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IN THE SUPREME COURT OF THE STATE OF NEVADA

YOAV EGOSI)	
Appellant,)	No.: 83454
vs.)	
PATRICIA EGOSI, N/K/A)	District Court Case No.: D-16-540174-
PATRICIA LEE WOODS,)	D
Respondent.)	

JOINT APPENDIX

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1 Q Do you see that you wrote in English without using
2 any template on multiple occasions?

3 A Many times I --

4 Q Yes or no, ma'am? Did you write that?

5 A I -- I copy and paste whatever my husband sent to me
6 at the time.

7 Q Okay. And you used your own language -- or your own
8 English.

9 A Sometimes I use the translator, Google Translator,
10 sometimes my husband send to me via shot the answers or
11 questions to send the customers.

12 Q Okay. And this one we're looking at is dated
13 November 3rd of 2008, right? Yes, ma'am. Those are the
14 dates.

15 A November 3rd, 2008.

16 Q Okay. And you wrote in English any -- any pending
17 order from us and from the customer, I call the customer to
18 check if he tried to not number out what he does not. I only
19 submitted this T.A. with the T.A. Please advise what I have
20 to do, end of quote. Your words in English. November 2008.

21 A It look to me that -- yeah, it look to me like it's
22 some kind of Google Translator.

23 Q You're not --

24 A See, I'm not sure.

1 Q It's not your words? Does the Google Translator mis
2 -- misstate words, misstate grammar?

3 A Yeah.

4 Q It does? Okay. Look at the second page of this,
5 YEG2647. The first one I read was YEG02639. This again is
6 your writing in English in November of 2008.

7 A It's the same thing that you shown me before, right?

8 Q It's different words, no. I would call the customer
9 to check if he tried to port number, but he do not.

10 MS. MENTZEL: I'm going to object. It's not
11 admitted into evidence.

12 MR. JIMMERSON: Okay. And I'm --

13 THE COURT: Sustained.

14 MR. JIMMERSON: Well, then I'll move for the
15 admission of Exhibit -- of Exhibit 000 which is --

16 THE COURT: This is PPP.

17 MS. BREWER: This is PPP.

18 MR. JIMMERSON: Exhibit --

19 THE COURT: This is PPP.

20 MR. JIMMERSON: -- PPP which contains about 15 of
21 these emails that evidences her speaking in English without
22 any relationship to a translator.

23 MS. MENTZEL: And I'm going to object to
24 authenticity. These are actually different documents and I'm

1 looking at the ones that are actually in the exhibit book.
2 There's no arrows. These have been clearly altered.

3 MR. JIMMERSON: Meaning there's an -- an arrow to
4 show her handwriting? You're right.

5 MS. MENTZEL: There's highlights, there's --

6 MR. JIMMERSON: I'd like to admit them without
7 reference to the arrow.

8 MS. MENTZEL: And I would still -- I would still
9 object as to authenticity.

10 MR. JIMMERSON: Judge, one of the things you have
11 before you is a deferred ruling on C and D. This -- that the
12 wording selected by this lady where she's admitting she wrote,
13 okay, evidences her fluency at least an -- a command of the
14 English language, I can see that right from the beginning not
15 completely fluent that existed in time here in November 2008
16 and we produced again 95 --

17 THE COURT: The -- the objection is overruled.
18 Exhibit PPP is admitted.

19 (DEFENDANT'S EXHIBIT PPP ADMITTED)

20 THE COURT: We're -- we're starting -- this is not
21 useful to the Court, the trier of fact, at this point. We
22 need to --

23 MR. JIMMERSON: I agree.

24 THE COURT: -- move forward and time's evaporating.

1 BY MR. JIMMERSON:

2 Q Yesterday you testified under oath that you never
3 called a customer and spoke to them in English, do you recall
4 that?

5 A Excuse me, say again?

6 Q Yesterday you testified in response to Ms.
7 McFarling's question that you had never called a customer and
8 spoke to them in English. Do you recall testifying to that?

9 A I start -- call customers and answer customers call
10 in 2009 how I said pushed by my husband and many times I cry
11 because customers make fun of me.

12 Q On the first page of Exhibit PPP now in evidence, do
13 you see where you wrote the words I call the customer in 2008?

14 A Yeah, but like it was like something that my husband
15 asked me to -- to write down.

16 Q Okay. So you called a customer in 2008 November,
17 correct?

18 A No, sir. Who call the customers in that time, it
19 was the agents --

20 Q All right. Thank you.

21 A -- that work in the same -- of the same building
22 that I work before.

23 Q All right. Thank you so much. I have no further
24 questions.

1 A Thank you.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION

4 BY MS. MENTZEL:

5 Q Exhibit UU, you saw -- you saw bank cards that were
6 -- that was admitted into evidence and you admitted to that
7 bank card. Does that bank exist in the United States?

8 A No.

9 Q Were you able to go to a bank in the United States
10 with that bank card and pull out money?

11 A No.

12 Q Okay. Who else was on that -- on that account?

13 A My ex-girlfriend.

14 Q Okay. Your ex-girlfriend. And did -- when you and
15 your ex-girlfriend broke up, did you take those finances?

16 A I left everything behind as my million dollar --
17 really nice house.

18 Q Okay.

19 A My jewelries, my bank account, I left everything
20 behind for Joe Egosi.

21 MS. MENTZEL: I have no further questions, Your
22 Honor.

23 THE COURT: All right. You may step down.

24 (WITNESS EXCUSED)

1 (COUNSEL CONFER BRIEFLY)

2 MS. MENTZEL: We have no further witnesses, Your
3 Honor.

4 THE COURT: Okay.

5 MR. JIMMERSON: I'd like to call Shiel Edlin in
6 reply, please -- in rebuttal.

7 MS. McFARLING: And I will object to that on a
8 different basis than the prior objection at the end of the day
9 yesterday. Defendant rested stating that maybe they would
10 have a rebuttal witness. He rested his case in chief
11 yesterday. So calling an expert can't be a rebuttal witness,
12 because a rebuttal witness would have to be a fact witness.
13 An expert is not a fact witness. So you can't call an expert
14 -- especially an expert on the law in rebuttal when there has
15 been nothing to rebut that has anything to do with the -- the
16 law or an expert opinion on the law. So an expert opinion
17 can't be rebuttal to anything we presented because we didn't
18 present anything of that nature. So --

19 MR. JIMMERSON: May I --

20 MS. McFARLING: -- I would object to him testifying
21 at this point in time on -- on that basis.

22 MR. JIMMERSON: Opposing Counsel's representation to
23 the Court with regard to today's testimony is (indiscernible).
24 First let's start as a matter of fact that a rebuttal witness

1 can be fact or expert. It does not have to be fact
2 (indiscernible). That is without any support or -- or case
3 rule.

4 Secondly, we had an entire now new set of facts that
5 you heard for the first time today to try to explain to the
6 testimony yesterday. What did you hear? That Joe handed me
7 -- or handed Ms. Goodman a copy of the antenuptial agreement
8 -- or prenuptial agreement of June of 2008 on July 18th and
9 that Joe told me to go talk to her in words to that effect and
10 she talked about not having read the agreement.

11 Okay. But you've seen the testimony. She also
12 introduced evidence to suggest that she didn't speak English.
13 You were asked about questions by Mr. Plotkin. Well, I think
14 she went from a two to a three over 14 of 15 years is all he
15 was willing to give. Those are facts that my client through
16 his -- Mr. Edlin is an expert witness will speak to for about
17 10 minutes.

18 THE COURT: Okay. I'm inclined to allow the
19 testimony to proceed, but time is limited. You have nearly
20 exhausted your time, Mr. Jimmerson, so --

21 MR. JIMMERSON: I know I have, Judge.

22 THE COURT: All right.

23 (WITNESS SUMMONED)
24

1 THE COURT: Please remain standing, good afternoon,
2 and raise your right hand to be sworn.

3 THE CLERK: You do solemnly swear the testimony
4 you're about to give in this action shall be the truth, the
5 whole truth, and nothing but the truth, so help you God?

6 MR. EDLIN: I do. Can I --

7 THE COURT: You may be seated.

8 THE WITNESS: Can I remove this exhibit notebook?

9 THE COURT: Yes.

10 MS. MENTZEL: Here, let me take it for you.

11 THE COURT: Counsel, you may proceed.

12 MR. JIMMERSON: Thank you.

13 SHIEL EDLIN

14 called as a witness on behalf of the Defendant, having been
15 first duly sworn, did testify upon his oath as follows on:

16 DIRECT EXAMINATION

17 BY MR. JIMMERSON:

18 Q Mr. Edlin, please state your name, please?

19 A Shiel, S-h-i-el, Edlin, E-d-l-i-n.

20 Q Okay. In February of 2017, I contacted you to serve
21 as a possible expert witness in this case, is that right?

22 A Yes, sir.

23 Q Okay. And you have -- now tell us briefly what you
24 have reviewed to appear today.

1 A Oh, my goodness. Well, I reviewed the pleadings by
2 both sides I have submitted for the purpose of a prenup. I
3 have reviewed the deposition of the parties. I reviewed the
4 transcript from the hearing on March 6th before the Court. I
5 think those are the documents I reviewed.

6 Q You read the prenuptial agreement?

7 A Oh, yes.

8 Q You read the -- the first draft of the prenuptial
9 agreement two months earlier?

10 A Yes.

11 Q Now briefly stated I know you to be experienced and
12 due -- be well qualified. How many years have you been
13 practicing law?

14 A Judge, I've been practicing law since '79.

15 Q And are you -- are you a certified family law
16 practitioner?

17 A We don't have certifications in Georgia, Judge.

18 Q Okay.

19 A So --

20 Q Are -- are you a member of a --

21 A -- and I'm a full-time --

22 Q Are you a member of any --

23 A But I've been doing this forever and ever.

24 Q Are you familiar -- are you -- you a member of any

1 national groups focusing on --

2 A Yes.

3 Q -- national family law?

4 A I'm a fellow in the American Academy of Matrimonial
5 Lawyers since 1989. A fellow in the International Academy of
6 Family Lawyers for about five years. I'm a diplomat of the
7 American College of Family Law Lawyers. I don't know if you
8 know that group, Judge. That's limited to the top 100 family
9 law attorneys nationwide.

10 Q Well, at least the top 100 that could get elected,
11 right? All right.

12 A And I've know --

13 Q And you have plenty of -- have you had plenty of
14 experience involving prenuptial agreements?

15 A Many, many times.

16 Q All right. I'm -- I'm -- the ultimate conclusion of
17 whether to enforce this document or not is up to the Judge,
18 but I did think it was important for the Judge and for all of
19 us since we don't know Georgia to have some basics. Okay.
20 You told me about a C change in the law in Georgia in 2005.
21 Would you tell us a little bit about what happened before then
22 and what happened in 2005 and then how that's developed here
23 in --

24 A Sure.

1 Q -- 2017?

2 A Judge, you said you've read the Malon case. That
3 changed the entire direction of prenuptial agreements in
4 Georgia. Up until that time, it was pretty simple to get ca
5 -- prenups knocked out for duress, fraud, unconscionability.
6 The fact -- it was there -- it's always fact driven as you
7 know Judge and to the shock of the bar in Georgia when Malon
8 came out, it totally reversed the trend. And since 2005 if
9 you've read the cases, Georgia courts are pretty much allowing
10 almost any kind of prenup to be entered. There's just some
11 very basic tenants that have to be followed as was stated in
12 the Malon case.

13 Q And there --

14 A If I can just add, we represented Mr. Malon in that
15 case at the beginning. I'll just say that. We didn't finish
16 the case, but that's how close I was to the issue.

17 Q And what are some of the key factors in Malon and
18 holding?

19 A Okay. Judge, you've read the case, so the -- the
20 case. So the -- the Malon case was important because it was a
21 young lady who worked as a waitress at Hooter's who was living
22 with a man for about four years who was a very successful
23 businessman. And for the first time, we got clarity in
24 Georgia that the relationship that they had until they got

1 married was not -- was not of a confidential relationship. So
2 for the first time we really started understanding that that
3 woman under Georgia law now has a duty to go figure it out.
4 That is the -- the spouse to be, the husband in this case, did
5 not have a duty to disclose.

6 So the -- Mrs. Malon was found by the Georgia court
7 to be in a position to understand the nature of her soon to be
8 husband's income and soon to be -- and -- and his -- his
9 assets.

10 So what happened in Malon which was prior to Malon
11 would never have happened, the man had \$8,000,000 in the time
12 of the marriage and four children later and 20 years later
13 about, he was worth about 25,000,000. Prior to that, Georgia
14 courts would uniformly say it's unconscionable at the time of
15 enforcement. But the Georgia court found and in subsequent
16 cases found that it was foreseeable for this man to continue
17 his success during the marriage and that just because he went
18 from 8,000,000 to 24,000,000, she should have had that
19 understanding.

20 And the second tenant that we learned was there was
21 no lawyer representing Mrs. Malon. And until that time, we
22 believed in Georgia that you needed to have both sides being
23 represented. And to the shock of the bar, and it continues,
24 Mrs. Malon did not have a lawyer. And she chose -- she -- the

1 -- the facts in the case assumed the holding -- well, she went
2 to a lawyer when the prenup was presented to her and that was
3 presented to her in a very short period of time before the
4 wedding was to take place. And she took it to a lawyer and
5 the lawyer said I'm too busy. And that standard continued.
6 So she didn't go find a lawyer who wasn't too busy.

7 She met with the lawyer of the husband and they
8 negotiated and changed the original terms of the prenup and
9 the court was moved by that, Judge, that without a lawyer,
10 they did negotiate and they did change some of the terms.

11 Q Now you have reviewed the prenuptial first draft --

12 A I have.

13 Q -- Exhibit ZZ.

14 A I have.

15 Q And the signed prenuptial Exhibit LLL. And you
16 understand it was downloaded from a LawDepot website.

17 A Yes.

18 Q Reviewing that -- have you reviewed the documents?

19 A I have.

20 Q Okay. What is your opinion relative to the quality
21 of the -- of the contents of those two agreements?

22 A I've never seen this website. I've never seen a
23 document like this before. I had no knowledge of it. And
24 when I read it, I was very impressed that whoever put it

1 together at the time had really understood Georgia law at the
2 time.

3 Q And what was the --

4 A And they were very -- it was -- it was very
5 carefully drafted by -- by the internet company.

6 Q Now I -- I want to speak to two factual issues that
7 have you observed even in the couple hours here today that
8 dominated the proceedings. One is the fluency -- or lack of
9 fluency of Mrs. Egosi in English. And the second one --

10 A Well, hold on. Just stay with that one.

11 Q I -- I will.

12 A I'm getting confused.

13 Q And -- and the second being --

14 A Stay with -- with -- stay with that.

15 Q -- now --

16 A Let me get -- let me get that one out.

17 Q All right.

18 A Okay. So Judge, I don't know if you've seen it, but
19 I think it was quoted or -- or referred -- referred to by
20 Counsel the Kwon case. Would you like the --

21 Q That's K-w-o-n.

22 A K-w -- would you like the -- the southeast cite,
23 Judge? It's --

24 THE COURT: I think that was cited in -- in briefs

1 --

2 THE WITNESS: Okay.

3 THE COURT: -- that have been --

4 THE WITNESS: I believe it was.

5 THE COURT: -- submitted, so I do have that.

6 THE WITNESS: Okay. Good.

7 THE COURT: Yeah.

8 THE WITNESS: So the Kwon case if you remember,
9 Judge, was very similar to what I've heard today where the
10 Court -- Mrs. Kwon said she didn't understand what she had
11 signed in the prenup and the trial court found that she
12 understood English well enough to appreciate the import of
13 what -- I'm -- I'm quoting from the text, of what she was
14 signing based on her having lived, held a job in the United
15 States for a long time, transacted other business in English.

16 Then the trial court said that even if she only saw
17 the first -- the signature page, as she claimed, the -- that
18 language on that page should have put her on binding -- notice
19 that it's binding of fact and that she had a duty, this is
20 what we learned from Kwon. She had a duty to ascertain the
21 contents of the document. So what I heard today was
22 consistent with Kwon.

23 Q Okay. And now the other subject matter is when I
24 look at the document, and the Judge has the document,

1 presumably opposing Counsel, I would note that there is
2 certainly a very detailed disclosure of the man's assets, not
3 the lady's, but he's waiving that, but there's not a value.
4 So what effect does the absence of value have as you
5 understand your practice and facts as it relates to Georgia
6 law?

7 A There's -- we -- we don't -- that -- we don't --
8 like in this case, this -- that's at -- on a bar now, we -- it
9 would not be required that he would have to go and hire a
10 forensic accountant to go have his business valued. Okay. If
11 she wished for that to happen and she wanted to have it --
12 have that done, she could have done that, but he disclosed the
13 asset.

14 Q Okay. And you have observed the issue of disclosure
15 that Joe had given to Patricia as well as Patricia's own
16 ability to know virtually everything about him by living
17 together, are those factors that the court in Georgia
18 considers?

19 A That's consistent with the Malon case.

20 Q Okay. And is there a requirement that the values be
21 -- specifically be listed on the face of the document?

22 A No.

23 Q Okay.

24 A Should I add Judge that I'm -- I've learned from Mr.

1 Jimmerson that this state has adopted the Uniform
2 Premarital --

3 Q Premarital.

4 A -- Act. Our cases -- I mean, our -- our law is all
5 build on case law. And it's not very develop -- well
6 developed because of the way our supreme court has limited
7 family court cases up until now.

8 So since 2005, I count on both hands maybe real
9 insightful stat -- cases on prenups that we've gotten from the
10 supreme court -- or supreme court in Georgia until this year
11 took all family court cases. That was our final -- that's the
12 final determinant court, our highest court.

13 Q Okay. And relative to the overall understanding --
14 with the absence of fiduciary duty or an absence of a
15 confidentiality which is very different than in Nevada, that
16 puts the burden on the spouse who desires to learn more?

17 A Yes.

18 Q Okay. Now I'm confident under Shear which I think
19 is your guiding case you aren't -- a person's not allowed to
20 defraud somebody, right?

21 A Yes.

22 Q Okay. So Mr. Egosi would not be allowed to have a
23 \$200,000 bank account on the side and not disclose it?

24 A Yes.

1 Q All right. And whether he did or he didn't is based
2 upon the evidence as his duties, right?

3 A Yes.

4 Q Okay. So can you give us some -- some understanding
5 from these facts that you have read here in this case why
6 there would not be the presence of any fraud?

7 A On behalf of whom?

8 Q Well, on behalf of my client --

9 A Okay.

10 Q -- allegedly defrauding Mrs. Egosi. Thank you. I
11 mean, I understand Mrs. Egosi could be defrauding him --

12 A The -- the only --

13 Q -- but he's waiving that.

14 A -- thing I've heard that has not been well defined
15 is some bank accounts. And I -- I heard some limited
16 testimony that there was not significance in there and Mrs. --
17 Mrs. -- and the wife was living with the man and was in a
18 position to understand that.

19 Q Okay.

20 A It sounds like she had knowledge of --

21 Q Now --

22 A -- the limitations.

23 Q Okay. Do the agreements in Georgia often times
24 restrict recovery under prenuptial agreement under Nevada

1 divorce as it relates to protecting pre-marriage assets?
2 A You're asking me what is the law on premarital
3 assets --
4 Q No, I'm saying --
5 A -- absent of --
6 Q -- your experience with agreements, do they often
7 times seek to protect --
8 A Always.
9 Q -- the --
10 A That's --
11 Q -- parties' assets before?
12 A That's -- that's customary.
13 Q And do they often times seek to protect the income
14 that would arise from those pre-marriage assets?
15 A Are you talking about the -- the savings from the
16 income? That's --
17 Q Yes.
18 A -- common.
19 Q That's right. All right. And then lastly, a waiver
20 of alimony.
21 A That's common. Those are the three common reasons
22 for premarital -- for --
23 Q Okay.
24 A -- prenuptial agreements.

1 Q By your review of both Joe Egosi's deposition and
2 Patricia Egosi's deposition, have you formed an opinion
3 relative to the rationale for why Patricia was -- has
4 admittedly not asking about the value of any assets, not
5 asking about assets, and not caring about the absence of --

6 A I have --

7 Q -- alimony?

8 A -- a theory if I'm allowed to say it, but I don't
9 know if that is invading on Your Honor's province. I don't
10 want to do that.

11 Q Well --

12 A If I'm permitted --

13 Q -- in terms of --

14 A -- I'd be --

15 Q I'm not --

16 A -- happy to.

17 Q -- looking so much for a theory as -- do you see the
18 fact that she has the ability to earn substantial amounts of
19 cash from her trade, her past vocation, as bearing upon her
20 willingness to not be concerned about the value of his assets
21 or the presence of any alimony in Nevada divorce?

22 A That's reasonable.

23 Q And why do you believe that?

24 A She -- she -- in her deposition, she said it didn't

1 matter what was on the document, I loved him, I needed to
2 prove to him I loved him and I would sign the document.

3 Q In the event that there was an undisclosed other
4 motive, and I say -- mean undisclosed, that she wanted to
5 remain in the United States and not be forced to go back to
6 Brazil as she had done for the previous eight years, would
7 that also be a reason why you would not insist upon a -- a --
8 I guess an alimony award of the --

9 A Are you asking me hypothetically?

10 Q Yes.

11 A Because I don't know that.

12 Q Yes.

13 A Ask me the hypothetical again, please.

14 Q Would you assume that Mrs. Egosi was traveling from
15 Brazil to the United States for eight consecutive for about
16 every four months, at least three times a year? I want you to
17 further assume that she has earned as she testified about
18 \$50,000 a month in Miami during those eight years.

19 MS. McFARLING: Ob --

20 Q So she's earning about a hundred and fifty thousand
21 dollars a year. Sorry. And based upon that, does that --
22 based upon your understanding of Georgia law, does that
23 provide a basis for why and interpreting Georgia law and
24 interpreting the facts of Egosi versus Egosi, you would

1 understand why she would be motivated to not care and not to
2 investigate the issue of alimony?

3 A That sounds reasonable.

4 MS. McFARLING: Objection, it assumes facts not in
5 evidence.

6 MR. JIMMERSON: Okay. I'm not going to ask you --
7 I'm not going to --

8 THE COURT: Sustained.

9 MR. JIMMERSON: -- ask the question then. All
10 right.

11 THE WITNESS: Okay.

12 BY MR. JIMMERSON:

13 Q I'm not going to ask you any further questions of
14 that. Did you have an opinion as shown by Exhibit HHH, did
15 you write a -- an opinion letter?

16 A Is that in evidence?

17 Q It's not -- yeah, I'm asking you -- I'm just --

18 A Oh, I did.

19 Q -- identifying.

20 A Yeah, at your request, I gave a report.

21 Q Okay. And do you stand behind that report?

22 A I do. I -- and I will add that I'm more -- if I
23 wasn't completely convinced when I wrote it, which I was,
24 after listening to what I heard today, it's a no brainer.

1 Q And why do you say it's a no brainer?

2 A Because of the facts that I didn't know about that I
3 heard today from the parties.

4 MR. JIMMERSON: Okay. And move for the admission of
5 Exhibit HHH.

6 MS. MENTZEL: I'm going to object. We received the
7 exhibit on Monday.

8 MR. JIMMERSON: She's absolutely right.

9 MS. MENTZEL: The trial was Tuesday. It was not
10 timely disclosed.

11 THE COURT: The objection is sustained.

12 MR. JIMMERSON: Thank you, Judge.

13 BY MR. JIMMERSON:

14 Q And did -- do you have an opinion aside the document
15 as to whether or not the prenuptial agreement of August 13,
16 2008 is enforceable?

17 A I do have an opinion.

18 Q Okay. I'm going to ask the question and fully
19 anticipated you being objected to, but I am fighting out here
20 for your good looks. So what is that opinion? Go ahead.

21 A I'm giving them -- yeah, wait a minute.

22 MR. JIMMERSON: You know, I couldn't --

23 THE WITNESS: I'm showing up --

24 MR. JIMMERSON: -- I couldn't signal it any --

1 THE WITNESS: Wait, Counsel.
2 MR. JIMMERSON: -- more than I did. I mean --
3 THE WITNESS: Counsel, I'm showing you my love.
4 MS. McFARLING: Thank you.
5 THE WITNESS: I'm -- I'm --
6 MS. McFARLING: Thank you.
7 THE WITNESS: -- exchanging love there.
8 MS. McFARLING: Last time you talked so long I was
9 standing forever.
10 THE COURT: You got tired.
11 MS. McFARLING: I -- I object. He has not been
12 admitted as an expert witness yet.
13 MR. JIMMERSON: Great. I would so move that he be
14 declared an expert.
15 THE COURT: Well, and -- and understand it's not --
16 it's not a requirement under --
17 MR. JIMMERSON: I -- I knew that.
18 THE COURT: -- Nevada law to -- necessarily for the
19 Court to qualify someone as an expert. Certainly the -- the
20 experience of the witness has been stated for the record. The
21 Court can receive the testimony from any individual who has
22 offered to the Court as an expert without the need for the
23 Court to expressly qualifying that individual as an expert.
24 It goes to the -- to -- to the way of the credentials,

1 experience, and training and that's been offered by the
2 witness. So I -- I accept it on that level based on that
3 experience that's been provided and recognizing that the
4 witness is -- is a practitioner in Georgia and the choice of
5 law provision expressly stated in the prenuptial agreement is
6 Georgia law. And it's my understanding that no one here is
7 licensed in Georgia other than this witness, Mr. Edlin.

8 So -- so as it relates to qualifications, there's no
9 need for the Court to -- to entertain that objection.

10 MR. JIMMERSON: He does have a short bio, Exhibit
11 GGG. I move for its admission.

12 THE WITNESS: Well, hold on. Do I get to answer the
13 question? I didn't get -- go back to that. I -- I was --

14 THE COURT: Well, is --

15 THE WITNESS: -- being kind.

16 THE COURT: -- is there any other objection,
17 Counsel?

18 MS. MENTZEL: No.

19 THE COURT: Okay. All right.

20 THE WITNESS: If I may testify.

21 THE COURT: You -- you may answer the question.

22 THE WITNESS: Let me tell you why I was reluctant
23 because I was told by Counsel before that that was not my
24 province, but it -- so I -- that's why I was reluctant.

1 THE COURT: Right.

2 THE WITNESS: But I am going to testify now that
3 I've been allowed to. Okay. So I just want to be clear,
4 clear.

5 THE COURT: No, that's understood.

6 THE WITNESS: Okay. Okay. So there is no question
7 that this prenuptial agreement if you so find would be
8 sustained -- would be affirmed by the appellate court in
9 Georgia, but it's now the Court of Appeals. That's what I was
10 trying to clarify. Now we -- family cases are no longer going
11 to the supreme court as of January 1. They're going to the
12 lower level appellate court.

13 But -- so just to be clear, there's no question that
14 -- because you sit -- as you know, you sit in -- and that's
15 what the cases say. You sit in equity to listen to the
16 evidence. But -- but listening to the evidence, if you
17 believe that the facts as I do are very similar to Kwon and
18 Malon that she -- she clearly signed an agreement that she had
19 a duty to go have it interpreted. She had a duty to go have a
20 lawyer if she chose to investigate it and to give her advice.

21 It sounds like she actually had that advice. I'm
22 not clear whether this lady Bea that I heard today and I heard
23 testimony -- or read testimony about. I'm not sure if she was
24 a lawyer at the time.

1 BY MR. JIMMERSON:
2 Q She was.
3 A Okay. Well, if she was a lawyer at the time and she
4 -- this lady got advice not to sign it and she chose to sign
5 it, if she chose not to read it, if she chose not to
6 investigate the more questions she had about her husband's
7 assets and income, the Georgia law would easily support you in
8 exact finding. This is a valid prenup.
9 MR. JIMMERSON: And I'd like to move admission.
10 THE WITNESS: Oh, and I just want -- I just want to
11 say something else. Before Malon --
12 MS. MENTZEL: Object, there's no pending question.
13 THE WITNESS: -- it's -- I would have a opinion. So
14 I --
15 THE COURT: All right.
16 THE WITNESS: -- just want you --
17 THE COURT: Sustained.
18 THE WITNESS: -- to know because -- because -- oh,
19 am -- am I --
20 THE COURT: Yeah.
21 THE WITNESS: -- supposed to be quiet?
22 THE COURT: Yeah.
23 THE WITNESS: Oh, I --
24 THE COURT: Yeah, sustained.

1 BY MR. JIMMERSON:

2 Q And Exhibit Triple G is your short --

3 A Yes.

4 Q -- bio?

5 MR. JIMMERSON: Move for its admission, Your Honor.

6 MS. MENTZEL: Can I --

7 THE COURT: Any -- any objection to the admission?

8 MS. MENTZEL: Can I look at it for a second, please?

9 THE COURT: It's Triple G?

10 MS. MENTZEL: I just haven't seen it.

11 MR. JIMMERSON: It is.

12 THE WITNESS: It's off my website.

13 MS. MENTZEL: No objection, Your Honor.

14 THE COURT: All right. Exhibit Triple G is
15 admitted.

16 (DEFENDANT'S EXHIBIT GGG ADMITTED)

17 THE COURT: Pass the witness. Thank you.

18 THE COURT: Cross examination?

19 MS. McFARLING: Yes, may we take maybe five minutes
20 or so before I begin my cross examination?

21 THE COURT: Okay. Let's -- let's take a short
22 break.

23 MS. McFARLING: Is that Triple G?

24 MS. MENTZEL: Yeah.

1 (COURT RECESSED AT 15:45 AND RESUMED AT 15:52)

2 THE CLERK: Back on the record.

3 THE COURT: All right. We are on the record in the
4 Egosi matter. And cross examination by -- by the Plaintiff.

5 CROSS EXAMINATION

6 BY MS. McFARLING:

7 Q You testified that the Malon case in Georgia was in
8 2005, correct?

9 A Yes.

10 Q Are you familiar with the Blige (ph) case from 2008?

11 A I have it in my book. Yes.

12 Q The Blige case in 2008 says that a person has an
13 affirmative duty of pre-execution disclosure, correct?

14 A Where are you looking?

15 Q At my notes. I'm looking at my notes.

16 THE COURT: Do you have a -- do you have a citation,
17 Counsel?

18 MS. McFARLING: Hold on.

19 MR. JIMMERSON: Judge, I do. It's 283 Georgia 65.

20 MS. MENTZEL: It's at Page 71.

21 THE WITNESS: Can you just -- I -- I have the case
22 in front of me. If you will show me where you're looking, I
23 will appreciate --

24 MS. MENTZEL: 283.

1 THE WITNESS: -- it.
2 MR. JIMMERSON: What -- what page, Samantha?
3 MS. MENTZEL: 283 Georgia at 71. Blige 283.
4 THE WITNESS: 283. I have the -- I have the
5 Southeast Second.
6 MS. MENTZEL: Ah, then it's at 827.
7 THE WITNESS: 827. Let's see.
8 Q It starts with the burden is not on either party
9 to --
10 A Wait. Wait. You have to show me. I'm sorry.
11 There's a lot in this case.
12 MS. MENTZEL: You have a copy of it?
13 THE WITNESS: I do.
14 MS. MENTZEL: Could we steal it from you?
15 THE WITNESS: Uh-huh (affirmative).
16 MS. MENTZEL: Mind if I --
17 (COUNSEL CONFER BRIEFLY)
18 Q Does it sound inconsistent with your understanding
19 of Blige that's --
20 A I -- I won't --
21 Q -- a person who has --
22 A -- understand.
23 Q -- an affirmative --
24 A I -- I have no recollection of Blige if I don't have

1 it in front of me. You're not helping me.

2 Q Okay. I'll give it to you.

3 MR. JIMMERSON: That's the case, you're talking
4 about a hundred and fifty thousand dollar non-disclosure.

5 THE WITNESS: Hm?

6 MR. JIMMERSON: It was a hundred and fifty thousand
7 dollar non --

8 THE WITNESS: Oh.

9 MR. JIMMERSON: -- disclosure. The case --

10 THE WITNESS: That's the --

11 MR. JIMMERSON: -- you --

12 THE WITNESS: -- Blige case?

13 MR. JIMMERSON: -- exhibit you referenced is Blige.

14 THE WITNESS: Okay.

15 (COUNSEL CONFER BRIEFLY)

16 Q If you could turn to Page 827, paragraph beginning
17 with the burden is not on. Do you have that in your Blige
18 case?

19 A I don't have the paragraph that starts the burden is
20 not on. I'm sorry, ya'll.

21 MS. MENTZEL: He doesn't have -- I don't know if it
22 starts --

23 THE WITNESS: I have a different -- I have the
24 Southeast Second citation. It's not --

1 Q Southeast Second 822?
2 A 827.
3 Q 827, yeah. Okay. It's on Page 827. Did you find
4 it?
5 MR. JIMMERSON: It's a paragraph that begins to
6 support --
7 MS. MENTZEL: Oh, here we go.
8 MR. JIMMERSON: -- his claim.
9 MS. MENTZEL: The -- that the better rule is the
10 burden is not on either party to acquire but on each to
11 inform.
12 MS. McFARLING: Okay.
13 THE WITNESS: Okay. Well, let me read this first to
14 myself before you ask me.
15 (PAUSE)
16 THE WITNESS: Okay.
17 Q So Blige which came several years after Malon says
18 the burden is not either party to inquire but on each to
19 inform, correct?
20 A Let me see. It says -- well, I have to read the
21 paragraph before. Actually, no, because they talk about in
22 the next paragraph -- so this -- what you're referring to is
23 they're quoting the Delorian case which was a case in
24 somewhere rather -- either California or some other case --

1 MR. JIMMERSON: And Judge --

2 A -- in some other place. And then they -- then they
3 interpret -- they -- they make comments about it and we can
4 all look at this together and say together -- say what it
5 says. But the way I read this is the next paragraph, Counsel,
6 it says in Malon we do not rest our decision of wholly in the
7 trial court's enforcement of an antenuptial agreement on Mrs.
8 Malon's failure to inquire into Mr. Malon's financial status
9 prior to the execution of the antenuptial agreement.

10 Instead, we concluded that the omission of Mr.
11 Malon's income from a financial statement he attached to the
12 antenuptial agreement was not material given the unique
13 circumstances of that case. We emphasized the fact that Mrs.
14 Malon had lived with Mr. Malon for four years before she
15 signed the antenuptial, that the financial disclosure
16 statement that Mr. Malon attached to the antenuptial agreement
17 revealed him to be a wealthy man with significant income
18 producing assets and that Mrs. Malon who was well aware from
19 the standard of living they enjoyed prior to the marriage that
20 Mr. Malon receives substantial income from the business
21 bearing his name and other sources.

22 And it's a -- they went on to say the evidence
23 supposed the trial Court's finding that Mr. Blige failed to
24 make a full disclosure of his assets. Okay. That's -- this

1 was where he -- as I said, he did not disclose. He failed to
2 disclose. It wasn't her fail to -- he hid assets and I've
3 just testified on direct that in this case, at hand, he did
4 not fail to disclose. He gave the information. That's my
5 understanding of what happened.

6 Q And -- and in Blige, the premarital agreement was
7 found to be invalid due to a failure of full disclosure,
8 correct?

9 A Be technically correct. The trial court found that
10 -- and that it was -- and there was no reversible error that
11 the -- when the trial court found that the man had failed to
12 show a hundred and fifty thousand of an asset that wasn't on
13 the financial disclosure that the trial court's failure to
14 enforce the prenup was affirmed by the supreme court.

15 Q You had said in your testimony just a bit ago that
16 if -- sorry, let me just find it. Bear with me one second. I
17 feel like I lost a page. You -- you had said a minute ago
18 that it your opinion that if this Court were to find the
19 premarital agreement valid, it would not be overturned on
20 appeal in Georgia.

21 But just like the Blige case, if this Court were to
22 find the premarital agreement in this case invalid, it's
23 likely that would not be overturned on appeal in Georgia --

24 A But this --

1 Q -- as well, correct?

2 A Well, the -- the standard of review in Georgia is

3 abuse of discretion.

4 Q Right. So --

5 A Okay.

6 Q So --

7 A So it -- wait, let me finish. May I?

8 Q It was a yes or no question.

9 A I'm -- I'm not allowed --

10 Q It's -- it's likely --

11 A -- to finish?

12 Q -- it would not be overturned --

13 A Well, there --

14 Q -- on appeal --

15 A It's not --

16 Q -- if he found it invalid --

17 A That's not --

18 Q -- correct?

19 A That's -- that's not a yes or no answer. It -- it

20 depends. So if he abused --

21 Q Did you give a depends --

22 A -- in -- in --

23 Q -- to whether or not --

24 A -- if the Court --

1 Q -- it would be if it was --

2 A Can -- can I finish?

3 Q -- if it was found valid?

4 THE COURT: Well, if it is a yes or no question,
5 then can't answer it.

6 THE WITNESS: I don't know how to answer that --

7 THE COURT: But -- but --

8 THE WITNESS: -- yes or no.

9 THE COURT: -- you need to wait for Counsel to
10 ask --

11 THE WITNESS: He --

12 THE COURT: -- a follow-up question.

13 THE WITNESS: The question is whether he abuses his
14 discretion in listening to the facts --

15 MR. JIMMERSON: It was the question.

16 THE WITNESS: -- and that -- and so if he abuses his
17 discretion, it was likely to be reversed following the law
18 starting with Malon. So it would be highly unlikely given
19 there has been no failure to provide the information by the
20 husband, there's been no -- I've already talked about the Kwon
21 case, her -- her oral argument that she couldn't speak
22 English, that would fail. He would -- I would believe the
23 Court would be abusing his discretion following the Kwon case
24 by the facts in this case. Those are -- that's my view.

1 Q It may have been in his deposition, but yesterday as
2 well Mr. Egosi testified that he did not know how much money
3 he had in his bank accounts at the time of the premarital
4 agreement. Is there an amount he would have in his
5 undisclosed bank accounts at the time of this premarital
6 agreement that would make you deem it a significant
7 non-disclosure?

8 A All I can do is be guided by the -- the Blige case,
9 because that's the only answer we have to the question when a
10 man did not produce a hundred -- reveal a hundred and fifty
11 thousand dollars of an asset. That's the only answer that we
12 know.

13 Q We have an Alexander case where there was a 40,000
14 not disclosed that was also a basis, correct?

15 A Let me look at Alexander.

16 Q Okay.

17 A That case -- I think that case came just before --
18 that case --

19 Q It was.

20 A -- was a complicated case in light of Malon, because
21 that was in March. Malon was like in September of 2005. And
22 there remains the question of how much Malon has overruled
23 Alexan -- the Alexander case. I'm going to ask you to think
24 about that Your Honor when reviewing the Alexander case. In

1 the Alexander case, yeah, I see that Mr. Alexander failed to
2 disclose \$40,000. He owned a -- an investment account. But
3 for that --

4 Q And so in that -- in that case, 40,000 was --

5 A Right.

6 Q -- significant --

7 A But that case --

8 Q -- correct?

9 A I caution everyone that that case came just before
10 Malon and Malon as I've already told you, that was the real
11 mind blowing precedent setting case in Georgia.

12 Q So -- so do you agree that under Blige a hundred and
13 fifty thousand not disclosed would be a significant amount to
14 not have been disclosed on a --

15 A That's what -- that's what --

16 Q -- a premarital agreement?

17 A That's what the trial court found that was affirmed.

18 Q And in your opinion --

19 A That's all we know.

20 Q -- do you agree with that, that being a significant
21 amount of non-disclosure?

22 A I agree that's what the trial court found or the
23 supreme court affirmed. I don't want to comment on what is
24 the bright line, but that's for the court of equity to decide.

1 Q Does recording a premarital agreement have any legal
2 impact under Georgia law?

3 A Sorry, you're looking down. I couldn't hear you.

4 Q Sorry, does recording a premarital agreement have a
5 legal impact?

6 A Since I don't know what that means, then I guess the
7 answer is no. What -- I don't know what a recording mean.

8 Q Okay.

9 A Do you mean -- do you mean on a videotape or --

10 Q No.

11 A -- audiotape? What do you mean?

12 (COUNSEL CONFER BRIEFLY)

13 Q We're going to hand you Exhibit 14 which is the
14 prenuptial agreement in this case.

15 A Yeah, I have it.

16 Q You have that?

17 A I have it here, yeah.

18 Q Okay. If you can turn to I think the last page of
19 it.

20 MR. JIMMERSON: Which page is it, Counsel?

21 MS. MENTZEL: Page 14 -- Exhibit 14, Page 14 of that
22 exhibit.

23 THE WITNESS: Okay. I'm sorry.

24 Q Do you see the very last sentence of the entire page

1 which is the last page?

2 A Okay. Hold on.

3 Q It says --

4 A It -- where on -- where the signatures begin?

5 Q No. No. After that.

6 A Okay. After that.

7 MS. MENTZEL: He doesn't --

8 Q After that. Do you have a Page 14 or do you only

9 have --

10 A Oh.

11 Q -- 13 --

12 A Oh, Page --

13 Q -- of 14?

14 A -- 14. I'm sorry. I apologize. Okay. I see that.

15 Q Okay. The very last sentence on that page, it says

16 in addition, the agreement must be recorded in the office of

17 the clerk of the superior court of the county of the parties'

18 residence within three months after the execution.

19 A I don't know what that means. I didn't -- when I --

20 when I read the prenup, I did not consider that piece of paper

21 part of the prenup. I thought that was a direction from the

22 internet company to tell the parties what to do and that is

23 not consistent with Georgia law. I have --

24 Q And you --

1 A -- not state that -- I did not interpret that as
2 part of the prenup.

3 Q Even though it says Page 14 of --

4 A I'm telling --

5 Q -- 14?

6 A -- you how I read it. It was following the cert --
7 the certification that they have and then that's just another
8 piece of paper that was in the form. That's how I viewed it
9 and it says -- and it's got the LawDepot trademark there, that
10 -- that's why I thought it was directions to the parties.

11 Q This premarital agreement in this case is under
12 Georgia law. Does Georgia law allow an attorney licensed in
13 another state to give advice on Georgia law?

14 A Say that again?

15 Q Is -- is -- does -- does Georgia, the Georgia State
16 Bar, Georgia law allow an attorney who is not licensed in
17 Georgia but licensed in another state to give advice on
18 Georgia law?

19 A No.

20 Q And is an attorney not licensed in Georgia allowed
21 to give advice on a premarital agreement under Georgia law?

22 A No.

23 Q Were you aware that the person that discussed this
24 premarital agreement with Patricia prior to the final draft

1 was not a Georgia attorney?

2 A Yes.

3 Q Is it a significant fact if someone sees a final
4 draft premarital agreement at the time or immediately prior to
5 them signing it?

6 A Not post-Malon. Pre-Malon, yes.

7 Q And does Blige change that?

8 A I don't understand your question.

9 Q Does -- does the decision in Blige change --

10 A Change what?

11 Q -- change the -- the timing of someone seeing the
12 draft premarital agreement part of Malon?

13 A I don't remember Blige being significant on that
14 issue. You can point me to the language that might refresh
15 me.

16 Q Is your opinion today based upon your interpretation
17 of Blige not requiring the burden of disclosure to be on the
18 disclosing part?

19 A I don't understand your question.

20 Q You -- when -- when I directed you to a -- the --
21 the section of Blige where it discusses the burden is not
22 inquire but on each to inform, that part.

23 A I don't think that's the holding of Blige.

24 Q And so is your opinion here today based on your

1 interpretation that that is not the holding in Blige?

2 A I don't understand your question.

3 Q If that were the holding in Blige, would it change
4 your opinion?

5 A And that -- it -- all right. I'm sorry. I'm just
6 not connecting with you. Say that again? Just say it. Say
7 it -- what is -- define the --

8 Q The --

9 A -- question a little --

10 Q -- burden --

11 A -- clearer.

12 Q -- is not to inquire but on each to inform and the
13 quote that continues from there.

14 A Right. The --

15 Q If that actually is a holding from Blige, does it
16 change your opinion?

17 A I don't know what -- I don't know if -- I can't get
18 my head around your hypothetical. I'm having trouble because
19 I just read to the Court what I thought was significant from
20 Blige. And so that's how -- how I think about this case. So
21 I'm sorry, I'm -- I'm having difficulty understanding your
22 question and interpreting. I would like to answer you, but
23 I'm having trouble.

24 Q Are you familiar with the Adams case?

1 A You're testing me. It's in my book.

2 Q Oh, good.

3 A Let me read it. What would you like to know about

4 Adams?

5 Q A -- under Adams, a person must have a full

6 understanding of the premarital agreement's terms, correct?

7 A You know, I'm sorry, Counsel. I don't -- have not

8 memorized Georgia law. That's why I have it in my book. So

9 this was a pre-Malon case. And -- and do you want me to

10 review it and then answer your questions or do you want to

11 point me to the language please to help me?

12 Q Do you have any other cases on premarital agreements

13 memorized aside from Malon?

14 A Well, I have reviewed all of the premarital

15 agreement's language on the plane over here. My memory of

16 them is not perfect. I don't think any lawyer's is. I'm

17 happy to -- I've -- I've told you what I know. So what is

18 your question specifically?

19 Q I'll move on from there. Is it your interpretation

20 of Georgia law that a party is -- is simply having the ability

21 to say snoop soot -- through the person they lives with --

22 live with's financial records is sufficient disclosure of

23 assets? Is that your understanding? That someone has access

24 to snoop --

1 A Under --
2 Q -- that's --
3 A Under's Malon --
4 Q -- sufficient disclosure?
5 A Under Malon, if she lived in -- in the Malon case,
6 she lived and experienced four years of living with him and
7 knowing and becoming familiar with his lifestyle. That's the
8 standard that Malon started.
9 Q So access to financial records that you would have
10 to snoop through doesn't meet that in your --
11 A There's no --
12 Q -- opinion --
13 A There's no case that says that the ability to snoop
14 through records has anything to do with the validity of a
15 prenup. It -- in the Malon case, there was no evidence that
16 she snooped through anything. The Court said very clearly you
17 lived there. You understood the lifestyle. You are in a
18 position to know living there. So it didn't go into the depth
19 about snooping through concept. I understand what you mean.
20 Q Okay. Yesterday Patricia testified that after the
21 marriage she was under the impression from Joe's statements
22 and from the fact that she had to do a lot of work that they
23 weren't paying other people for such as cleaning restrooms,
24 herself preparing to move across the county, things like that,

1 that it gave her the impression that -- that Joe's business
2 was losing money. Would her testimony yesterday as to her
3 impression that the business was losing money be different
4 than this person in Malon who had a familiarity with a
5 lifestyle that indicated success --

6 MR. JIMMERSON: Just --

7 Q -- financial success?

8 MR. JIMMERSON: Just object to the form of the
9 question, because you're asking about something after
10 marriage, I believe, which I don't think would be relevant,
11 Judge. The question referenced being after marriage.

12 THE COURT: Sustained, if you'll restate the
13 question, Counsel.

14 BY MS. McFARLING:

15 Q Would Patricia's belief that Joe's business was
16 losing money distinguish this case or this situation from
17 Malon where the woman had lived four years with a successful
18 lifestyle?

19 A Make sure I understand your question, because I'm
20 thinking about her testimony that I read --

21 MR. JIMMERSON: Bless you.

22 A -- in her --

23 THE COURT: Bless you.

24 A -- deposition. So is that different --

1 MR. JIMMERSON: God bless you.

2 THE COURT: Bless.

3 A Was her testimony in her deposition different than
4 your hypothetical?

5 Q I don't think the exact thing was asked, but off the
6 top of my head, do you know -- do you know d

7 A So I can't -- I'm -- I'm -- Counsel, I'm just having
8 -- I'm having trouble ignoring what I read in the deposition
9 that she -- about her testimony regarding her understanding of
10 his income and the success of his business at the time he --
11 the prenup took place. I'm familiar with what she testimony
12 -- what she testified in her deposition. And then she said he
13 kept telling me I don't have any money. We're -- we're not
14 doing well. That was before the marriage. That's what I read
15 in her testimony. Is that -- that's the same thing you're
16 referring to?

17 Q It -- it's not exactly, but yes, the same --

18 A Okay.

19 Q -- concept. So --

20 A Good.

21 Q -- Patricia's testimony that -- that she had an
22 impression that -- that he was losing money, is that
23 distinguished from Malon of four years being familiar with a
24 successful lifestyle?

1 A That would be completely consistent in my mind with
2 Malon, complete. She should have known what his income was,
3 what his lifestyle was, just like Mrs. Malon did. And, you
4 know, there's been discussions about well, he didn't put his
5 income on the prenup. Okay. Well, she -- he didn't have to
6 under Malon and other cases and she should -- was in a
7 position to know how poorly or not poorly the business was
8 doing.

9 Q And -- and if Patricia's impression that his
10 business was losing money was completely inconsistent with the
11 actual value of the business, would that make a difference?

12 A If I understand your question, if you're mixing
13 metaphors in my mind, one thing has to do with the value of
14 the business. The other thing has to do with the income from
15 the business. So I'm not clear what part of that question I'm
16 supposed to answer.

17 Q Aren't those two things related, the income from the
18 business and --

19 A Well, we --

20 Q -- a value of a -- of a solely owned business have
21 correlation?

22 A If a business is worth a lot of money and it starts
23 losing money, then it's going to be worth less after time. So
24 I understand your question.

1 Q Failure to list ownership of a business by a person
2 seeking to validate a premarital agreement can be a basis to
3 deem it invalid, correct?

4 A That was a confusing question. Try it again.

5 Q If someone does not list a business as an asset on a
6 premarital agreement and that person is the one seeking to
7 validate, that can be a basis to deem a premarital
8 agreement --

9 A That seemed --

10 Q -- invalid.

11 A That seemed -- well, when you say seemed invalid,
12 that means that that party is trying to enforce it?

13 Q Yes.

14 A Because on -- because we do it back -- you started
15 this case by trying to make it invalid --

16 Q Yes.

17 A -- which was not proper under Georgia law. So
18 that's what I'm struggling with. But the man -- if the man
19 let's say failed to include a business on his disclosure and
20 then he wanted to enforce the agreement, he would have a hard
21 time. That would be very clear.

22 Q Okay.

23 A That's not what I understand what is happening in
24 this case. That hypothetical does not match up with what I've

1 read.

2 Q Georgia law requires that there be an evidentiary
3 hearing on the motion -- on a motion to validate because the
4 burden of proof rests with the person seeking to validate,
5 correct?

6 A There needs to be a hearing on the motion to enforce
7 the agreement.

8 Q And that's because the burden of proof is with the
9 person seeking to --

10 A Yes.

11 Q -- enforce.

12 A That's correct.

13 MR. JIMMERSON: And we --

14 Q And that's even after Malon, correct?

15 A Yes.

16 MR. JIMMERSON: And we agree, Judge. We have a
17 preponderance of the evidence, burden of proof --

18 THE WITNESS: After I've read the pleadings of the
19 case, I was trying to make sure that this Court did it
20 consistent with Georgia courts. I think that's what happened
21 ultimately.

22 Q Would you say that if someone was advised not to
23 sign a premarital agreement by someone who's in the legal
24 field that that makes the signing of it voluntary?

1 A That certain -- certainly would be strong
2 indication. Yes, ma'am.

3 Q And if that same person in the legal field in that
4 -- at that same setting advised that the premarital agreement
5 would be void if Patricia had a child with Joe --

6 A That would be --

7 Q -- does that change the voluntariness?

8 A That would be a misstatement of Georgia law.

9 Q Whether or not it's accurate as to Georgia law.
10 Although there is a case called Alexander that was invalid
11 because the parties had a child, correct?

12 A That's not the way I read Alexander. That was --

13 Q It was --

14 A That was --

15 Q -- one of the three --

16 A That was the pre -- that was the pre-Adams. And
17 that Alexander was a pre-Malon case.

18 Q Right, but it -- that's what Alexander --

19 A I'll have to --

20 Q -- found --

21 A -- review that.

22 Q -- correct?

23 A I do not agree with you. I will read it over and
24 see if I do agree.

1 Q Did Malon even address prong three of the Shear test
2 at all?

3 A I'll have to look at it and answer that question
4 since I haven't memorized it. Let's see. It says that the
5 remaining factor to be consider is whether circumstances of
6 change since the execution of the agreement so as to render
7 its enforcement unfair and unreasonable, the change of
8 circumstances which wife contends in her brief renders
9 enforcement of the agreement unfair and unreasonable is that
10 the husband's net worth increased by \$14,000,000 during the
11 marriage. So yes, it addressed it.

12 Q Does Malon address children?

13 A Yes, actually. And -- and -- because they had four
14 children. That had no bearing on the enforcement.

15 Q In the cases that you have been involved in at a
16 trial court level in Georgia --

17 A Uh-huh (affirmative).

18 Q -- dealing with premarital agreements, have any of
19 them have been found invalid?

20 A Uh-huh (affirmative). Yes. I'm stinging right now
21 from a big loss in one that I was trying to enforce.

22 Q And what's the name of that case?

23 A Well, it didn't make it to the appellate court, so I
24 would have to talk about one of my clients.

1 Q Are they confidential if they're not in --
2 A Yes.
3 Q -- on appeal?
4 A I would like not to have to name her name. She'll
5 be very mad if I --
6 Q And --
7 A -- reveal it.
8 Q -- what -- what was the basis in that case for the
9 prenup being invalid?
10 A Oh, my goodness. I wasn't prepared to talk -- do I
11 have to talk about some other -- one of my cases, Judge?
12 Q Well, just the -- the legal reasoning, the reason it
13 was.
14 A I would have to -- it was long and complicated and I
15 do not want to misquote what the Judge said. So I did not
16 bring it. I'm just -- the bottom line was and this -- that
17 case, it was a -- man had -- we thought about a hundred
18 million dollars of assets, much of it -- which was cleverly
19 put in trust, end of the marriage. The wife was to receive
20 under the prenup about \$3,000,000. I tried to convince the
21 trial court that that was unconscionable. I lost. She walked
22 away with \$3,000,000. He walked away with 97,000,000. And I
23 tried to get that case to go and reverse Malon and was not
24 given the opportunity. We -- we resolved the case. So that

1 shows you how deeply I believe Malon sits in the courts right
2 now.

3 Q Now listen to the question again. Have you been
4 involved in cases where prenup was found invalid?

5 A That's what I just -- oh, invalid.

6 Q Invalid.

7 A I'm sorry. I'm -- I misheard you.

8 Q Okay.

9 A Let me think about that. Yeah, I have. I can think
10 of one.

11 Q Okay. And what was the --

12 A And it was --

13 Q -- basis?

14 A -- on -- that -- that case -- I can't remember what
15 was -- I don't want to have to talk about my clients, Judge.
16 Do I have to tell the names of the cases?

17 THE COURT: No, I -- I don't need names, but --

18 THE WITNESS: Okay. I thought that's --

19 THE COURT: -- legal reasons.

20 THE WITNESS: -- what you just asked me.

21 THE COURT: Well, if you can --

22 Q No, I asked you the basis for the decision.

23 A Oh, the basis. It was unconscionability.

24 Q Why?

1 A This was pre-Malon that I'm thinking about now.
2 Under Malon, that case would have been -- had a different
3 result. She -- this lady was -- she testified that she signed
4 the prenup on the back of the car that she got out of before
5 she walked into the wedding ceremony and the Court found the
6 prenup to be invalid. But that was pre-Malon I'm thinking
7 now. I will add that rarely are we in a position to try to
8 even invalidate prenups now under Malon.

9 Q So if the last case you can think of that was
10 invalid was pre-Malon, that was before 2005?

11 A Well, you put me on the spot and asked me -- these
12 are the big losses that I had. So I remember those better
13 than I do if I win since I'm sure most good lawyers do. So
14 I'm -- that's what I recall.

15 MR. JIMMERSON: Our Judge never lost one when he was
16 in practice. So he has a very poor memory.

17 THE WITNESS: So that's why -- that's how --

18 THE COURT: Both Counsel --

19 THE WITNESS: -- those two case --

20 THE COURT: -- know that's not true.

21 THE WITNESS: I just want you to know that's why I'm
22 telling you those are the ones that last a lone time.
23 Unfortunately, there's been few of those, so that's why I
24 remember them.

1 Q Earlier, you testified that a spouse has a duty to
2 figure it out. A --

3 A Yes.

4 Q -- husband does not have a duty to disclose. She
5 was in a position to understand his income and assets. Do you
6 recall saying that earlier?

7 A That's how I read -- that's how I read Malon.

8 Q And in your opinion, Blige does not change that.

9 A Blige was when the man failed to disclosed a hundred
10 and fifty thousand dollars and that was the bright line we
11 learned out of -- from Blige. He failed to disclose it. In
12 this case -- in the Malon case which is similar to the case at
13 bar, he disclosed his assets. He -- he put it on -- on the
14 financial statement. So he -- that's the big difference than
15 in Blige when the guy didn't put it on.

16 Q In Malon, you -- you stated that the wife had met
17 with the husband's lawyer and negotiated and changed the terms
18 of the premarital agreement.

19 A As I recall the facts.

20 Q In Kwon, what did the wife do for work in the United
21 States?

22 A I don't remember. I would have to go look at the
23 case and try to recall it. Would you --

24 Q Do you know --

1 A -- allow me to?

2 Q Do you know how long she worked in the United
3 States?

4 A Well, I don't -- I got to go read the case again and
5 tell you the facts. Do you want me to? I'm happy to inform
6 the -- everybody.

7 Q I think we can -- we can review it, but you are --
8 you are saying that -- that it's similar facts to here, so I'm
9 wondering what those are facts are.

10 A Well, I -- the facts that I found similar in Kwon
11 was the contention of -- of your client and Mrs. Kwon that she
12 didn't speak English well enough to understand the document.
13 That's the holding that I got out of Kwon that the Court
14 talked about and the duty was on the -- Mrs. Kwon as it I
15 think it is on your client that have gotten the document
16 understood better before she signed it. That's what Kwon
17 said. She had -- she was able to sign it and see the
18 document. Before she signed it, she should have gone and
19 figured it out.

20 MS. McFARLING: That's all my questions.

21 THE COURT: I just have one -- one --

22 THE WITNESS: Yes, sir.

23 THE COURT: -- question for you.

24 THE WITNESS: Yes, sir.

1 THE COURT: It appears to me from the Alexander
2 decision there's language in the Alexander deci -- decision
3 that gives the court sitting in equity has discretion to
4 quote, approve the agreement in whole or in part or refuse to
5 approve it as a whole. So I interpret that under Georgia law
6 to mean that the Court has the ability to somewhat to sever
7 portions of the agreement and --

8 THE WITNESS: I believe --

9 THE COURT: -- enforce certain portions, but not
10 others. Is that --

11 THE WITNESS: I believe --

12 THE COURT: Is that an accurate --

13 THE WITNESS: And --

14 THE COURT: -- assessment?

15 THE WITNESS: -- I believe -- and I've had that
16 actually happen in a --

17 THE COURT: Right.

18 THE WITNESS: -- in--

19 THE COURT: It's -- it's not necessarily all or
20 nothing.

21 THE WITNESS: I've had that. Yes, sir.

22 THE COURT: All right. You may step down. Thank
23 you for your --

24 THE WITNESS: Thank you.

1 THE COURT: -- appearance.

2 MR. JIMMERSON: Judge, could I just make reference
3 that there is a severability provision in this --

4 THE COURT: There is.

5 MR. JIMMERSON: -- contract?

6 THE COURT: Right. I do -- I -- I am aware of
7 that --

8 MR. JIMMERSON: Thank you.

9 THE COURT: -- as well. All right. Thank you for
10 your appearance, Mr. Edlin.

11 THE WITNESS: Thank you, Judge.

12 (WITNESS EXCUSED)

13 MR. JIMMERSON: And because I've used all my time, I
14 have nothing further and I thank you so much.

15 THE COURT: All right. I am prepared to rule. I
16 recognize -- and I have pretrial memos and trial memos from
17 both parties. To the extent that you desire to make some type
18 of a closing statement, well, our time is limited.

19 MS. McFARLING: This is not about a closing. It's
20 about another issue. So we -- on Monday, there was disclosed
21 the name of the person who we now know is a Florida and New
22 York lawyer that Patricia had testified in her deposition she
23 had met with, but didn't know her name. She knew her as Bea.
24 But we got the name on Monday of that person. And prior to

1 Monday, Patricia or her Counsel had no idea what this person's
2 name was to even track her down.

3 So I would ask that if you are considering finding
4 the prenup valid, that before you make a decision you allow us
5 the opportunity to attempt to get her to appear by video for
6 the purpose of testifying about the circumstances and -- and
7 the situation of her meeting with Patricia.

8 MR. JIMMERSON: A --

9 THE COURT: Well --

10 MR. JIMMERSON: -- brief response. I -- I
11 appreciate opposing Counsel's remarks, but they're not
12 factually accurate. I just -- but I think in -- in terms of
13 making a completely transparent point, after we learned on May
14 30th that -- through the deposition of the Plaintiff that Bea
15 Goodman, Batya Goodman, had been seen by her and had the
16 private meeting in her bedroom at the woman's bedroom. We
17 went just like you would do and online we saw that she was
18 admitted in 2003 and she was barred in both Florida and in New
19 York and that her license is still in good standing, we went
20 through all of that.

21 But -- so my point is between May 30th and -- and
22 trial, my client certainly knew of Ms. Goodman for the reasons
23 that both he testified about and opposing parties is -- and
24 that he had a social relation with her -- with this man Alexa

1 who apparently was -- had some relation with the lawyer. That
2 -- as you heard him testify, he didn't have a good
3 relationship with Ms. Goodman, but knew her.

4 So when I just heard opposing Counsel say that we
5 only learned the name on Monday, that's not true. I learned
6 it in between May 30th and Monday, and that's true, but he
7 would have known the lady at least as the girlfriend of a
8 friend who did -- did know -- so I just want to correct that,
9 number one.

10 Number two, when you review, and I know you have,
11 but when you review the January 5, 2017 motion to invalidate,
12 you have such misrepresentations by Mrs. Egosi with regard to
13 the events that occurred here. My client in his deposition
14 said there was an earlier draft and we produced it, Exhibit
15 ZZ. And you have no meeting with the lawyer. Now it wasn't
16 done -- no meeting with a lawyer licensed in the state of
17 Georgia. And we're concerned, me and you heard it too, was
18 opposing Counsel, Ms. McFarling's statement, that she's not a
19 licensed lawyer in Georgia which to me was an absolute
20 admission that she knew that -- or had -- had this meeting.

21 And so when you hear this request, you take into
22 consideration this request that you're hearing now, it's on a
23 hearing with you, Judge, and for the first time, I'm very
24 troubled by what Mrs. Egosi knew and we know what she knew and

1 what her lawyer or may or may not have known with regard to
2 the briefing that you've got -- with regard to the motion in
3 January and then the reply that you got in March and the
4 representations made to you on November 1 hearing where you
5 expressed some concerns about the prenup.

6 And what's clear is that there is no disclosure and
7 it certainly was fraud because it's like the case where you
8 don't admit -- don't acknowledge the presence of termites in
9 the sale of a home. Here, the failure to disclose that you
10 met with a woman for the express purpose of learning about
11 this document and what it means and means and even though I
12 have perceived a tremendous change in testimony between
13 yesterday and today, even if you accepted the words of the
14 woman -- Plaintiff in this case today, what did she say? Joe
15 asked me to go see her to learn about the agreement. Now
16 that's a complete reversal from what she said yesterday.

17 But all I'm trying to say to you is is that there is
18 no incompatibility between what the facts as you were told and
19 we were told in the papers of the Plaintiff to the position
20 they're now asking. And so that's why I would resist in a
21 video because they knew of Ms. Goodman because she met with
22 her eight years ago in June of -- in July of 2008, July 18th.
23 They knew if they wanted to throughout the last nine months to
24 look her up, it would be easy enough to do and they made no

1 effort to do so and they did so at a time when they knew she
2 met with the woman on July 18th. And that's something Joe
3 didn't know.

4 And so that's what to me would be a reason why you
5 should soundly refuse this request of a -- I guess a video or
6 some sort of -- it was a depo of some sort of this woman when
7 all the knowledge was in the Plaintiff. And, you know, you --
8 you have to just know, and I know you know, it -- it's a
9 different case. Regardless of how you rule in my client's
10 favor or not, it's a different case than what's represented
11 prior to May 30th. And so I would re -- resist the -- both
12 the cost which would be substantial and the expense for
13 something that lies solely within the Plaintiff's knowledge
14 and which was undisclosed and withheld intentionally concealed
15 by the Plaintiff and perhaps Plaintiff and Counsel prior to
16 May 30th. Thank you.

17 THE COURT: All right. I -- I -- I'm going make the
18 following findings and conclusions and orders based on the --
19 the record that's before the Court. And the Court has heard
20 the testimony of both the Plaintiff and the Defendant, Sarah
21 Woelz, Nicole Rawley, David Plotkin, and -- and Mr. Edlin.
22 And I've had a chance to listen to the testimony that's been
23 offered and evaluate issues pertaining to credibility and
24 demeanor of -- of the parties. And part of this is couched on

1 the papers that brought us to this point in time and -- and
2 the representations, the offers that have been made in the
3 papers that ultimately generated these proceedings.

4 And even this request as it relates to Ms. Goodman
5 and -- and the -- the testimony potentially that she might be
6 able to offer, it's apparent to me from what I'm learning
7 through these evidentiary proceedings and that the trial
8 memorandums that were -- pretrial mem -- memorandums that were
9 submitted that there's been some information that has just
10 come to light as a result of recent discovery, depositions
11 that were taken, some information that perhaps was not clearly
12 known or at least understood prior to this getting underway.

13 And even as it relates to Ms. Goodman's name, Bea's
14 name that -- that the Plaintiff met with, and I also recognize
15 as I've touched on before that this -- these evidentiary
16 proceedings were -- were set perhaps in a unique fashion given
17 the posture of the case. Although custody is typically the
18 first issue that's tried, we moved hearing dates around to
19 accommodate schedules and recognizing that the issue of the
20 prenuptial agreement was al -- also an issue that was perhaps
21 hindering or stalling efforts in discovery and I recognize
22 that the discovery commissioner is waiting for a decision on
23 the prenuptial to make determinations regarding discovery
24 issues that are pending -- pending before that court.

1 And -- and so on that basis, the Court set the
2 proceedings. There was no specific time line set for
3 discovery, so it's been somewhat fluid. I have excluded
4 witnesses because of late disclosures. I have excluded
5 limited exhibits, although I've been a little more liberal in
6 terms of allowing exhibits in just because of what appeared to
7 be the fluidity of information that was flowing in.

8 All of that being -- being said, at our prior
9 hearing when we came to court on May 17th and had discussions
10 about these trial dates, and there was a preference by both
11 Counsel to get this ball rolling, let's get these proceedings
12 done and -- and taken care of. And so I accommodated that and
13 it has created some timing issues. But at the end of the day,
14 I'm satisfied with the record that's before me to make the
15 following findings and conclusions.

16 I mentioned at that hearing based on the offers of
17 proof and whenever I am presented with a pleading or a paper
18 to read, I -- I treat those representations in those documents
19 as offers of proof. And it becomes a matter of proving those
20 offers of proof at the time of trial. And I made comments and
21 -- and the proverbial writing was on the wall perhaps when I
22 made those comments at that prior hearing. This is the way I
23 see it based on those offers of proof.

24 That can be valuable from a judicial standpoint,

1 because I think often times there is value in knowing what --
2 how is the Judge approaching these issues, how is he looking
3 at this. And -- and -- but it also -- I -- I recognize
4 creates concern about the Court prejudging the case.

5 But I'm offering my opinion based on those offers of
6 proof and the recognition that those offers of proof still
7 need to be proven at the time of trial and if they are proven
8 at the time of trial, then obviously my decision is going to
9 fall right in line with what I predicted it was going to be
10 when I first read those offers of proof.

11 And my position at that time and Counsel are both
12 aware of this based on the offers of proof specifically
13 enumerated in the motion that was filed on January 5th, 2017
14 was I -- I put the writing out there on the wall. I had
15 questions -- serious questions and concerns about this
16 prenuptial agreement. I made that clear to both sides based
17 on the offers that had been stated. And -- and my
18 understanding and belief that the -- the Plaintiff would prove
19 those offers that had been represented and I treated those
20 essentially as true, but they were simply offers of proof at
21 that time.

22 And I was persuaded so much so by those offers of
23 proof that I basically ordered the Defendant look, if you're
24 going to seek to validate this prenuptial agreement, then

1 you're going to pay the fees to litigate this issue. And I
2 made an award of attorney's fees again sending my proverbial
3 smoke signals as to what my perception was and said you're --
4 you're going to pay for it in -- in a literal manner in terms
5 of those up front fees.

6 And so the Court ordered that. Mr. Jim requested a
7 few days to talk to his client perhaps to have that -- that
8 chat about is it worth it and I gave him a few days, I think
9 it was just until that Friday, and basically said okay, if --
10 if you're going to challenge it, we'll keep the dates on, but
11 you've got to pay the money. If not, then we vacate the
12 evidentiary hearing and we -- we already have a trial date
13 set.

14 And so when I saw that the -- this trial was
15 proceeding, I didn't get that notice to vacate the -- the
16 evidentiary hearing, I took that to mean that the money had
17 been paid and you were gearing up for trial.

18 MR. JIMMERSON: It was paid on June 2 of 2017, Your
19 Honor.

20 THE COURT: Okay. So part of where I'm at today
21 does in fact relate back. And it really influences how I
22 approach the very issues and indeed issues -- the very issues
23 -- the very issues of credibility as I approach the request to
24 -- to validate and that was a motion that was filed that was

1 effectively I'm treating that as a motion that's being heard
2 and contemporaneous with these proceedings because there was
3 correspondence provided to the Court about the burdens and who
4 would go first and I clarified through my law clerk that --
5 that the Defendant would go first, that it would be his burden
6 to -- to validate the prenuptial agreement.

7 But the offers of proof I think are important for me
8 as I sit here and make adjudications regarding credibility
9 and issues where -- regarding the validity of the prenuptial
10 agreement. And it ties into some of the factors that I'm
11 required to consider I believe under -- under Georgia law.

12 And -- and reading directly from the motion that was
13 file in January, some of the representations include the
14 offers of proof, Joe mentioned to Patricia, this is at Page 5,
15 Joe mentioned to Patricia that he wanted a prenuptial
16 agreement. And Patricia did not know the meaning of a
17 prenuptial agreement. At first, Patricia refused to sign a
18 prenuptial agreement.

19 The parties' prenuptial agreement is a document that
20 was drafted in its entirety either by Joe or a representative
21 of Joe. Joe directed her to sign the prenuptial agreement
22 knowing that Patricia was not fluent in English and did not
23 have legal counsel.

24 Page 13, Patricia was presented the prenuptial

1 agreement on the same date that she signed the prenuptial
2 agreement. Page 13, Patricia never spoke to counsel and was
3 not informed that she should retain counsel. Indeed at the
4 time of signing the prenuptial agreement, Patricia could
5 neither read nor write English.

6 Page 16, Patricia worked as a stripper, had limited
7 education, worked for the business as a basic receptionist.
8 Those were some of the offers that stood out to me, because
9 the evidence didn't quite line up with those offers of proof.
10 And I know in -- in Defendant's trial memorandum -- and -- and
11 understand, I -- I -- when I receive those offers of proof in
12 any case, I recognize that there's still value once I receive
13 testimony to making that determination and I know the
14 Defendant was concerned about this Court not having an open
15 mind already closing the door based on what I read.

16 And -- and my -- as it related to those offers of
17 proof, I had offered some level of prejudgment on my behalf
18 believing that the offers of proof would be supported by the
19 testimony and evidence.

20 The -- the evidence -- the testimony that's been
21 offered indicates that contrary to what was represented in the
22 motion that -- that the Plaintiff did understand in general
23 the meaning of the prenuptial agreement. And -- and also in
24 the context of prenuptial agreements being -- being entered

1 into in -- in her homeland of Brazil that there was a general
2 understanding prior to the -- being presented with this
3 prenuptial agreement as -- as has been alleged.

4 And -- and these are my findings as it relates to my
5 -- my interpretation and determination regarding credibility
6 of the -- of what -- of the evidence that's come in. I accept
7 the -- the fact that this obviously was a form that was
8 generated on the internet on two -- at least two separate
9 occasions in -- in June and then again in August. And those
10 -- both of those have been admitted into the record, Exhibits
11 ZZ and Triple L.

12 And I do believe that notwithstanding Plaintiff's
13 testimony to the contrary that there was some involvement and
14 participation by both parties in the drafting, I do believe
15 that -- that the Defendant because he was more familiar and in
16 tune perhaps with the process of using the internet for that
17 purpose perhaps was the driving force in that, but there were
18 questions that needed to be answered for the purpose of filing
19 out that initial form including detailed information about the
20 name and birth date of the Plaintiff's son from a prior
21 relationship which was included in the initial prenuptial
22 agreement but eliminated from the draft that was signed.

23 The -- there's been a lot of testimony that's been
24 offered about the Plaintiff's proficiency in the English

1 language. Again, the offer of proof was that -- the
2 effectively -- or what was being portrayed to the Court, what
3 I felt I was reading, was that the Plaintiff had no ability to
4 read or write in English.

5 I do find that even today I recognize that English
6 is not the Plaintiff's native tongue and that there -- she
7 continues to -- to demonstrate an accent, but she appears at
8 least today and I recognize this is now 2017 to have developed
9 some fluency in -- in English. I'm not looking at her
10 proficiency today and there's been a lot of testimony about
11 what was her level of -- of proficiency back at the time when
12 the premarital agreement was -- was signed and -- and even
13 before that and there's been various testimony that's been
14 offered in that regard dating back to 1999 to 2008, the
15 testimony from Mr. Plotkin and -- and Ms. Rawley.

16 I -- and -- and I -- I do find and believe that --
17 that the Plaintiff's fluency or proficiency in English was not
18 as great obviously and understandably back in 2008 as it is
19 today. But I don't accept the fact that the Plaintiff was
20 completely incapable of -- of reading or writing in English,
21 that there was absolutely no skill.

22 There was quite a bit of time spent on -- on all of
23 these email exchanges. And it -- it appears based on the
24 testimony that's been offered and I'm -- I -- there's --

1 there's no -- I don't need to go through 9,000 pages of -- of
2 emails, but I recognize that -- that part of that included
3 templates that may have been developed that was just a simple
4 matter of cutting and pasting.

5 But I do believe there were communications in
6 English. It was broken at -- at points and it still remains
7 broken to a certain extent. But I don't accept the fact that
8 there was absolutely no skill whatsoever to read or write --
9 write English.

10 The offer made to the Court was that the prenuptial
11 agreement was -- was presented to the Plaintiff on the same
12 date that the prenuptial agreement was signed -- was signed.
13 I interpreted that to mean that the first time that the -- the
14 way that it was received by the Court as an offer of proof,
15 and I don't necessarily find that this rises to the level of
16 any type of perjury, but the way it was received by me when I
17 read that is that the Plaintiff had never seen a prenuptial
18 agreement before the date that it was presented to her for
19 signature in August of 2008. That's how I read and
20 interpreted that provision.

21 I recognize that the agreement that was actually
22 signed, and -- and it is accurately stated, that the one that
23 was actually signed was printed on that day from the same
24 internet site that the parties had used in June that it did

1 change; however, the only changes, and -- and this does not
2 appear to be in dispute based on anything I've heard today,
3 the only changes that -- that occurred was the removal of the
4 child's section and the addition of an asset and debt
5 statement regarding assets and debts disclosed by the
6 Defendant.

7 Beyond that, it appears that the documents are
8 identical. But certainly the feeling the Court had, and this
9 is one reason I was so strong in my -- my prejudgment, if you
10 will, was that the first time that Ms. Egosi had ever seen a
11 prenuptial agreement, period, was on Aug -- in August of 2008.
12 That's proven to be untrue, that she had seen the agreement
13 prior to that. And although it wasn't the one that was
14 signed, there was no material difference other than the
15 addition of the assets.

16 Patricia never spoke to counsel and was not informed
17 that she should retain counsel. This gets into the discussion
18 with Bea, Ms. Goodman. Again, as I interpreted that provision
19 -- or that statement and the -- the offer of proof made in the
20 motion was that she had never spoken to an attorney about the
21 prenuptial agreement. That's at least how it was received by
22 the Court.

23 It's clear that she had spoken to someone licensed
24 to practice law. I know there's been debate and discussion

1 about where Bea was actually licensed, where the parties were
2 living act -- at the precise moment and time, where it was
3 reviewed. It's clear to me based on the testimony, it's
4 undisputed that Ms. Goodman was the girlfriend of a friend of
5 the Defendants.

6 And the Plaintiff recognize -- and -- and referenced
7 that, emphasized that, that there was a preexisting
8 relationship suggesting that this individual who was licensed
9 in Florida and -- not Georgia. There was another state, New
10 Jersey or New York, I don't recall which.

11 MR. JIMMERSON: New York. New York.

12 THE COURT: That someone she would be influenced by
13 the Plain -- the Defendant. Now the Defendant that this --
14 this attorney did not like him. I even referenced yesterday
15 during our proceedings that -- and it's still something that
16 -- that is an interesting point to me that this individual
17 notwithstanding the insinuation or inference that she somehow
18 was aligned and maybe there was a conflict because she was a
19 girlfriend of a -- a friend of the Defendants that she still
20 advised the Plaintiff don't sign this agreement, advised
21 against signing it. I -- it -- had she been carrying his
22 water, presumably she would have said oh, this is fine, this
23 agreement is normal, it's customary, and there's no problem,
24 these things are entered into all the time.

1 But not only did she advise her not to sign it, but
2 she did advise her as well that I guess the language that was
3 used was that no American woman would sign -- sign such an
4 agreement.

5 And as Counsel are both aware, we see individuals,
6 both women and men, sign these agreements all the time with
7 provisions that are very -- very similar. I'm -- I'm not --
8 and this gets into more of the merits of the case. There --
9 there is -- the provisions of this agreement are -- are not --
10 not necessarily the -- uncommon in what we see in terms of
11 waiving interest in premarital assets, waiving rights to
12 spousal support. Those are not necessarily uncommon
13 provisions of a premarital agreement.

14 But she received -- she -- she did receive that
15 advice. And so the -- the suggestion to the Court when I
16 prejudged this case was that at no point in time had the
17 Plaintiff ever spoken to an attorney. Whether she was
18 licensed in Georgia or not is -- is -- it -- it becomes an
19 issue more of credibility for me than whether or not Bea
20 actually had that authority to even offer an opinion regarding
21 a premarital agreement -- prenuptial agreement that clearly
22 stated the choice of law was Georgia.

23 Whether that advice was given in Georgia or in
24 Florida, as a Florida attorney, she could -- could certainly

1 offer advice in general about a prenuptial agreement. It
2 becomes really a matter of qualifications as -- as it relates
3 to that -- that particular provision. But again, the more
4 important part for me is the whole credibility issue, that I
5 was led to believe that there was never any communication
6 whatsoever with an attorney. That's how I interpreted that
7 language.

8 That -- that the Plaintiff had limited education.
9 Plaintiff acknowledged in -- in the opening day of testimony
10 that she graduated from high school and attended three years
11 of college. I don't know that I -- and -- and it was in the
12 context of the Plaintiff working as a stripper.

13 Again, what's trying to be portrayed to the trier of
14 fact? What are you trying to tell me by -- by saying that --
15 that someone has limited education? Because in my mind, it's
16 generally someone that does not have any college education.

17 Now I get the fact that we may be talking about
18 systems that are different between countries, Brazil and --
19 and the United States, but I don't necessarily treat having
20 heard the testimony as high school education and three years
21 of college of being a limited education. And it does appear
22 also that -- that the Plaintiff had -- her work exposure was
23 -- went -- went beyond -- a bit beyond just a simple
24 receptionist, but again, I'm -- my -- my context of making

1 these comments regarding the issues of credibility is -- is
2 part of the analysis of the Court and understanding where
3 we're at what I perceived to be the case before this trial
4 started and what the evidence and testimony has demonstrated
5 to the Court.

6 As it relates to also the issue of language and --
7 and comprehension, you know, it's interesting in the testimony
8 that's been offered, I know the Defendant offered that the
9 Plaintiff is fluent in seven languages. Ms. Rawley apparently
10 signed a statement stated that the Plaintiff was -- spoke nine
11 languages. Now Plaintiff testified that she only speaks three
12 languages, English, Portuguese, and perhaps some Spanish which
13 is -- is very similar to Portuguese. But it's interesting the
14 contrasting testimony that I'm receiving and the information
15 -- the evidence that's coming in even through someone like Ms.
16 Rawley who I recognize was -- was offered to -- to talk about
17 the limit -- her limited knowledge, but still signed a
18 statement that was submitted perhaps to assist either the
19 Plaintiff or her son Edson (ph) to -- in -- in whatever
20 immigration process was underway.

21 So that part provides me with some context. Now I
22 also recognize that part of Ms. Rawley's testimony also
23 related to issues of credibility of the Defendant and that's
24 specifically to the drug use and the Defendant adamantly

1 denied ever -- ever used any drugs Ms. Rawley clearly
2 contradicted that.

3 I recognized the fact that the issue of drugs is
4 somewhat collateral to these proceedings. Not to say it's
5 unimportant or not noted or noticed by the Court, but my
6 credibility determinations are really more relevant and
7 pertinent today for today's purposes as I look at the issue of
8 the prenuptial agreement and the specific offers of proof of
9 what I was told I should believe in analyzing whether or not I
10 should enforce the -- the prenuptial agreement.

11 The choice of law provision again provides that this
12 is governed by -- by Georgia law. And I've had a chance to
13 review the -- that -- some of the case law and -- and Mr.
14 Edlin has offered his testimony. And -- and my
15 interpretation, and certainly it's -- it's of assistance
16 having someone who practices in Georgia recognizing that I
17 don't -- and I don't believe anyone else here does except for
18 Mr. Edlin, basically to confirm where I was in terms of my
19 understanding of Georgia law that you had -- both parties had
20 educated me and in your respective trial memorandums. It's
21 not something I gained on my own. I appreciate the
22 information that Counsel provided through their briefs. It
23 did give me the -- also the opportunity to pull up some of the
24 cases, because it did create some curiosity as I saw some

1 factual provisions that may share -- may have shared some simi
2 -- similarities with this case.

3 And -- and a lot of that points back to -- we've
4 talked about the Malon case. The Shear test that -- that was
5 referenced and highlighted by both parties, the Alexander
6 case, the Kwon case that's been discussed. One -- one
7 interesting note that I found in looking at the Alexander case
8 because there's reference in that case to the non-disclosure
9 of a 40 -- \$40,000 investment account.

10 There's also reference in the trial court's decision
11 to the fact that a child was born of the marriage. And the
12 appellate court -- and it was the Supreme Court of Georgia
13 that was the reviewing court specifically referenced that as a
14 matter of public policy, antenuptial agreements made in
15 contemplation of divorce are not absolutely void in Georgia.

16 And again, it's become clear to this Court that
17 unlike Nevada where we have adopted the Uniform Premarital
18 Agreement Act, the review of antenuptial or prenuptial
19 agreements is a matter of case law in Georgia. And the
20 Alexander court then cites the Shear case and the three
21 factors that -- that the Court should look at in determining
22 whether or not it's enforceable.

23 The supreme court noted that the trial court
24 determined that it would not enforce the agreement and cited

1 three of the basis -- bases set forth in the Shear -- in
2 Shear. Ms. Allander's -- Ms. Alexander's assent to the
3 agreement was procured by duress. Mr. Alexander failed to
4 disclose the material fact that he owned a \$40,000 investment
5 account and that facts and circumstances have changed since
6 the agreement was signed by virtue of the birth of the minor
7 child.

8 Now that's again what I'm interpreting that to me is
9 the supreme court was essentially restating what the trial --
10 trial court had found. Mr. Alexander asserted that the Court
11 abused its discretion and the supreme court effectively
12 determined that the judgment would be affirmed in essentially
13 not enforcing the agreement.

14 What I found interesting about that, not that it's
15 necessarily controlling, is that -- that the presiding justice
16 concurring and adjoined by it appears another justice
17 indicated -- I concur with the majority as holding that Mr.
18 Alexander's failure to reveal his investment account despite
19 his claim to have fully disclosed his -- all his assets
20 rendered his antenuptial agreement with Mrs. Alexander null
21 and void.

22 I write separate however to emphasize that this is
23 the only ground upon which the trial Court's decision can be
24 affirmed. I believe that the trial court erred by also

1 holding that the antenuptial agreement was void due to duress
2 and a change of circumstances.

3 Again, that is a -- a concurring opinion. That
4 doesn't necessarily control, but it's interesting because it
5 appeared to me that the supreme court justices were
6 referencing what the trial court had referred to and found
7 that there was not a sufficient basis to -- to reverse the
8 trial court's decision.

9 And -- and one reason I -- I looked at that decision
10 because parties have had a child after the marriage, and so it
11 became an issue of is that something that the Court would look
12 at as a determinative -- determinative factor, because my
13 experience in dealing with prenuptial agreements under Nevada
14 law, again, not Georgia law, is that that would not
15 necessarily be something that the Court would take into
16 account in adjudicating the validity of a pre -- premarital or
17 prenuptial agreement.

18 So as I look at the share prongs, the -- the factors
19 that I'm required to consider, I -- I have to determine first
20 whether the antenuptial agreement -- well, and -- and the --
21 the burden of proof is that the Plaintiff -- or the Defendant
22 needs to prove that the antenuptial agreement was not the
23 result of fraud, duress, mistake, misrepresentation, or
24 non-disclosure or material facts.

1 I don't find based on the testimony and my
2 evaluation regarding the credibility of the witnesses that
3 there was any fraud or duress, mistake, or misrepresentation.
4 The one issue that is really in dispute that has created more
5 attention or focus at least from me has been the
6 non-disclosure of material facts and that relates to the
7 specific assets that were disclosed and the timing of that.

8 Some of this gets into the timing and goes back to
9 what I said that I -- I felt that I didn't have the complete
10 picture when I received those offers of proof that -- that the
11 Plaintiff had never seen the antenuptial agreement. I believe
12 that the parties had jointly participated to some level with
13 the Defendant being the driving force in the initial draft in
14 June.

15 And -- and two months later thereabouts, it was
16 reprinted with changes that did not materially impact the
17 underlying issues regarding the enforceability of the
18 prenuptial agreement, that the Plaintiff had that in her
19 possession, had the opportunity certainly to read it, to have
20 it translated to the -- to the extent she felt it was
21 warranted, had the opportunity to review it with an attorney,
22 an attorney who advised against her signing the prenuptial
23 agreement and who explained at least in general terms the
24 meanings of the prenuptial agreement. I find that to be

1 credible.

2 It did not -- to be clear as I believe it's not in
3 dispute, did not go over line -- each -- every word of every
4 line of the agreement, but in general reviewed the terms of
5 the antenuptial -- or prenuptial agreement.

6 There's been reference to the fact that this same
7 attorney had -- had mentioned that if you have a baby that it
8 -- it is invalidated, that advice, that truly would be poor
9 advice, does -- does not render the legal opinion or the fact
10 that legal advice was sought, that doesn't -- I -- I don't
11 lose sight of the fact that there was legal advice that was
12 pursued. Maybe it was poor advice if that truly was what was
13 conveyed, but clearly this attorney had conveyed to the
14 Plaintiff not to sign it.

15 Now I also find credible based on the testimony
16 that's been offered that the Defendant was unaware that this
17 advice was being sought. It goes somewhat hand in hand with
18 the testimony that he offered that this -- this woman who was
19 a girlfriend of his friend did not necessarily like the
20 Defendant. And -- and so it's consistent with the fact that
21 she viewed this somewhat objectively and said I would
22 recommend against signing it.

23 And then after a few months -- or after a month or
24 so, the -- the prenuptial agreement was reprinted with slight

1 changes. And I call it slight, because it didn't really
2 change the material terms except for adding the asset
3 disclosure, debt disclosure of the Defendant, and the removal
4 of the child information, was reprinted and signed on that
5 same day, but it's -- it's effectively the same document.

6 The difference being the fact that the disclosure
7 effectively was made on that day and -- and that becomes one
8 of the issues that I have to look at and determine whether or
9 not there was a non-disclosure of material facts.

10 Well, on that day, there was clearly a disclosure of
11 specific assets, business assets and a home and a specific
12 debt. And -- and that was referenced in the prenuptial
13 agreement. For purposes of the -- of the record, the -- the
14 specific -- the specific property listed by the Defendant was
15 the condo at 2881 Peachtree Road, Unit 1101, Atlanta, Georgia,
16 the 2005 Mercedes SL55AMG, hundred percent shares of Hawk
17 Communications, LL, DBA, Joy Phone, and a hundred percent
18 shares of Hawk Voip LLC. Separate debts included the mortgage
19 of \$500,000 and revolving credit of a hundred and thirty
20 thousand dollars.

21 So that was added and -- and certainly there is a
22 question regarding the timing of that. As I interpret the
23 case law in Georgia, I -- there's no specific requirement that
24 there is a specific list or inventory of assets and debts or

1 an attached financial statement. I -- I did see some
2 reference to the fact that that might be preferable or that
3 might be a great idea then to attach a financial statement and
4 -- and it's certainly beneficial to the one who's trying to
5 enforce it, but I don't view that as a mandatory requirement
6 under Georgia law that there be an inventory or that -- or
7 that there is necessarily a specific dollar amount signed to
8 the value of the asset. Again, that would be helpful.

9 The testimony suggests to me that dollar value or
10 not, the Plaintiff made it clear that that was irrelevant to
11 her -- her intentions to both sign the premarital agreement
12 and -- and get married. She was in love, wanted to prove her
13 love to the Defendant, and that was inconsequential to her
14 whatever value the Defendant had put on those assets, that was
15 her testimony that she -- it was not material to her decision
16 to sign or not sign.

17 The parties had lived together for some period of
18 time prior to the signing of the -- the prenuptial agreement,
19 that during that period of time, the Plaintiff worked at the
20 business. There's been some disagreement as to exactly what
21 level of participation she had in the business, but it's
22 undisputed that she did have access to at least areas of the
23 office that other employees did not that only limited
24 employees had access to. And although the information that

1 she actually viewed and saw may have been limited, I find that
2 she generally did have access to information and was familiar
3 with the parties' lifestyle. The economics of the parties
4 based on the lifestyle they enjoyed both in Florida and
5 Georgia. It was familiar with the home, was familiar with the
6 vehicle.

7 Her familiarity with the business was -- was less.
8 There was no business valued placed on the asset, that does
9 get into the discussions with Mr. Guligan or Goagan, I don't
10 remember his -- his name, but that isn't necessarily material
11 to this. I know there was -- there were efforts to try and
12 determine exactly how much she knew about numbers being
13 discussed and -- and even today there was testimony about
14 whether the Plaintiff was used and -- and to translate because
15 he was from Brazil and the testimony was that he spoke Hebrew
16 and that's how he communicated with the Defendant.

17 So it doesn't really materially influence -- it
18 doesn't necessarily give me a -- a basis to determine that the
19 Plaintiff knew at that time what the value was because numbers
20 were being discussed. I'm not in -- in a position to make a
21 determination that there was a final -- that she was clearly
22 aware that the business was worth \$5,000,000, that 40 percent
23 was \$2,000,000 at that time.

24 But notwithstanding that, I do believe the business

1 -- the -- the Plaintiff had been in the business enough, was
2 familiar with what was being derived from the business because
3 she was living the lifestyle that the business was able to
4 generate and that she had access and the ability to obtain
5 that information. It ultimately was disclosed on the date the
6 prenuptial agreement was signed and it was listed as a
7 specific asset. I don't find that the failure to include
8 Plaintiff's assets, which I know that there's been some debate
9 and discussion even during these proceedings that it wasn't
10 listed in financial disclosure forms that have been filed with
11 this court, that's not a fatal flaw or -- or a defective point
12 that would create a basis for this Court to invalidate the
13 prenuptial agreement and the -- the Defendant has acknowledged
14 that that would be her sole and separate property and he's not
15 trying to argue that -- that it wouldn't be because there was
16 no disclosure form.

17 So I do find based on the sheer factors that there
18 was -- that -- that the Defendant has satisfied his burden to
19 demonstration that the antenuptial agreement was not the
20 result of fraud, duress, mistake, misrepresentation, or
21 non-disclosure of material facts.

22 Similarly, I -- I find that he's demonstrated that
23 the agreement is not unconscionable. There are two aspects to
24 that and this has been argued in the briefs submitted. A --

1 procedural aspect and more of a substantive aspect.
2 Substantively, and -- and I noted this previously, the terms
3 in this premarital agreement are not unlike terms that I've
4 seen not only as a practicing attorney but also sitting in a
5 judicial capacity.

6 The agreements that were reached are -- are not
7 foreign to what parties often times negotiate in prenuptial
8 agreements. As I indicated before, protecting and preserving
9 assets that you owned before marriage is not uncommon,
10 protecting future stream of income in terms of spousal support
11 is not necessarily uncommon as well.

12 Indeed, if -- if I found that including those type
13 of provisions were incon -- unconscionable, there would be no
14 reason to even have prenuptial agreements anymore. It would
15 -- it would essentially eliminate the -- the basis or reason
16 to do so.

17 Procedurally, that goes back to what I've already
18 analyzed in terms of the timing. The unconscionability would
19 go to whether or not there was some level of duress and how
20 this was entered into. And the fact that there was a
21 separation of time, also the fact that I haven't referenced
22 previously that when the parties entered the prenuptial
23 agreement, there was no specific date set for the marriage.
24 The parties showed up at the courthouse, that's my

1 understanding, or somewhere public where there was a large
2 gathering of many couples getting married and -- and had it
3 performed with the prenuptial agreement specifically and
4 expressly stating that it became enforceable at the point in
5 time in which the parties did marry.

6 So this is unlike some cases where you have the
7 prenum -- the prenuptial presented the day before or four days
8 before the wedding day. That's not what the case was here.
9 The parties married -- albeit a short while after, it was not
10 the day after, it was not the week after that they entered
11 into the prenuptial agreement and again --

12 MR. JIMMERSON: Six weeks later, Judge, September
13 26th.

14 THE COURT: So there was some time that passed and
15 it was -- and that's just using the August date, not even
16 referencing the fact that again the parties had access to an
17 original prenuptial agreement substantially similar back in
18 June of 2008.

19 The final prong is the burden of proof to
20 demonstrate that taking into account all relevant facts and
21 circumstances including changes beyond the parties'
22 contemplation when the agreement was executed and enforcement
23 of the antenuptial agreement would be neither unfair nor
24 unreasonable.

1 This gets into some of the discretionary aspect that
2 I believe I have apply in Georgia law and I specific ref --
3 specifically inquired of -- of Mr. Edlin about the -- the
4 language from the Alexander case which is quoted in the -- the
5 Plaintiff's motion about the Court having the discretion to
6 approve the agreement in whole or in part or refuse to approve
7 it as a whole.

8 It did create the creation and that's why the
9 Alexander case came to mind because the parties did have a
10 child. If under Ale -- under Georgia law that was essentially
11 a -- a change of circumstances in their interpretation of
12 prenuptial agreements. And I don't necessarily find that
13 that's the case. I think there were other attendant facts and
14 circumstances that warranted what the court did in -- in the
15 Alexander case.

16 What I do -- as -- as I -- as I look at that
17 provision and -- and the relevant -- looking at the relevant
18 cir -- circumstances including changes beyond the parties'
19 contemplation, I don't -- I don't necessarily find that having
20 a child together was beyond necessarily contemplation of the
21 parties and I don't really have any record that would allow me
22 to make such a leap or finding.

23 What I do find and given the discretion that I do
24 have is there should be a limiting aspect to the

1 enforceability of the terms of the prenuptial agreement.

2 First, the only assets I view as being protected by
3 the prenuptial agreement are the four assets listed in the --
4 in the exhibit attached to the prenuptial agreement. There
5 has been debate and discussion about bank accounts not being
6 disclosed on both sides. I -- I don't view -- and -- and so I
7 don't view this prenuptial agreement and I would not apply it
8 given that discretion that I have to approve in whole or part.
9 I don't view the agreement as protecting bank accounts or bank
10 account information.

11 A -- and as far as the Court's division of assets
12 and debts or view of what should be divided by the Court and
13 the final -- final division of assets. It's limit -- limited
14 to the specific assets that -- that have been referenced and
15 no other assets are included as part of my -- the protection
16 that's offered by the prenuptial agreement.

17 Also with respect to the issue of -- of spousal
18 support and recognizing that -- that the parties -- and -- and
19 this is not getting into a final determination, but the
20 parties were -- were -- the date of marriage was 2008. This
21 is not a long term marriage to begin with. So alimony even
22 without a prenuptial agreement, there is a limitation to that
23 issue given the very fact that it's not a long term marriage.
24 It's getting towards what I would consider a -- a mid length

1 marriage.

2 I accept the terms in the prenuptial agreement in --
3 with respect to post divorce alimony. I don't find that it
4 applies to the Court's order regarding preliminary support
5 that I've already issued and entered. So my enforcement and
6 granting of the motion to enforce the prenuptial agreement is
7 not intended to obviate or reverse this Court's orders with
8 respect to the temporary support allegations -- allocations
9 that have been issued. Those remain in place and should be
10 paid and remain enforceable terms that date back to earlier
11 proceedings in this case.

12 I recognize that there's still some time to go in
13 this case. We have a custody trial that's coming up, that
14 certainly I continue to urge Counsel to communicate and talk
15 about whatever possibly resolutions may come up to -- to need
16 to build Ben's relationship with both parties. And
17 thereafter, there may be additional evidentiary proceedings
18 necessary in -- in regards to the division of any assets or
19 debts not covered by the terms of the prenuptial agreement as
20 it relates to those financial matters. So I recognize there
21 is still work to be done -- done. There is still temporary
22 support that needs to be paid.

23 These findings and conclusions are based on my -- my
24 determinations regarding issues of demeanor and credibility.

1 And as I indicated at -- at the outset, there is some degree
2 of focus placed on -- on what I had perceived to be the facts
3 that would be demonstrated to me today that have changed. And
4 the sense I get from what I've heard is that they've changed
5 even amidst the discovery that's taken place as facts have
6 been uncovered.

7 Now all of that being said, I go back to what Ms.
8 McFarling asked in terms of -- of Bea Goodman's testimony and
9 the fact that she has come to light at -- at the late hour of
10 -- of these proceedings. I'm -- I'm not here to -- I'm -- I'm
11 not here to set any further proceedings in regard to what Ms.
12 Goodman may -- may or may not have to offer. I -- the only
13 basis -- and the only -- the only thing I would offer in that
14 regard is -- is -- as I have received the offers of proof in
15 your motions to the extent that there is new information that
16 gleaned, I would treat that as an offer of proof and make a
17 determination as to whether or not that would alter my
18 findings that I've issued today based on the record that's
19 before me.

20 I'm sensing that no one has really had any
21 communication with Ms. Goodman since that was disclosed.

22 MS. MCFARLING: We -- we have attempted to call her
23 and have not been in touch with her. I don't -- I don't know
24 if you recall, there is a reference to that discussion in our

1 motion. So it -- the -- the finding or implication that --
2 that the offer of proof and the motion doesn't contain it,
3 there is a reference to that discussion and advice?

4 THE COURT: Where? Can you --

5 MS. McFARLING: It's Page 5, Line 11.

6 THE COURT: Well, Page 5, Line 11 is -- at first
7 Patricia refused to sign a prenuptial agreement but finally
8 relented as Joe told her that he would marry -- he would not
9 marry her unless she signed what he prepared. Additionally,
10 Patricia was informed that once --

11 MS. McFARLING: That --

12 THE COURT: -- her and Joe had children --

13 MS. McFARLING: Yes.

14 THE COURT: -- the contract would be null and void.

15 MS. McFARLING: Yes, that's the reference.

16 THE COURT: Well, no. And -- and you're right.
17 You're right to be clear for the record, but that -- that does
18 not -- that -- and I'm not sure if you're -- you're telling me
19 that that -- there is some implication that she sought legal
20 advice, because I don't read it that way and I -- I read it
21 that's --

22 MS. McFARLING: Well, her --

23 THE COURT: -- someone told her. It doesn't suggest
24 to me that she sought advice --

1 MS. MCFARLING: Her --

2 THE COURT: -- from counsel.

3 MS. MCFARLING: -- testimony was that she did not
4 know this woman was an attorney at that time. So our motion
5 doesn't say she met with an attorney because up until Monday
6 she wasn't actually aware this woman was an attorney.

7 THE COURT: Well, and let me -- let me just add --
8 and -- and I appreciate that. It doesn't change my analysis.
9 I -- the -- the evidence does establish that she was an
10 attorney. She was not licensed in Georgia, but she was
11 licensed in Florida and that's where a lot of this was taking
12 place. And -- and so she -- she actually was in fact an
13 attorney and the Court took judicial notice of the fact that
14 she has -- she is a licensed attorney.

15 I -- I want to be clear as well, I don't -- I don't
16 necessarily find that -- that obtaining that advice from a
17 licensed attorney would be fatal and -- or not obtaining it
18 would be fatal to the -- the validity of the prenuptial
19 agreement.

20 It's often times something that the Court is looking
21 at and -- and find some safety or value to someone receiving
22 legal advice. I get the fact that this was in someone's home,
23 so it wasn't in a law office. But this was a licensed
24 attorney in fact who advised the Plaintiff not to sign the

1 agreement. And -- and notwithstanding that advice, that
2 Plaintiff proceeded with signing the prenuptial agreement that
3 was materially the same as the one that -- that had been shown
4 to -- to Bea. But all of that being said, again, if there is
5 information that is gleaned from -- from Ms. -- from Bea, then
6 yeah, I would treat it the same way. It would -- it -- it --
7 well, you would have to follow under the local rules about
8 whether -- and the Nevada Rules of Civil Procedure as to
9 whether or not that -- that -- there would be a basis to
10 reopen the case based on finding new evidence.

11 And -- and like I said before, I think a lot of this
12 has come on fairly recently and -- and both sides have been
13 somewhat scrambling to somewhat put these pieces together.
14 But the -- it's clear to me from the record it did happen,
15 that she was in fact an attorney and did offer legal advice.
16 Whether it was good legal advice or not is not determinative
17 of the issue of whether or not the prenuptial agreement is
18 valid.

19 So based on the totality of those circumstances and
20 this Court's opportunity to review the evidence and evaluate
21 those issues of credibility and demeanor, I do find that there
22 is a basis in applying those principles of Georgia law and as
23 I indicated before, although I appreciate Mr. Edlin being here
24 with us, that was more it's not -- this is not determinative

1 of his testimony. His testimony was more to assist the Court
2 perhaps in making sure that my understanding of Nevada law
3 that both Counsel had educated me on was consistent and
4 accurate with the application of Georgia law and I find that
5 there is -- that they -- Defendant has satisfied his burden.

6 MR. JIMMERSON: Now Your Honor, you mentioned Nevada
7 law. You meant Georgia law.

8 THE COURT: I meant Georgia law. Yeah, on Georgia
9 law. And has satisfied his burden under the choice of law
10 provisions of Georgia law to -- to enforce the terms of the
11 prenuptial agreement to the extent that I have specifically
12 expressed and -- and pursuant to those expressed limitations.

13 Okay. We probably will need findings and
14 conclusions and orders.

15 MR. JIMMERSON: I'll prepare it and I'll send it to
16 Ms. McFarling for her review and approval.

17 THE COURT: Okay.

18 MS. McFARLING: I have a question.

19 THE COURT: Yes.

20 MS. McFARLING: So we -- you have excluded items
21 that were not disclosed from the -- being enforced under the
22 premarital agreement, specifically bank accounts, I -- I
23 believe in Mr. Egosi's deposition he -- his testimony about
24 how he manages his money with his businesses that he -- he

1 pulls money out into personal accounts when he needs it. So
2 he -- I would expect at that time because we have no
3 information about any accounts whatsoever at the time but had
4 personal and business accounts that he may well have held
5 personal funds in, because if he's a passthrough LLC, then any
6 of the profits, even if he leaves them in a business bank
7 account, are personal income claimed on his tax return.

8 So the question is if he has already earned funds in
9 business bank accounts at the time of the premarital agreement
10 is the non-disclosure of -- of those funds or those accounts
11 holding those funds included in the --

12 THE COURT: Well --

13 MS. McFARLING: -- exclusion.

14 THE COURT: -- here's -- here's what I would offer
15 in that regard, because I -- I can recognize that this is
16 probably part and parcel of the discovery issue that's
17 pending. And -- and to give you some direction and perhaps to
18 help out the discovery commissioner in that regard, because
19 bank accounts were not specifically listed in the prenuptial
20 agreement, I'm inclined to direct that any bank account
21 information is to be disclo -- disclosed whether it's business
22 or personal makes no difference to in terms of discovery.

23 I'm not prepared at this moment to make a final
24 determination regarding whether certain bank accounts because

1 the sense I'm getting from what you're arguing is that well,
2 you can keep all the money in the -- in the business and she
3 gets none of it and --

4 MS. MCFARLING: Yes.

5 THE COURT: -- and he's got \$2.50 in his personal
6 account. And I -- and I get that. And that's why I -- I do
7 find for -- for discovery purposes all of that information is
8 subject to disclosure and discovery. I -- I'm -- I'm just not
9 in a position. I'm not prepared to make a determination as to
10 what's going to be divisible and what's protected by the
11 prenuptial agreement at this time, but it should be -- it is
12 discoverable. Okay?

13 MR. JIMMERSON: Judge, just one clarification on
14 that. The time period for the bank accounts would be what --
15 I don't know if we're going to find records, because you know
16 there's --

17 THE COURT: Yeah, time --

18 MR. JIMMERSON: -- five --

19 THE COURT: -- time --

20 MR. JIMMERSON: -- to seven year --

21 THE COURT: Yeah.

22 MR. JIMMERSON: -- time.

23 THE COURT: I -- I mean, from a discovery
24 standpoint, I would not -- the availability maybe

1 questionable, but I'm not going to limit anything going back
2 to 2000 and --

3 MR. JIMMERSON: '8.

4 THE COURT: -- 8 when it was -- good luck in getting
5 those records, but I'm not going to limit it. If you --

6 MR. JIMMERSON: I --

7 THE COURT: -- can obtain those records, discovery
8 is open and you can pursue those back to 2008.

9 MR. JIMMERSON: I -- I have sat quietly through
10 this, but I think Ms. McFarling is attempting to divert the
11 Court or distract the Court for the Court's issues regarding
12 credibility, but we will go to work on producing the
13 documents, but I --

14 THE COURT: Okay.

15 MR. JIMMERSON: The Court has been careful to note
16 that an -- a bank account that's an asset of the company isn't
17 necessarily going to be a divisible asset. You need to see
18 what there is, how it's used and the like. But my point is
19 when you give a hundred percent interest in -- in two
20 businesses, the bank accounts that are part of those
21 businesses would be part of that.

22 And then -- and you've seen this in other -- in
23 other cases. If you have -- like you have suggested, if you
24 had a party intentionally withholding money so it doesn't get

1 distributed, you know, that's something you'll take into
2 consideration, obviously. To the extent that it's excess of
3 what the company --

4 THE COURT: Right.

5 MR. JIMMERSON: -- needs to operate, you can make
6 that finding that it's a personal asset and I -- probably
7 you've faced that --

8 THE COURT: Yeah.

9 MR. JIMMERSON: -- issue in other cases.

10 THE COURT: Well, and -- and that's why I think it's
11 premature for me --

12 MR. JIMMERSON: Right. I agree.

13 THE COURT: -- to really weigh in on that. But let
14 -- let me offer this as well, because I believe this again
15 comes under that discretion that I have under the Alexander
16 case from Georgia is that's part of where I'm going to look
17 at. That's part and parcel of looking at what I deem I should
18 enforce. There's no question to me that there is -- and --
19 and part of the motion that was filed was we need to get the
20 business valued. This disposed of the need for a business
21 valuation --

22 MR. JIMMERSON: Correct.

23 THE COURT: -- and I get that. But -- but given the
24 fact that I have that authority under Georgia law under the

1 choice of law provision to en -- enforce those components and
2 I'm telling you I don't need a value of the -- the business
3 entities.

4 MR. JIMMERSON: Understood.

5 THE COURT: I still believe under those provisions I
6 can look at the bank account information and I can make
7 determinations to the extent I -- I feel that there -- you
8 know, there is being money hoarded in -- in the business that
9 I feel should be shared that's been accumulated and earned,
10 that's something I certainly feel that I can look at and I
11 have the authority to under Alexander.

12 MR. JIMMERSON: Georgia should --

13 THE COURT: -- to make a disposition.

14 MR. JIMMERSON: -- be so lucky as to be recording
15 it.

16 THE COURT: So -- so I -- I think -- I -- to -- so I
17 -- I want to be clear for our record today that under the
18 Alexander decision, I do believe that -- that bank account
19 information still can be part of the what the Court considers
20 as a divi --

21 MR. JIMMERSON: We're -- we're working on it.

22 THE COURT: -- divisible asset.

23 MR. JIMMERSON: We're working on it.

24 THE COURT: Okay?

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MR. JIMMERSON: Thank you.

MS. McFARLING: Thank you, Your Honor.

THE COURT: All right.

MR. JIMMERSON: Appreciate it.

THE COURT: Thank you for your appearances.

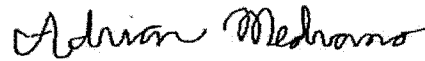
MR. EGOSI: Thank you, Your Honor.

MR. EDLIN: Thank you, Judge.

(PROCEEDINGS CONCLUDED AT 17:30:57)

* * * * *

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



Adrian N. Medrano