israel says, you guys are going to pay for this
8 mistrial, right?

9 A Well, not ask the Defense, but yes.

10 Q Not you.

11 A Yeah.

12 Q But the people that caused the mistrial, the bad boys.

13 A Yes, sir.

14 Q And he says, you guys are going to pay for the mistrial. So,
15 I'm going to give you an hourly fee for how much you guys lost, you
16 come up with what you did in the case, and we'll come up with a fair
17 hourly fee, right?

18 A Yes.

19 Q And Judge Israel eventually approved \$600 an hour to Mr.
20 Simon as a reasonable compensation for his time, given his stature in
21 the community, correct?

22 A Yes, sir.

23 Q Okay.

24 A I mean, I think.

25 Q So, I'm back to the conversation. I get that.

1 A Okay.

2 Q So, Danny and you were talking, and do you call him Danny?

3 A I do.

4 Q Okay. All right. So, Danny and you were talking and
5 somehow, he discusses with you, I need to do a billing, I need to
6 prepare a billing, and does he say to you, what do you think would be a
7 fair billing, or do you just volunteer that number, or does he say, I
8 wonder what I ought to bill? I mean, I'm trying to get my arms around
9 that because that's -- let me tell you why.

10 You've been in the courtroom. My client has a clear, clear
11 recollection of the conversation at the onset of the case, looking at an
12 onset meeting, you know, within a week, you know, a broader term than
13 Mr. Christiansen likes, but at the onset of the case that the billing was
14 going to be for his time, they don't talk about you. I was wrong the other
15 day when I said that, but it wasn't you who was discussed, it was 550 an
16 hour. Do you remember hearing that testimony?

17 A I heard that testimony.

18 Q Okay. So, that's why I'm so interested in your conversation
19 with Danny, in more -- in as much detail as possible. Did Danny say to
20 you, I don't have an agreement with Mr. Edgeworth as to an hourly fee,
21 so I need to come up with something? Did he say that to you?

22 A He didn't talk about the agreement between him and Mr.
23 Edgeworth at all.

24 Q So, see, here's why I'm asking that question, because I mean,
25 if he's going to prepare an hourly bill to Mr. Edgeworth, was it your

1 impression this hourly bill wasn't a "real bill"? It's going to be just a bill
2 that's going to be presented to the Defense to say, hey guys, your
3 damages are getting bigger, and bigger, and bigger under this indemnity
4 agreement to Lange. The more I bill, the more you guys got to pay. Was
5 that kind of what you saw that as the purpose?

6 A That was my -- yes, sir. That was my understanding of it.

7 Q That that was the purpose of the bill?

8 A That was the purpose of the bill.

9 Q So, you know, I find it kind of odd that the bill that he's
10 preparing to show to Lange that he actually sends to Mr. Edgeworth, and
11 that Mr. Edgeworth actually writes checks and pays not only the legal
12 portion of the bill, but all the costs? Do you see -- you understand that
13 happened?

14 A No, I understand that happened.

15 Q Okay. And in invoice number two, that happened again,
16 right? He prepared another bill at 550 an hour, sent -- gave eventually to
17 the Lange people in discovery, but also sent that to Mr. Edgeworth, and
18 Mr. Edgeworth writes a check for the 550 an hour and all the costs, and
19 pays that bill.

20 A I understand that happened.

21 Q And then, eventually, you get involved in the billing process?

22 A Yes, sir.

23 Q And I think that was on invoice number three?

24 A Yes, sir.

25 Q And so, in invoice number three, again, Mr. Simon prepares

1 a bill for 550 an hour, outlines it. You then prepare your portion of the
2 bill for how much?

3 A Two-seventy-five.

4 Q Very reasonable. No complaints. You're worth more than
5 that, probably. So, for 275 an hour, which is more than that other guy on
6 the stand bills, but that's okay. You prepare your share of the bill for 275
7 an hour, and at the time that you did that, were you also under the same
8 thinking that these are just bills being prepared to give to Lange -- the
9 Lange lawyers to say, well, your damages are getting bigger and bigger?
10 Is that --

11 A That's my understanding of what the bills were for.

12 Q But what you had learned is that Mr. Simon took that bill, not
13 only gave it to the Lange people, but gave that to the Edgeworths and
14 the Edgeworths paid all of that bill, plus all of the costs that had been
15 incurred to date, right?

16 A I understand Mr. Edgeworth paid the bill; yes, sir.

17 Q And on the fourth invoice, they got paid. Again, your time's
18 included in that, right?

19 A Yes, sir.

20 Q Mr. Simon's time is included in that?

21 A Yes, sir.

22 Q And there might've been someone else. Ben, was he in
23 there?

24 A Mr. Miller. Yeah, Ben Miller.

25 Q And I don't know him, but I'm sure his bill was reasonable,

1 but he included time in that. That was all presented to the Edgeworths,
2 and they paid that bill again, in full, with all the costs, correct?

3 A That is my understanding, yes.

4 Q All right. Were you ever present at any meeting, or overhear
5 any discussion on the phone, or anything else where you overheard or
6 were present, where Mr. Simon said to Mr. Edgeworth, hey, old buddy,
7 I'm sending you a bill for 550 an hour, but my time is worth a whole lot
8 more than that, and some day we're going to have to reckon this thing
9 out. Did you ever hear him say something like that?

10 A No. That -- I wasn't around for any of those conversations.

11 Q Okay. Did Mr. Simon ever say to you, hey, I'm billing him for
12 550 an hour, but, in actuality, I have a better idea, someday I'm going to
13 bring him in, sit him down, and tell him, you know what, all my options
14 are on the table, and you guys need to come up and agree to pay me
15 more than the agreement we agreed to in the first place? Did you ever
16 heard that kind of a conversation from Mr. Simon or anyone else?

17 A No, sir. I didn't have anything -- discussions with him like
18 that.

19 Q Did Mr. Simon ever tell you that he had planned on bringing
20 the Edgeworths into the office -- and after they had paid four of those
21 invoices in full, did he ever tell you that he planned on calling them into
22 his office and sit down and say, you know what, you paid all your bills
23 faithfully, you've written every check, you've paid every bill I've given to
24 you, but you know what, I'm losing money. I'm losing money and you
25 guys need to pay me more or my options are on the table. Did he ever

1 tell you he was going to do that? Mr. Simon tell you he was going to do
2 that?

3 A No. I wasn't privy to any of those conversations.

4 Q Did you ever have a conversation with Mr. Simon where you
5 said, you know, Mr. Simon, or boss, or Danny, are you aware that there's
6 rules in the Rules of Professional Conduct that actually talk about having
7 an agreement with a client upfront before you do all of this billing,
8 before you charge them, and you get the fee agreement preferably in
9 writing, but certainty clear as a bell, early on or at the very near outset of
10 the case? Did you ever have that conversation with Mr. Simon where
11 you told him, you ought to do that?

12 A No, sir. I wasn't involved in the case in early -- in mid-
13 summer of 2016. So, I --

14 Q I mean, I'm talking about even later have you ever had that
15 conversation with him? Like why didn't you just have an agreement that
16 everybody was familiar with and have somebody signed it, and you
17 wouldn't be here today. Did you ever say that to him?

18 A I don't think I've ever said that. I just -- you know, I don't
19 have any idea what their agreement was, and I have never had any of
20 those conversations with Mr. Simon, so.

21 Q It felt a little uncomfortable telling him that maybe a little
22 preventative medicine might prevent a lot of what we're doing here
23 today?

24 A Well --

25 Q I get that. And you're an associate, right?

1 A I am an associate.

2 Q Okay. And, again, it's not comfortable to go to a partner and
3 say, you know -- I'm just asking if you ever --

4 MR. CHRISTIANSEN: Excuse me, Your Honor. I'm going to
5 object on foundation grounds. From what I've heard, there is no
6 foundation that she knew whether there was or wasn't a fee agreement.
7 So, this is -- there's no evidence in the record to support any of these
8 questions. He has to lay a foundation first before he can ask these
9 questions.

10 MR. VANNAH: I'm laying a foundation for one thing, but I'm
11 asking a separate question. I think that my foundation is well laid here.

12 THE COURT: Well, I mean, what is the -- I mean, you're
13 asking her if she ever had said to Mr. Simon that he could've prevented
14 this?

15 MR. VANNAH: Yeah.

16 THE COURT: Okay.

17 MR. VANNAH: Just by simply having a fee agreement.

18 THE COURT: Right. And I think she already said no.

19 MR. VANNAH: I think she has.

20 THE COURT: So, can you ask her something else until, Mr.
21 Vannah?

22 MR. CHRISTIANSEN: She has to know whether the, you
23 know, was there an agreement.

24 MR. VANNAH: I thinks he said, no, she didn't have that
25 conversation.

1 MR. CHRISTIANSEN: Was there --

2 THE COURT: Okay. Hold on. Only one of you is going to
3 talk at any given time. We're still in court.

4 MR. VANNAH: Well, he's objecting -- okay.

5 THE COURT: We're still having court here.

6 MR. VANNAH: You are. Go ahead.

7 THE COURT: I mean, this is the deal. He asked her if she
8 ever said that to Mr. Simon, which I think she can testify to, but she
9 already said, no, I never said that to him.

10 MR. CHRISTIANSEN: Absolutely, and then the questions --

11 MR. VANNAH: I'm not -- I don't have any other questions.

12 THE COURT: Okay. He's going to move on.

13 MR. VANNAH: So, to make it simple --

14 MR. CHRISTIANSEN: Okay.

15 MR. VANNAH: I mean, I don't have questions about --

16 THE COURT: About that.

17 MR. VANNAH: -- that because --

18 THE COURT: Okay.

19 MR. VANNAH: -- that answered the question.

20 THE COURT: Okay.

21 BY MR. VANNAH:

22 Q Has Mr. Simon ever told you that he actually had a fee
23 agreement with Mr. Edgeworth that he made early on in the case? Has
24 he ever said I actually had a fee agreement?

25 A I have never had any conversations with regard to the fee

1 agreement with Mr. Simon.

2 Q Okay. And so, you know, this is a yes or no question. Has
3 Mr. Simon ever told you -- I just want to make it clear -- that he actually
4 had a fee agreement with Mr. Edgeworth that he entered into at the
5 outset of the case?

6 A No, sir.

7 Q Thank you. Now, I don't want to go through each and every
8 one of your billings, but the ones -- I just pulled out some. Like the
9 9/13/2017.

10 A Yes, sir.

11 Q You billed -- I think you billed -- at least I just added up 22.85
12 hours.

13 THE COURT: And are you referring to the chart that was
14 created by your client, Mr. Vannah?

15 MR. VANNAH: I am because I think that reflects that day.

16 THE COURT: Okay. I'm just -- I just need to follow along
17 with you. I just wanted to know what document we're talking about.

18 MR. VANNAH: Good question. I don't even know that.

19 THE COURT: So, it's your Exhibit 9.

20 MR. VANNAH: 9.

21 THE COURT: Okay. And what date did you say, Mr. Vannah?

22 MR. VANNAH: I just want to take one date and just go to
23 September 13th --

24 THE COURT: '17?

25 MR. VANNAH: -- 2017. That date. Hold that right there. Let

1 me just ask some preliminary questions.

2 THE WITNESS: Okay.

3 BY MR. VANNAH:

4 Q So, what I understand --

5 MR. VANNAH: -- okay. While he's looking for that let me just
6 make sure --

7 THE COURT: It should be Bates stamp page 10, Mr. Greene.

8 MR. GREENE: It sure should.

9 THE COURT: At the very bottom.

10 MR. VANNAH: All right.

11 MR. GREENE: Thank you, Judge.

12 THE COURT: You're welcome.

13 BY MR. VANNAH:

14 Q I want to call it the original invoice.

15 A Yes, sir.

16 THE COURT: Okay. Just so we're clear, Mr. Vannah, this
17 isn't the invoice. This is a chart that your client prepared, not the invoice
18 that was sent out by Mr. Simon's office, right?

19 MR. VANNAH: Right. I'm saying -- I want to talk -- yes.

20 THE COURT: Oh, so you are talking about the original
21 invoice?

22 MR. VANNAH: Yeah. Just keep this in mind.

23 THE COURT: Okay.

24 BY MR. VANNAH:

25 Q We're going to go to this. I want to now go to -- just in my

1 mind. You don't have to look at it, I don't think. What I call the original
2 invoice, would that be invoice number three or invoice number four that
3 would capture this date?

4 A That would be invoice number four.

5 Q Okay. I don't think we have to look at it, because you've
6 already looked at it, but on invoice number four that was eventually sent
7 to Mr. Edgeworth that he paid --

8 A Yes, sir.

9 Q -- on that date, 9/13/2017, had your time on that date been
10 8.75 hours on invoice number four? And if you need to look at it, you
11 can.

12 A Yes, sir. It was 8.75.

13 Q 8.75. And this one you've looked at, so you're pretty sure of
14 what you're saying, right?

15 A Yeah. I actually --

16 THE COURT: Mr. Vannah, I need to follow along, so I'm
17 going to need some page numbers.

18 MR. VANNAH: Okay. Then help me just --

19 MR. GREENE: That's Exhibit 2, page number --

20 MR. VANNAH: We'll do -- help me out here.

21 MR. GREENE: -- 30.

22 THE COURT: Page 30? Okay.

23 MR. GREENE: Yeah.

24 THE COURT: Okay.

25 MR. VANNAH: I'm going to have --

1 THE COURT: Okay. So, 9/13. Okay.

2 MR. VANNAH: I've got this tech genius here next to me. He
3 can't even turn a cell phone on, but --

4 BY MR. VANNAH:

5 Q All right. Just point -- so if you look at -- what's the
6 document number so I say it right? Exhibit what?

7 THE COURT: 2.

8 MR. GREENE: Exhibit 2.

9 MR. VANNAH: Exhibit 2? That's our Exhibit 2?

10 MR. GREENE: Yes, it is.

11 THE COURT: Yes.

12 MR. VANNAH: Page 30. Point to where it says that. So, if
13 you look at line item -- it would be 9/13.

14 THE COURT: The very top two, Mr. Vannah.

15 MR. VANNAH: Thank you.

16 BY MR. VANNAH:

17 Q Yeah, so, if you look at 9/13, the very top two, in detail, you
18 talked about you prepared, and you attended a hearing on Defendant's
19 motion to compel home inspection, right?

20 A Yes, sir.

21 Q And you reviewed the Pancoast letter and discussed it with
22 DSS, and that'd be Danny Simon, I'd take it?

23 A Yes, sir.

24 Q So, your time for that particular task was 6.25 hours, right?

25 A Yes, sir.

1 Q All right. Then you go down to the next item. Finalize and
2 serve Nevada revised civil procedure 30(b)(6), notice of deposition. That
3 time took two-and-a-half hours, right?

4 A Yes, sir.

5 Q Or two-and-a-half, right? So, if we add those two things
6 together on 9/13, on the bill that got paid, you -- the firm got paid for 8.75
7 hours of your time for 9/13/2017, right?

8 A Yes, sir.

9 Q Then if I understand correctly, then you went back, and we've
10 talked about that a little bit, and created among other things -- so this --
11 you created more time for -- that the firm wanted to be reimbursed, for
12 example, on this date, the very same day, 9/13/2017, correct? That's
13 what you entered in timewise, correct?

14 A Yes.

15 Q Okay. Now, let's talk about that. So, the time in addition to
16 the 8.75 hours that you came up with in this task that you undertook was
17 an additional 14.1 hours to bill for on 9/13/2017, right?

18 A Yes, sir.

19 Q Now, when you add that up, I come up with really close to 23
20 hours. Do you see that?

21 A Yes, sir.

22 Q All right. And in all due candor, I think you've said that
23 earlier, and I know you're an honest person, you didn't work anywhere
24 near 23 hours that day, correct --

25 A Likely not that day.

1 Q -- on this case?

2 A Correct.

3 Q Okay. So, when we look at this -- and I'm just not going to
4 go through every entry, okay, because it would -- we would be here, I
5 mean, literally until months from now, and I don't want to do that, but if I
6 look at one entry here, you're clearly telling me that's just erroneous that
7 you know for a fact you did not bill -- you did not work 23 hours plus that
8 day on the sprinkler case, right?

9 A On that day, probably not, but those --

10 Q That's my question.

11 A Okay.

12 Q Because the billing is for that day.

13 A What?

14 Q The billing is for that day, right?

15 A The billing is on -- identified as 9/13/17, correct.

16 Q All right. And you understand, and to be honest and fair to
17 you, you've never sent a bill to another client in your entire life, correct?

18 A Correct.

19 Q You don't have anything to do with billing?

20 A Nope.

21 Q Never had anything to do with billing?

22 A No, sir.

23 Q This is the one and only client that you've ever billed, right?

24 A Well, yeah, that I've -- yeah, that I've ever billed.

25 Q Hourly.

1 A Correct.

2 Q I mean hourly.

3 A Other than the Ash. Putting together hours for the Ash case.

4 Q Okay.

5 MR. GREENE: This is Exhibit 5, Your Honor. This is from --

6 THE COURT: I think it was page --

7 MR. GREENE: That's correct.

8 THE COURT: I don't know what page it was.

9 MR. GREENE: It begins at pages -- page 131 and goes
10 through page 134.

11 THE COURT: Okay.

12 MR. VANNAH: Right.

13 BY MR. VANNAH:

14 Q And if you look at that document, so what you did -- this is
15 the ongoing -- what we've been calling the superbill for that date.
16 There's all those entries about an email chain, et cetera, et cetera, review
17 email, the attachment, review email from documents, and there's just
18 one after another after another, and they're at -- they start at the email
19 chain with DSS, which is Danny Simon. Documents being sent to
20 Zamisky [phonetic], and then it goes -- you go through the next page,
21 and some of them are .15. There's a lot of .30's, right, for review,
22 download, and save, review, download, and save. And then you go to
23 the third page, and you get a lot more review, download, and save, and
24 all at .3, correct?

25 A Correct.

1 Q And then you go to the next page, and you've got a lot more
2 review, download, and save, going all the way down to the last entry,
3 which is review of email from Robinson re deposition dates for Zamisky,
4 Hastings, and Olives [phonetic], and that's .15, right?

5 A Correct.

6 Q So, when you add all that up, that's when you come up with
7 this 14.1 new hours in addition to the 8.75 that you already billed on that
8 day, correct?

9 A Correct.

10 Q Okay. So, was it ever explained to you why Mr. Simon -- did
11 Mr. Simon ever explain to you why he wanted you to go back and create
12 this new billing that had never been presented to the Edgeworths for that
13 period of time in May of 2016 through September 22, 2017? Did he ever
14 tell you why he wanted you to go and come up with all this new -- these
15 new numbers?

16 A Well, the new numbers were all just emails -- things that I
17 could have a hard tie, because I had never billed for any of that time.
18 And it was actually -- I didn't start working on the file until January, so I
19 didn't bill for anything from May until January, but for that one 12/20/16
20 download. So, from that period to the September, so January '17 to
21 September '17, because I had not -- well, January to April, I had not
22 billed for, and so those are emails, phone calls, that kind of thing.

23 Q My question was, did Mr. Simon ever tell you why he wanted
24 you to go back and create all this additional time to put in invoices that
25 had already been sent, reviewed, and paid? Did he ever tell you why he

1 wanted you to do that?

2 A It was my understanding for Lange adjudication process, we
3 had to put together all of our time that we spent on the case.

4 Q Okay. Now, in all fairness, Mr. Edgeworth never said in this
5 courtroom or anywhere that you guys did nothing of any value on this
6 case. Do you understand that? Have you ever heard him say otherwise?
7 Have you ever heard Mr. Edgeworth say you guys never did anything of
8 value on the case?

9 A Not as I sit here right now.

10 Q Do you remember when Mr. Edgeworth said he thought you
11 were very -- you, personally, were very competent, very good at what
12 you did, and he was pleased to work with you. Do you remember him
13 saying that?

14 A I don't know if those were his exact words, but I do -- I wasn't
15 here yesterday when he was testifying.

16 Q Oh, okay.

17 A Yes, sir.

18 Q Did you always have cordial, good relationships with Mr.
19 Edgeworth?

20 A Mr. Edgeworth and I had a cordial relationship.

21 Q Did you find him to be -- it's posed to most clients that I've
22 had at least, did you find him to be more easy -- did you find him more --
23 I don't want to use the word intelligent, but the type of logical mind that
24 could understand the things that you were telling him, as opposed to a
25 lot of clients that I have that -- I mean, personal injuries tend not to get

1 anything.

2 A I mean, he's a smart guy. He's definitely a smart guy. I
3 mean, I have other clients, though, that are engineers, lawyers, things
4 like that. So, I don't want to say he's the only smart guy. I mean, but I
5 won't take away that he's a smart guy.

6 Q I mean, but he -- was he trying to help when he would give
7 you information that he would go out and find? Did you get to -- was
8 some of it helpful to you?

9 A Yeah. Some of it was helpful, yes, sir.

10 Q Did he seem to understand the factual background in the
11 case, the way the failure happened about the different activations, what
12 they had withheld from you guys, and how these things were being
13 activated? Did he seem to understand that?

14 A The factual background to the case with regard to the
15 sprinkler and stuff like that, he was very knowledgeable about that,
16 correct. With holding stuff, I don't understand, but definitely with regard
17 to the factual stuff, yes.

18 Q Yeah, I wasn't suggesting he was withholding anything.

19 A No, no, not him, but I didn't understand that part. That was
20 all I wanted to clarify.

21 Q I understand.

22 A Okay.

23 Q Okay. So -- now, were you at the deposition of Brian
24 Edgeworth?

25 A I was not at Mr. Edgeworth's deposition, no, sir.

1 Q Did you ever read that deposition?

2 A I've read bits and pieces of it, and I haven't read it from cover
3 to -- I have read it, yes, in its entirety, but it was in the middle of the case.

4 Q Did you read the portion of the deposition where Mr. Simon,
5 while, albeit, not under oath, as the attorney said, look, I had given you
6 our billings over and over and over again to billings in this case. Do you
7 remember reading that?

8 A I know that part of the deposition, yes, sir.

9 Q Okay. And when you reviewed that part of the deposition,
10 did you ever see anywhere where Mr. Simon said, well, there's actually
11 more billings for that time, but I'm just giving you the friends and family
12 discount portion of the billing. Did you ever hear him say that to the
13 other side?

14 A Well, no, I don't -- the way -- not the friends and family
15 portion, but my reading of that is that we had supplemented it over and
16 over and over again. That's what he meant by over and over and over
17 again is my understanding. I mean, I don't know, you can ask him,
18 which I'm sure you're going to.

19 Q You're right.

20 A But that we were supplementing, because we did
21 supplement the calculation and the damages over and over and over
22 again, so that's my understanding of that. I don't --

23 Q Did you personally, as working on the case, ever tell the
24 lawyers on the other side, especially the Lange lawyers, or anybody on
25 the other side, hey, you know, these billings that we're submitting as

1 part of the damages, the billings that have been paid by Mr. Edgeworth,
2 these aren't -- this is only a portion of the billings during that time? Did
3 you ever tell anybody on the other side so that they don't get mislead
4 here, that our billings in this case and the damages to Mr. Edgeworth as
5 a result of our legal billings are going to be quite a bit higher than what
6 we've told you so far? Did you ever tell anybody that?

7 A No, sir, I never had that conversation with any of the other
8 defense lawyers or anybody.

9 Q Were you -- did you, during your time you worked in the
10 case, did Mr. Simon ever say to you, you know, these billings that we're
11 giving to the other attorneys, that we're giving to them as our
12 computation of the damages, they really aren't as big as they really are.
13 They're going to be a lot bigger some day when I get a chance to go back
14 and rebill the file? Did they ever tell you that? Did Mr. Simon tell you
15 that?

16 A Not in those words. I knew that the bills, at least mine,
17 specifically -- you would have to ask him. I mean, and I've looked at his
18 bills. It didn't include the emails, the WIZnet filings, and telephone calls,
19 specifically. I knew that, but that conversation -- what you just asked me,
20 did that conversation happen, no, sir.

21 Q So, let me ask you this because I'm trying to understand why
22 you would do something like that. So, it was your belief, was it not, right
23 or wrong, but it was your belief that the larger the bills were that were
24 being paid by the Edgeworths, the more they paid for legal fees, the
25 more Lange would have to reimburse; is that -- that's kind of the thinking

1 that was going on there? At least that's what they told Mr. Edgeworth; is
2 that what you understood?

3 A Well, my understanding is that there was an attorney fee
4 provision in the Lange contract, so whether it was \$1,000 or \$500, or
5 whatever, whatever his attorney's fees were, were recoverable.

6 Q And my point is this, is if those fees were recoverable to the
7 Edgeworths when the case is over. If they're recoverable, wouldn't you
8 want the fees -- if the fees are actually higher than what you're giving
9 them, would you want the fee that you're going to be seeking recovery
10 on to be as high as possible? And not just inflated artificially, but if the
11 fees are really more than what you are giving them in the computation of
12 damages, don't you want to say, hey, we need to get the full amount of
13 the fees that he's eventually going to be responsible for into the
14 computation of damages? Wouldn't you want that to happen?

15 A Well, I mean, yeah, but it was my -- this case was super
16 quick. I mean --

17 Q So, I just want to ask then, when you want that to happen --

18 A Oh, okay. Sorry.

19 Q -- wouldn't you want to get all the damages to the
20 computation of damages, not just part of them?

21 A Yes.

22 Q In fact, you understand, do you not, that if you -- the way the
23 rules work -- I mean, I know you know this, that if you don't do a proper
24 computation of damages, then you leave damages out, at the time of
25 trial, you can't just come up and say, well, we actually had more

1 damages, and we forgot to put them in here, right? You can't just --
2 that's a problem, right?

3 A I understand what NRCP 16.1 says, yes, sir, with regards to
4 computation of damages.

5 Q I bet you know that more than I do, because you're in the
6 trenches doing that and the partner sometimes just relies on the people
7 that really do the good work and know the rules.

8 So, you knew that those computations of damages that in -- that
9 were including the attorney fees of the Edgeworths' pay, you knew that
10 they had a lot of significance to what his damages that he could
11 eventually recover from Lange would be; you knew that, right?

12 A I knew that they were going towards the provision. It was a
13 portion of damages. Yes, sir.

14 Q So if you knew -- if you and Mr. Simon knew that there were
15 going to be additional billings over that four-invoice period, and you
16 knew that the Defense didn't know that, right? They didn't know there
17 was going to be additional billings during that four-invoice period, right?

18 A I don't know what they knew, but I would assume, no; I don't
19 know.

20 Q So, wasn't it incumbent if you had, in your mind and Mr.
21 Simon's mind, you guys had reached the agreement that there's a lot
22 more billing that Mr. Edgeworth's eventually going to have to pay during
23 that period of time that covers those four invoices, we'd better get those
24 supplemented so that we could collect that from Lange? Did you and
25 Mr. Simon ever have a conversation like that?

1 A Not during -- the case was moving so quickly. Like I was
2 saying, none of the emails or telephone calls were captured in those
3 initial bills.

4 Q That's not the question I'm asking you.

5 A Okay.

6 Q My question was if you knew that there was going to be a
7 substantial additional time during the four invoices that you had
8 basically given as a computation of damages to Lange, if you knew there
9 was considerable extra time that wasn't being presented to the Lange
10 defendants, for example, didn't you know that would be a problem in the
11 future when suddenly you say, oh, by the way, you guys have been
12 defending this case for two years, but, here, we have 300,000 more in
13 damages that you weren't aware of that we never bothered to tell you
14 about; didn't you know that would be a problem?

15 A Yeah, it could be a problem at trial. Yes, sir.

16 Q Okay. You knew that -- did you know that you didn't have
17 this case on a contingency fee?

18 A I didn't know what the fee agreement -- or fee arrangement
19 was on this case.

20 Q And you -- were you aware, as you were preparing the billing
21 in the first place, that eventually the Edgeworths would be charged for
22 these additional billings that you were eventually going to come up with
23 at the end of the case?

24 A No, sir. We didn't start doing this, the -- what everyone's
25 called the superbill, until the Lange adjudication process, so I don't think

1 that --

2 Q So, here's what really happened; isn't it? So, what happened
3 is the Edgeworths and the Simons had a little bit of a falling out in
4 November; that would be fair to say, right?

5 A I don't know their relationship. I know they're not talking any
6 more, and I know they used to be friends, so I think that's fair.

7 Q But you learned that working at the office, I assume, that
8 there was some discussion at the office about this Lange adjudication?

9 A Yeah. Yes.

10 Q And then at that point, Mr. Simon said, you know what, I
11 don't know how the Judge is going to rule here, but let's go back and
12 add all the time we can that we can add to -- into the period of time that
13 the Edgeworths were already billed, and even though they had paid
14 those bills in full and even though they paid all the costs in full, let's go
15 back and find more time and add more time so that we can be in a better
16 position with the Judge; isn't that what happened?

17 A No. It's my understanding that they're timesheets, so it's just
18 the hours that were not captured. The purpose of the -- what's been
19 termed the superbill is just a timesheet to show the Judge how much
20 work has been done. Whether or not that's considered a bill, that's
21 something Mr. Simon -- I was told to put my time into a timesheet to put
22 in the motion for adjudication.

23 Q Well, you are aware, are you not, that Mr. Simon is asking
24 the Court to rule and determine that the Edgeworths should pay this
25 extra, what is it, 2-, 300,000?

1 MR. CHRISTIANSEN: Your Honor, I'd like to object as a
2 mischaracterization of a motion for adjudication of Lange.

3 MR. VANNAH: Of what? I haven't asked a question yet.

4 THE COURT: Okay. Only one of you can talk at any given
5 time. And what was the objection, Mr. Christiansen?

6 MR. CHRISTIANSEN: It's a mischaracterization of a motion.
7 We requested quantum meruit, which is a reasonable fee.

8 MR. VANNAH: That would be great.

9 MR. CHRISTIANSEN: But in this case, that was the larger
10 number. That's not what these hours are based upon.

11 THE COURT: Mr. Vannah, your response?

12 MR. VANNAH: I haven't asked the question, so I don't know
13 how to respond. I just started the question.

14 THE COURT: Well, you said are you aware that Mr. Simon is
15 requesting, and then you turned to Mr. Greene to say --

16 MR. VANNAH: Right, so I'd like to finish the question.

17 THE COURT: Okay.

18 MR. VANNAH: Yeah.

19 BY MR. VANNAH:

20 Q Are you aware that Mr. Simon is asking this Court to take
21 into account this additional billing that you guys had come up with,
22 which includes, for example, clearly erroneous billing on one day of
23 almost 23 hours, and they're asking this Court to take -- to factor that in,
24 this additional billing, that had never been presented to Mr. Edgeworth
25 until after December of last year?

1 MR. CHRISTIANSEN: Objection, Your Honor. Compound.

2 MR. VANNAH: It's one question, yes or no, you're aware of it
3 or you weren't aware of it.

4 MR. CHRISTIANSEN: Your Honor, that's not a yes or no
5 question, because he put in a lot of variables and statements into that
6 question. For example, clearly erroneous billings, things of that type.

7 MR. VANNAH: I never said much --

8 MR. CHRISTIANSEN: There's too much in that one question.

9 MR. VANNAH: I never said anybody who had been clearly
10 erroneous.

11 THE COURT: Okay. Well, that's what you said, Mr. Vannah.
12 You said clearly erroneous about the 23 hours that was billed in one day.

13 MR. VANNAH: Oh, I did.

14 THE COURT: Yeah. And you said --

15 MR. VANNAH: I did. I did and that was clearly erroneous.

16 BY MR. VANNAH:

17 Q You didn't bill --

18 A I don't believe it is.

19 Q You didn't work 23 hours in that day on that case, right?

20 A I think I've testified as to why they're --

21 Q I think my question is you didn't work 23 hours on that day
22 on that case, correct?

23 A I don't believe I did.

24 Q Okay. And my question was are you aware that Mr. Simon
25 has taken your work product on these billings and is asking the Court to

1 consider 275,000 in additional billings during that period of time that the
2 Edgeworths have already paid 387,000 in attorney fees; are you aware of
3 that?

4 A That's not my understanding of what the motion is, but so I
5 guess the answer would be no.

6 Q Okay.

7 MR. VANNAH: Let me just go through some of the -- I might
8 have covered a lot of these.

9 BY MR. VANNAH:

10 Q So, at the time of Mr. Edgeworth's deposition, when Mr.
11 Simon said -- do you remember Mr. Simon saying all of these bills -- all
12 of these invoices have been disclosed to you numerous times? You
13 remember him saying that, right?

14 A Yes.

15 Q At any time, did Mr. Simon tell the Defense we've only
16 disclosed a portion of Plaintiff's fees and costs to you. Did he ever say
17 that?

18 A I wasn't at the deposition. That is not in the deposition
19 transcript though.

20 Q You've read it though?

21 A I've read the deposition transcript and --

22 Q And I'm asking you, from your review of the deposition
23 transcript, did Mr. Simon ever say to the Defendants we've only
24 disclosed a portion of Plaintiff's fees and costs to you? Did he ever say
25 that?

1 A I didn't read that in the transcript, no, sir.

2 Q Did Mr. Simon ever say to the Defendants that there are
3 more invoices for additional fees and costs, which will be disclosed that
4 cover that period of time, up to September 22?

5 A I didn't read that in the deposition transcript, but again, it's
6 been a long time since I've read it, so --

7 Q Did Mr. Simon ever say to the Defendants, we're going to be
8 sifting through Plaintiff's invoices and our files and add time and fees
9 that we haven't added or disclosed yet to you; did he say that to the
10 Defendants?

11 A He couldn't have. So, no, sir, that's not in the transcript.

12 Q Did he ever say anything to the Defendants in the transcript
13 to give notice or even an indication that every fee and cost incurred
14 today hadn't been produced to the Defendants?

15 A Not based upon the transcripts that I recall.

16 Q Okay. Now, when you go back and look at the early billings,
17 you see that they go back and even cover the meeting at Starbucks,
18 right?

19 A I believe -- well, it doesn't have a date on it, but that says,
20 yeah -- yes, sir, I've seen that.

21 Q So, the -- in spite of the -- and that's okay. In spite of the
22 friends and family discount, whatever that is, it is apparent when you've
23 reviewed the billings that the billings do cover the meeting at Starbucks
24 and all those things that happened at that point in time, all the way back
25 to the first day that they met?

1 A There are some entries that are in the first bill, yes, sir.

2 Q Okay. Oh, I know one thing I wanted to talk to you about that
3 was kind of interesting. Mr. Christiansen, when he was talking to Mr.
4 Edgeworth was saying that -- pointed out to him that he had said in
5 August of 2017, that he had perceived that the case -- and I can't
6 remember the exact words -- but had blossomed, gotten better,
7 improved greatly? Do you remember that? Did you ever hear that
8 testimony?

9 A I heard the testimony, yes, sir.

10 Q All right. And in fact -- and then Mr. Christiansen said, well,
11 you say that, but had any defendants offered you a dime in this case at
12 that point by August 2017, and his answer was, no, correct?

13 A That was his answer, I believe.

14 Q Is that true? But is that true, I'm sorry?

15 MR. CHRISTIANSEN: Objection, Your Honor. That's a
16 mischaracterization of the record.

17 MR. VANNAH: I don't think so, but --

18 THE COURT: Okay. Would Mr. Christiansen saying that
19 nobody had offered any money by August of 2017?

20 MR. VANNAH: That's what he asked.

21 THE COURT: Right, and isn't that what Mr. Edgeworth
22 testified to?

23 MR. VANNAH: It is.

24 THE COURT: Okay. I recall Mr. Edgeworth saying that.

25 MR. CHRISTIANSEN: Different testimony at different times.

1 MR. VANNAH: I don't understand. I just asked the question
2 very specifically. What am I mischaracterizing?

3 THE COURT: What is the mischaracterization? Because Mr.
4 Christiansen asked Mr. Edgeworth about that blossoming email. We
5 talked about blossoming for about an hour. And then Mr. Edgeworth
6 said, yes, I said blossoming in the email. He finally said that, and then
7 Mr. Christiansen said isn't it true no one had offered any settlement
8 money by August of 2017, and Mr. Edgeworth agreed to that.

9 MR. CHRISTIANSEN: At one point that is correct; however,
10 when they were going over Exhibit 16 of Mr. Edgeworth's deposition, in
11 which he stated under oath to this Court earlier, that there was a
12 significant offer on the table prior to the blossom -- the dreaded
13 blossoming email, he affirmed that and then he got -- he went back and
14 forth on it. It was very confusing testimony. He went back and forth a
15 number of times. So, that's why it's a mischaracterization. And it also
16 ignores what Mr. Edgeworth said in a -- in his declaration under oath.

17 MR. VANNAH: So, we --

18 THE COURT: No, and I mean I know that there's a huge
19 dispute about what was said in the declaration that attached to the
20 motion. What he testified here to today is nobody had offered any
21 money by August of 2017.

22 MR. CHRISTIANSEN: Oh, today?

23 THE COURT: Yes.

24 MR. CHRISTIANSEN: As opposed to yesterday or the day
25 before?

1 THE COURT: Right. But today --

2 MR. CHRISTIANSEN: I withdraw the objection then.

3 THE COURT: Okay.

4 MR. CHRISTIANSEN: Okay.

5 THE COURT: When Mr. Christiansen asked him, he said, no.

6 Okay. Mr. Vannah, you can ask the question.

7 MR. VANNAH: I don't think it was really disputed.

8 BY MR. VANNAH:

9 Q Wasn't he offered -- there was no offer on the table as of
10 August 17th, or whatever that date was, 2017, was there?

11 A I don't believe there were any offers on the table in August of
12 2017.

13 Q Right.

14 THE COURT: Okay. Mr. Vannah, we've moved on.

15 BY MR. VANNAH:

16 Q Right. So, when Mr. Christiansen said, well, you're talking
17 about how this case is blossoming and the offers to you are zero;
18 remember that?

19 A I was here for the testimony.

20 Q Yes. Okay. But, now -- and you're very bright, and you're
21 very perceptive, and in July of 2017, before this August meeting took
22 place --

23 A Okay.

24 Q -- you were very perceptive and wrote, holy crap.

25 A Yes, I did.

1 Q Holy crap with big explanation marks. That's a legal term,
2 right, holy crap?

3 A Completely. Black's law.

4 Q It's a joke, but it's like, wow, and then you wrote something
5 like can you say punitive?

6 A Something like that, yes, sir.

7 Q Something like that. So, in July -- being the perceptive
8 young lawyer you are, with a lot of experience working with good firms,
9 in July, before this August meeting, you recognized that, by your holy
10 crap comment, holy crap, you know, punitives are in play at this point,
11 right?

12 A Yes, sir.

13 Q And that changes the case substantially; doesn't it?

14 A Punitive damages definitely change a case, yes, sir.

15 Q Changes the complexion of negotiations when insurance
16 companies got their insured out there facing a potential punitive claim,
17 the insurance company can be a little more generous, right?

18 A From my experience.

19 Q Okay. So, when Mr. Edgeworth said in August that the case
20 had blossomed, even though there hadn't been any offers on the table,
21 you recognize that the case had greatly changed when you wrote that
22 holy crap memo, right?

23 A Yeah. There was a lot of stuff that happened, but, yes, sir,
24 that was one of the aspects of it.

25 Q Now, did Mr. Simon ever say to you that he had some -- that

1 he was only charging Mr. Edgeworth a fee to collect compensatory
2 damages? Did he ever, like, tell you, well, I have a fee agreement for
3 compensatory damages, but my fee agreement doesn't include
4 exemplary or punitive damage; did Mr. Simon ever tell you that?

5 A No, I don't have any idea what their fee agreement was.

6 Q And isn't it true that it was Brian Edgeworth, if you know,
7 who actually contacted fire marshals and others, both here and abroad,
8 and discovered how extensive these activations were, both before and
9 after Plaintiff's incident, before his activation?

10 A I know that Mr. Edgeworth contacted a fire marshal in
11 California, and I know he contacted some people in Europe.

12 Q And he did that, right?

13 A He's the one that made the phone call.

14 Q So, isn't it true that Brian was the one who found the link that
15 uncovered hundreds of additional activations of these sprinklers? He's
16 the one that actually went out and found that, right?

17 A I believe that he found some additional activations. I'm not
18 going to discredit him for that, but I don't think he found all of them.

19 Q So -- but he found a great many of them?

20 A He found -- he found -- yeah, he found some, yes.

21 Q And brought that to your attention?

22 A Yeah, he -- well, I mean, I think in the documents that we had
23 as well.

24 Q And isn't it true that Brian prepared many of the document
25 productions and other discovery responses in this litigation?

1 A I can't agree with that, no.

2 Q Okay. So, let me --

3 MR. VANNAH: -- if I can confer with the client?

4 THE COURT: Yes.

5 [Pause]

6 BY MR. VANNAH:

7 Q Now, you had mentioned that a part of your efforts -- which
8 are your efforts too, to go back and create this additional billing for that
9 four-invoice period, that you went out and got cell records?

10 A Cell phone records, yes, sir.

11 Q Where did you get the cell records from? From what
12 company?

13 A Well, I got mine from my company and then Mr. Simon
14 obtained his.

15 Q Where are those records?

16 A Where are those records?

17 Q Yes.

18 A On the internet. I mean, I just looked them up.

19 Q Well, do you have -- do you have those so you can show the
20 Court and us?

21 A I'm happy to -- I mean, mine, I don't know -- yeah, I don't
22 have them with me right now.

23 Q No, no, I mean, but could you -- we're going to be here --
24 today's Wednesday. Yeah, and I'd like you to stay available. I don't
25 want to call you back up. I want --

1 MR. CHRISTENSEN: I'm sorry, Your Honor, if Mr. Vannah
2 has a discovery request, he should make it to counsel, not to the person
3 on the witness stand.

4 MR. VANNAH: I guess we're not allowed to do discovery in
5 this case. I mean, all due respect, you told us --

6 THE COURT: Well, I said you weren't allowed to do
7 depositions, Mr. Vannah. I wouldn't allow depositions. I mean, it's my
8 understanding there have been some conversations between the two of
9 you and there's been some documents exchanged.

10 MR. VANNAH: Well, I'd like to see the phone records that
11 she's referring to that she used for both her and Mr. Simon. Yeah, that's
12 a simple request, so we can look at them tomorrow and then -- and
13 compare them to her work, and I may recall her as a witness, depending
14 on what I find from that, since we're now relying on documents that
15 have never been produced in this litigation. Can I have those
16 documents?

17 THE COURT: Mr. Christensen.

18 MR. CHRISTENSEN: Your Honor, do I get an opportunity to
19 respond?

20 THE COURT: Yes.

21 MR. CHRISTENSEN: Thank you, Your Honor. We've actually
22 been working very well on producing documents. For example, Mr.
23 Greene asked late last week for some documents, and we got them right
24 over to him pretty promptly. If this request had come in early after the --
25 I mean, this -- the timesheets were provided in January. Even having

1 said all of that, they waited months and months to bring this up, to raise
2 it during the third day of the hearing. I don't have a base objection to
3 produce any redacted phone records, only the calls that relate to the
4 billings here. That's not going to be done overnight.

5 THE COURT: Well, I mean, and that was my concern,
6 because my concern is we're not entitled to know everybody that Ms.
7 Ferrell is talking to back in 2017.

8 MR. VANNAH: I don't want that.

9 THE COURT: So, we're only entitled to know which calls she
10 used in regards to preparing this -- we'll refer to it as the superbill
11 because everybody knows what we're talking about -- the superbill in
12 this litigation. So, I mean, that's going to have to be redacted.

13 MR. VANNAH: I agree.

14 THE COURT: So --

15 MR. VANNAH: I don't want -- I don't want to know who
16 she's --

17 THE COURT: Well, you had also --

18 MR. VANNAH: She may have somebody we don't want to
19 see. No, I'm just teasing.

20 THE COURT: You would also agree with me, Mr. Vannah,
21 that we can't force her to do that tonight?

22 MR. VANNAH: Yeah. So, here's -- I appreciate Mr.
23 Christiansen, but --

24 THE COURT: Mr. Christensen.

25 MR. CHRISTENSEN: Christensen.

1 THE COURT: It's okay.

2 MR. VANNAH: I'm going back and forth.

3 THE COURT: It's okay.

4 MR. VANNAH: You guys should not work together.

5 MR. CHRISTIANSEN: It's our plan.

6 MR. VANNAH: It's a good plan. If I had known, remember,
7 this is the problem, and I'm not coitizing anybody for that, but if I had
8 been able to -- if I had taken her deposition she would have told me all of
9 this, and I would say, oh, I want those phone records.

10 So, I get it, but I -- that's part of the problems that occur
11 when you're doing discovery in the middle of the hearing. I'd just like to
12 see those phone records and have them redacted so we can see them
13 and be able to compare to what those phone records -- because my --
14 you know, I'd like to be able to compare them and see if those phone
15 records match up to what she's got in here. There's a lot of time for
16 telephone calls.

17 THE COURT: Well, there is a lot of time for --

18 MR. CHRISTENSEN: Your Honor, if I may? I've already said I
19 don't have an objection to producing them. You should have asked
20 earlier.

21 THE COURT: You just have an objection to her staying up all
22 night.

23 MR. CHRISTENSEN: You can't get them tomorrow. I'm not
24 doing that.

25 THE COURT: Well, and I -- we can't expect them tomorrow. I

1 mean, we just cannot.

2 MR. VANNAH: All right. I'm okay.

3 THE COURT: But, I mean, I think then in regards to timing of
4 this case, I mean, if we can get -- I assume we'll finish Ms. Ferrell today
5 because it's only 4:00 right now, so I think we're doing well on her, so if
6 we can get her off the stand today, we then still have Mr. Simon and Mr.
7 Kemp is my understanding that are coming in tomorrow.

8 MR. VANNAH: That's fine.

9 THE COURT: I'm not going to hold out a ton over -- that's not
10 going to leave us a ton of time at the end of the day. So, I mean, we're
11 going to have to come back on this case for something else later
12 anyway, so if you want the phone records, we can produce them, but
13 they're not -- that's not going to be done tomorrow.

14 MR. VANNAH: That's fine, Your Honor. And what Mr.
15 Christensen says, he could have asked earlier, I didn't --

16 MR. CHRISTENSEN: You can call me Jim.

17 MR. VANNAH: When Jim got -- you know, that's a lot easier.
18 Jim and Pete, that's easy. You can call me Bob. So, bottom line is I --

19 THE COURT: I understand the point you're making, Mr.
20 Vannah.

21 MR. VANNAH: I didn't know anything about any phone
22 records or how she did it. I didn't even know she was the one who did it.

23 THE COURT: Right. Well, we found all that out today.

24 MR. VANNAH: It's okay.

25 THE COURT: But you said it at the hearing, Judge, I want to

1 do depositions, and I told you that you and I were going to find out all
2 these stuff at the same time, and that's exactly what's happening here
3 today.

4 MR. VANNAH: And I --

5 THE COURT: So, we're going to -- Ms. Ferrell, we're going to
6 need you to produce those records, you know, timely, but not tonight.

7 THE WITNESS: Okay.

8 THE COURT: Okay. We're not going to ask you to produce
9 them tonight, so we'll address, you know, how we proceed after
10 tomorrow at the end of the day tomorrow, but there is no expectation for
11 you to have those here tomorrow. But they'll be redacted, any personal
12 information, just the records in regards to the calls you made in regards
13 to the Edgeworth's litigation.

14 THE WITNESS: Okay.

15 MR. VANNAH: And the damage records too. His phone.

16 THE COURT: Well, we have to ask Mr. Simon for those,
17 because she just testified that she got them from him, and it's my
18 understanding that it's probably just going into -- I'm using Verizon
19 because that's my carrier.

20 MR. VANNAH: Okay.

21 THE COURT: Probably you went into Verizon's website and
22 pulled up all your old billings. I'm assuming you don't have access to
23 Mr. Simon's cell phone bills, so we can request that of Mr. Simon to get
24 you those, but he's going to have to get you those because what she's
25 saying is there was no court order issued. She went on the website and

1 went through her old bills. So, Mr. Simon would need to sign in, put his
2 password in, and go get his bills.

3 MR. VANNAH: And I -- but I thought you did that?

4 THE WITNESS: I didn't get Mr. Simon's bills.

5 THE COURT: No, she said she didn't.

6 THE WITNESS: I just put them into a bill.

7 BY MR. VANNAH:

8 Q Well, I didn't mean you went and got them, but you had --
9 you had his billing records -- you had his phone bill records.

10 MR. CHRISTENSEN: Your Honor --

11 THE COURT: Yes.

12 MR. CHRISTENSEN: Can I short circuit this, please?

13 THE COURT: Yes.

14 MR. VANNAH: Yeah, sure.

15 MR. CHRISTENSEN: Okay.

16 MR. VANNAH: Anything you can do to help.

17 MR. CHRISTENSEN: My understanding is that Mr. Simon
18 has calls in paper form.

19 MR. CHRISTIANSEN: I think so.

20 MR. CHRISTENSEN: Okay. So whenever appropriate, which
21 we'll address tomorrow --

22 THE COURT: Yes.

23 MR. CHRISTENSEN: At some point in the future we'll do the
24 redaction job, we'll provide them.

25 THE COURT: Okay. And we'll get the timing and everything

1 of that, depending on how things shape up tomorrow by the time we
2 end.

3 MR. VANNAH: Which brings up an additional question, and
4 I'm almost done.

5 BY MR. VANNAH:

6 Q So, the question is, too, when you talked to Mr. Edgeworth, it
7 was usually on your cell phone?

8 A No, both. If I didn't answer my cell phone, he would call the
9 office or vice versa.

10 Q And just out of curiosity, so would your office -- did that keep
11 track of the length of the call with somebody and who you talked you?

12 A No, that's the problem because we subpoenaed the Cox --
13 Cox is our phone provider, and Cox wasn't able to give us the bills for
14 that time period.

15 Q So, what bills you're talking about, you looked at, would be
16 the cell phone records?

17 A The cell phone records, correct.

18 Q Okay.

19 A Yes, sir.

20 Q No, I just want to make sure I'm kind of narrowing it --

21 A Yeah.

22 Q Ashely, thank you very much. It's nice to see you again.

23 A Nice to see you, too.

24 THE COURT: Okay. Mr. Christensen.

25 MR. CHRISTENSEN: Thank you, Your Honor.