

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS A. PICKENS,
INDIVIDUALLY AND AS TRUSTEE
OF THE LV BLUE TRUST,

Appellant,

vs.

DR. DANKA K. MICHAELS,
INDIVIDUALLY AND AS TRUSTEE
OF THE MICH-MICH TRUST,

Respondent;

Electronically Filed
Feb 23 2022 11:59 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

S.C. DOCKET NO.: 83491
D.C. Case No. D-17-560737-D

APPENDIX

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ATTORNEYS FOR APPELLANT

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Plaintiff's Trial Exhibit 51 - 2016 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVIII/ AA06673-06691
Plaintiff's Trial Exhibit 52 - 2008 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXVIII/ AA06692- XXIX/ AA06759
Plaintiff's Trial Exhibit 53 - 2009 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06760-06832
Plaintiff's Trial Exhibit 54 - 2010 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06833-06862
Plaintiff's Trial Exhibit 55 - 2011 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06863-06912
Plaintiff's Trial Exhibit 56 - 2012 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06913-06930
Plaintiff's Trial Exhibit 57 - 2013 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06931-06962
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Plaintiff's Trial Exhibit 63 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 05/29/2014 through 12/31/2014	02/14/2020	XXX/AA07001- 07002
Plaintiff's Trial Exhibit 65 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2015 through 12/31/2015	02/14/2020	XXX/AA07003- 07006
Plaintiff's Trial Exhibit 67 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2016 through 12/31/2016	02/14/2020	XXX/AA07007- 07008
Plaintiff's Trial Exhibit 69 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2017 through 12/31/2017	02/14/2020	XXX/AA07009- 07010
Plaintiff's Trial Exhibit 70 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2018 through 12/31/2018	02/14/2020	XXX/AA07011
Plaintiff's Trial Exhibit 71 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2019 through 04/30/19	02/14/2020	XXX/AA07012- 07013
Plaintiff's Trial Exhibit 74 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 07/01/2014 through 12/31/14	02/14/2020	XXX/AA07014

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Plaintiff's Trial Exhibit 78 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2016 through 12/31/16	02/14/2020	XXX/AA07017- 07050
Plaintiff's Trial Exhibit 79 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2017 through 12/31/17	02/14/2020	XXX/AA07051
Plaintiff's Trial Exhibit 80 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2018 through 04/30/18	02/14/2020	XXX/AA07052
Plaintiff's Trial Exhibit 82 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/30/10 through 12/15/11	02/14/2020	XXX/AA07053
Plaintiff's Trial Exhibit 83 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/11 through 12/14/12	02/14/2020	XXX/AA07054- 07057
Plaintiff's Trial Exhibit 84 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/15/12 through 12/15/13	02/14/2020	XXX/AA07058
Plaintiff's Trial Exhibit 85 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/13 through 12/15/14	02/14/2020	XXX/AA07059

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Plaintiff's Trial Exhibit 88 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/16 through 12/15/17	02/14/2020	XXX/AA07093-07095
Plaintiff's Trial Exhibit 89 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/17 through 12/15/18	02/14/2020	XXX/AA07096-07204
Plaintiff's Trial Exhibit 90 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/18 through 04/14/19	02/14/2020	XXX/AA07205-07228
Plaintiff's Trial Exhibit 93 - Lowes house summary with supporting Wells Fargo Home Mortgage #9607 (PMA #3436) titled in the names of Danka Katarina Michaels and Thomas A. Pickens 07/02/14 through 07/01/2016	02/14/2020	XXX/AA07229-07230
Plaintiff's Trial Exhibit 97 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/10 through 12/08/11	02/14/2020	XXX/AA07231
Plaintiff's Trial Exhibit 98 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/11 through 12/07/12	02/14/2020	XXX/AA07232-07236

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Plaintiff's Trial Exhibit 102 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/15 through 12/08/16	02/14/2020	XXXI/AA07251-07255
Plaintiff's Trial Exhibit 103 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/16 through 12/08/17	02/14/2020	XXXI/AA07256-07258
Plaintiff's Trial Exhibit 104 - American Express Statements #63006 titled in the name of Thomas Pickens 01/08/18 through 12/07/18	02/14/2020	XXXI/AA07259
Plaintiff's Trial Exhibit 105 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/18 through 05/08/19	02/14/2020	XXXI/AA07260
Plaintiff's Trial Exhibit 106 - American Express #51001 titled in the name of Blue Point Development 12/05/12 through 12/20/13	02/14/2020	XXXI/AA07261-07262
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Plaintiff’s Trial Exhibit 112 - American Express #51001 titled in the name of Blue Point Development 12/21/18 through 04/19/19	02/14/2020	XXXII/AA 07688-07689
Plaintiff’s Trial Exhibit 113 - Bank of America Bank Statements #2561 titled in the name of Blue Point Development 10/29/12 through 02/28/14	02/14/2020	XXXII/AA 07690-07691
Plaintiff’s Trial Exhibit 114 - Bank of America Bank Statements #0222 titled in the name of Patience One LLC 11/01/12 through 12/31/13	02/14/2020	XXXII/AA 07692-07693
Plaintiff’s Trial Exhibit 115 - Wells Fargo Visa #0648 titled in the name of Thomas Pickens 06/06/17 through 12/08/17	02/14/2020	XXXII/AA 07694-07695
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Plaintiff’s Trial Exhibit 119 - Wells Fargo Checking #8952 titled in the name of Thomas Pickens 01/01/19 through 04/30/19	02/14/2020	XXXII/AA 07703-07704
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Plaintiff’s Trial Exhibit 128 - Valic – Danka Michalecko statements 9/30/13, 12/31/13, and 9/30/15	02/14/2020	XXXIII/AA 07770-07772
Plaintiff’s Trial Exhibit 129 - Pinnacle Health Systems – Danka K. Michaels. Statements 9/30/13 and 12/31/13	02/14/2020	XXXIII/AA 07773-07778
Plaintiff’s Trial Exhibit 132 - Danka Michaels Pinnacle Health Systems Statement 7/1/15	02/14/2020	XXXIII/AA 07779-07780
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Plaintiff’s Trial Exhibit 134 - Life Insurance Statement 11/25/15	02/14/2020	XXXIII/AA 07842-07849
Plaintiff’s Trial Exhibit 138 - Thomas Pickens UBS Retirement statements dated June 2017 and October-December 2017 (Supplemental Response to Request for Production No. 16.)	02/14/2020	XXXIII/AA 07850-07857
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Plaintiff’s Trial Exhibit 147 - Plaintiff email dated August 26, 2014	02/14/2020	XXXIII/AA 07920-07922
Plaintiff’s Trial Exhibit 148 - Plaintiff email dated May 22, 2013	02/14/2020	XXXIII/AA 07923-07930
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Plaintiff’s Trial Exhibit 152 - Plaintiff email dated December 2, 2016	02/14/2020	XXXIII/AA 07999- XXXIV/AA 08018
Plaintiff’s Trial Exhibit 153 - Plaintiff email dated June 30, 2014	02/14/2020	XXXIV/AA 08019-08202
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Plaintiff’s Trial Exhibit 155 – NV Prescription Monitoring Program	02/21/2020	XXXIV/AA 08210-08247
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Defendant’s Trial Exhibit C – Documentation of \$450,000 loan taken by Danka K. Michaels, M.D., PC for tenant improvements	02/14/2020	XXXIV/AA 08250- XXXV/AA 08257
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Defendant's Trial Exhibit C – Documentation of \$450,000 loan taken by Danka K. Michaels, M.D., PC for tenant improvements	02/14/2020	XXXIV/AA 08250-XXXV/AA 08257
Defendant's Trial Exhibit G – Records produced by Equity Title, LLC, in response to Subpoena Duces Tecum for Blue Mesa property (Affidavit and relevant documents)	02/14/2020	XXXV/AA 08258-08270
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Defendant's Trial Exhibit K – Blue Point Development account statement and record produced by Wells Fargo Bank, in response to Subpoena Duces Tecum	02/14/2020	XXXV/AA 08272
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Plaintiff's Rebuttal to Defendant's Closing Argument	06/15/2021	XI/AA02489-XII/AA02524
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Plaintiff’s Trial Exhibit 116 - Wells Fargo Visa #0648 titled in the name of Thomas Pickens 12/09/17 through 12/07/18	02/14/2020	XXXII/AA 07696-07698
Plaintiff’s Trial Exhibit 117 - Wells Fargo Visa #0648 titled in the name of Thomas Pickens 12/08/18 through 05/08/19	02/14/2020	XXXII/AA 07699-07700
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Plaintiff’s Trial Exhibit 127 - Southwest Pension Services – Danka Michaels. Statements 09/03/2013 and 12/31/13	02/14/2020	XXXII/AA 07708- XXXIII/AA 07769
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Plaintiff’s Trial Exhibit 133 - Bank of the West – 2015 Porsche statement 12.2.14	02/14/2020	XXXIII/AA 07781-07841
Plaintiff’s Trial Exhibit 134 - Life Insurance Statement 11/25/15	02/14/2020	XXXIII/AA 07842-07849
Plaintiff’s Trial Exhibit 138 - Thomas Pickens UBS Retirement statements dated June 2017 and October-December 2017 (Supplemental Response to Request for Production No. 16.)	02/14/2020	XXXIII/AA 07850-07857
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Plaintiff's Trial Exhibit 20 - 2016 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XVI/AA03544- 03639
Plaintiff's Trial Exhibit 21 - 2005 1040 Income Tax Return for Danka Michaels	02/14/2020	XVI/AA03640- 03735
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Plaintiff’s Trial Exhibit 78 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2016 through 12/31/16	02/14/2020	XXX/AA07017-07050
Plaintiff’s Trial Exhibit 79 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2017 through 12/31/17	02/14/2020	XXX/AA07051
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Plaintiff's Trial Exhibit 93 - Lowes house summary with supporting Wells Fargo Home Mortgage #9607 (PMA #3436) titled in the names of Danka Katarina Michaels and Thomas A. Pickens 07/02/14 through 07/01/2016	02/14/2020	XXX/AA07229-07230
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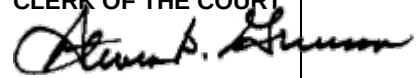
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Transcript RE: Non-Jury Trial Day 3	10/28/2021	XIII/AA02957- XIV/AA03007
Transcript RE: Non-Jury Trial Day 4	10/28/2021	XIV/AA03008- 03040
Transcript RE: Non-Jury Trial Day 5	10/28/2021	XIV/AA03041- 03054
Trial Subpoena	01/29/2020	V/AA00906- 00909
Trial Subpoena Robert Semonian	01/28/2020	V/AA00892- 00898
Trial Subpoena Shannon L. Evans, Esq.	01/28/2020	V/AA00899- 00905



NTSO
Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: jvagroup@theabramslawfirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

Plaintiff,)

vs.)

DANKA K. MICHAELS, individually,)
and as trustee of the Mich-Mich)
Trust,)

Defendant.)

NOTICE OF ENTRY OF STIPULATION AND ORDER

PLEASE TAKE NOTICE that the Stipulation and Order to Continue
Day Three of Trial was duly entered in the above-referenced matter.

/ / /

/ / /

/ / /

1 A true and correct copy of said Stipulation and Order is attached hereto.

2 DATED Thursday, June 25, 2020.

3 Respectfully Submitted,

4 THE ABRAMS & MAYO LAW FIRM

5 /s/ Jennifer V. Abrams, Esq.

Jennifer V. Abrams, Esq.

6 Nevada State Bar Number: 7575

6252 South Rainbow Blvd., Suite 100

7 Las Vegas, Nevada 89118

8 Attorney for Defendant

9 **CERTIFICATE OF SERVICE**

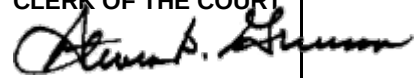
10 I hereby certify that the foregoing NOTICE OF ENTRY OF
11 STIPULATION AND ORDER was filed electronically with the Eighth
12 Judicial District Court in the above-entitled matter, on Thursday, June
13 25, 2020. Electronic service of the foregoing document shall be made in
14 accordance with the Master Service List, pursuant to NEFCR 9, as follows:

15 Michele T. LoBello, Esq.

16 Attorney for Plaintiff

17 /s/ Chantel Wade

18 An Employee of The Abrams & Mayo Law Firm



SAO
Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: jvagroup@theabramslawfirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS, individually,	)	Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,	)	
	)	Department: J
Plaintiff,	)	
	)	
vs.	)	
	)	
DANKA K. MICHAELS, individually,	)	
and as trustee of the Mich-Mich	)	
Trust,	)	
	)	
Defendant.	)	

**STIPULATION AND ORDER TO CONTINUE
DAY THREE OF TRIAL**

COME NOW the parties, Plaintiff, THOMAS A. PICKENS
(hereinafter referred to as "Tom"), by and through his attorney of record,
Michele T. LoBello, Esq., of Black & LoBello, and Defendant, DANKA K.
MICHAELS (hereinafter referred to as "Danka"), by and through her

1 attorney of record, Jennifer V. Abrams, Esq., of The Abrams & Mayo Law
2 Firm, and hereby stipulate to the following:

3 **WHEREAS** day three (3) of trial is set for June 3, 2020, at 9:00 a.m.;

4 **WHEREAS** the parties desire to participate in mediation before the
5 third day of trial;

6 **WHEREAS** due to the COVID-19 pandemic and social distancing
7 precautions, mediation was continued from May 15, 2020 to June 25, 2020;

8 **THEREFORE,**

9 **IT IS HEREBY STIPULATED AND AGREED** that the third day of
10 trial be continued until the Court's first available date after July 6, 2020 to
11 allow the parties time to mediate, and if mediation is successful prepare the
12 paperwork necessary to finalize this case, or if mediation is unsuccessful
13 allow the parties time to prepare for the third day of trial.

14 THE ABRAMS & MAYO LAW FIRM

BLACK & LOBELLO

15 /s/ Jennifer V. Abrams, Esq.

Michele LoBello

Jennifer V. Abrams, Esq.

Michele T. LoBello, Esq.

16 Nevada State Bar Number: 7575

Nevada State Bar Number: 5527

6252 S. Rainbow Blvd., Suite 100

10777 W. Twain Ave., Suite 300

17 Las Vegas, Nevada 89118

Las Vegas, Nevada 89135

Attorney for Defendant

Attorney for Plaintiff

Stipulation and Order to Continue Day Three of Trial
Case Number: D-17-560737-D
Department: J

ORDER

Based upon the stipulation of the parties,

IT IS HEREBY ORDERED that the third day of trial shall be
continued to the 20th day of July, 2020, at 9am.

Dated this 11th day of ^{June}~~May~~, 2020.



DISTRICT COURT JUDGE

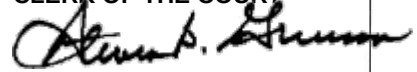
for Judge Steel

Respectfully Submitted:

THE ABRAMS & MAYO LAW FIRM

/s/ Jennifer V. Abrams, Esq.

Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Defendant



NCOA
BLACK & LOBELLO
Michele Touby LoBello
Nevada Bar No. 5527
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801
Email: mlobello@blacklobello.law
Attorneys for Plaintiff,
THOMAS A. PICKENS

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

THOMAS A. PICKENS,
Individually and as Trustee of the LV
Blue Trust,

Plaintiff.

vs.

DANKA K. MICHAELS,
Individually and as Trustee of the Mich-
Mich Trust,

Defendant.

CASE NO.: D-17-560737-D
DEPT. J

NOTICE OF CHANGE OF FIRM

PLEASE TAKE NOTICE that, effective July 1, 2020, MICHELE LOBELLO,
ESQ., formerly of the law firm of BLACK & LOBELLO will practice with the new

///

///

///

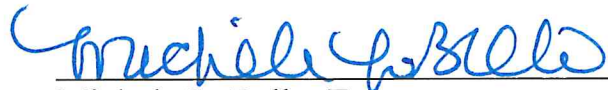
1 law firm of JONES & LOBELLO. The telephone, facsimile and email addresses
2 have all changed. Please correct your service list as follows:

3
4 JONES & LOBELLO
10777 West Twain Avenue, Ste 300
5 Las Vegas, Nevada 89135
6 702-318-5060
702-318-5070- Fax
7 Email: lobello@joneslobello.com

8 Michele LoBello will continue to act as lead counsel in this case.

9
10 DATED this 26TH day of June, 2020.

11 BLACK & LOBELLO

12 

13 Michele LoBello, Esq.

14 Nevada Bar No. 5527

15 10777 West Twain Avenue, Suite 300

16 Las Vegas, Nevada 89135

17 Attorneys for Plaintiff,

18 THOMAS A. PICKENS
19
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of BLACK &
3 LOBELLO and that on the 26 day of June, 2020 I caused the above and foregoing
4 document entitled NOTICE OF CHANGE OF FIRM, to be served as follows:
5

- 6 ☐ by placing same to be deposited for mailing in the United States Mail, in a
7 sealed envelope upon which first class postage was prepaid in Las Vegas,
8 Nevada; and
9 ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
10 ☐ pursuant to EDCR 7.26, to be sent via facsimile;
11 ☒ by email to
12 ☐ hand delivered

13 to the party or their attorney(s) listed below at the address and/or facsimile number
14 indicated below:

15 Jennifer V. Abrams, Esq.
16 The Abrams & Mayo Law Firm
17 6252 South Rainbow Blvd., #100
18 Las Vegas, NV 89118
19 Email: JVAGroup@TheAbramsLawFirm.com
20 Attorney for Defendant



21 An Employee of Black & LoBello
22
23
24
25
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28

Divorce - Complaint

COURT MINUTES

July 20, 2020

D-17-560737-D Thomas A. Pickens, Plaintiff
vs.
Danka K. Michaels, Defendant.

July 20, 2020 09:00 AM Status Check

HEARD BY: Steel, Dianne **COURTROOM:** Courtroom 04

COURT CLERK: Skaggs, Tiffany

PARTIES PRESENT:

Thomas A. Pickens, Counter Defendant, Plaintiff, Present John D. Jones, Attorney, Present
Michele Touby Lobello, Attorney, Present

Danka K. Michaels, Counter Claimant, Defendant, Not Present Jennifer V. Abrams, Attorney, Present

JOURNAL ENTRIES

Counsel and Plaintiff appeared via BLUEJEANS.

Attorney Jones stated mediation was unsuccessful. At this point, they need to figure out the best possible way to have a trial. Further, there is a Civil case, set for trial, in November, which will be effected by this Court's decision. Attorney Jones is hesitant to do the trial, via Bluejeans, and suggested having a person, from the opposing office sit in the room of the other side, to make sure everything was ethical.

Attorney Abrams believes Plaintiff did not mediate, in good faith, as Plaintiff showed up at mediation without information needed to precede. Further, Ms. Higsby (the attorney for the civil case), is willing to be present, at the Non Jury Trial, while Attorney Abrams appears via Bluejeans.

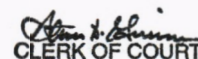
Court addressed preferring to have trials, in person, so the Court can see the demeanor of the witness's and deal with exhibits.

COURT ORDERED, DAY three (3), of the NON JURY TRIAL shall be CONTINUED. The Department's JEA shall CO ORDINATE the NEW DATE.

INTERIM CONDITIONS:

FUTURE HEARINGS:

JUL 22 2020


 CLERK OF COURT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

THOMAS A. PICKENS,) CASE NO. D-17-560737-D
 Plaintiff,) DEPT. I
 vs.) SEALED
 DANKA K. MICHAELS,)
 Defendant.)
 _____)

ESTIMATED COST OF EXPEDITED TRANSCRIPTS

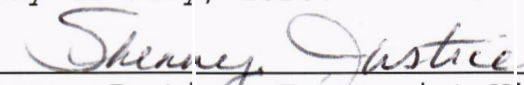
The office of Transcript Video Services received a request for transcript estimate from John Jones, Esq., on July 21, 2020, for the following proceedings in the above-captioned case:

FEBRUARY 14, 2020; FEBRUARY 21, 2020

for original transcripts and one copy of each.

The estimated cost of the transcripts is \$1360.00 for 30-day turnaround or \$1790.00 for a 4-day turnaround. Payment in the amount of \$1360.00 or \$1790.00 must be paid directly to VERBATIM REPORTING & TRANSCRIPTION prior to work commencing on the transcripts. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 22nd day of July, 2020.


 Sherry Justice, Transcript Video Services

Transcript ESTIMATE amount of _____ Direct Pay Invoice # _____

Received this _____ day of _____, 2020.

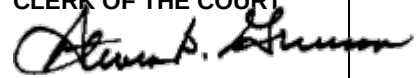
This is only an estimate. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

AA07260



DISTRICT COURT
CLARK COUNTY, NEVADA

THOMAS A. PICKENS, PLAINTIFF
VS.
DANKA K. MICHAELS,
DEFENDANT.

CASE NO: D-17-560737-D

DEPARTMENT J

NOTICE OF HEARING

TO: John D. Jones, Esq.

Jennifer V. Abrams, Esq.

Please be advised that the above-entitled matter has been scheduled for **Day 3 of the Non-Jury Trial** to be heard by the Honorable Dianne Steel at the Family Courts and Services Center, 601 N. Pecos Rd., Las Vegas, Nevada, on **October 23, 2020** at the hour of **11:00 AM** in **Courtroom 2**. Appearances in person and via Bluejeans as ordered at 7/20/20 hearing.

YOUR PRESENCE IS NECESSARY.

HONORABLE RENA G. HUGHES

By: /s/Tristana Cox

Tristana Cox

Judicial Executive Assistant

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CERTIFICATE OF MAILING

I hereby certify that on the above file stamp date:

☒ I have e-served pursuant to NEFCR 9 and/or placed a copy of the foregoing NOTICE in the appropriate attorney folder located in the Clerk of the Court's Office of:

John Jones, Esq.

Jennifer Abrams, Esq.

☐ I have e-served pursuant to NEFCR 9 and/or mailed, via first-class mail, postage fully prepaid the foregoing NOTICE to:

/s/Tristana Cox

Tristana Cox
Judicial Executive Assistant
Department J

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FILED

FAMILY DIVISION

SEP 1 2020

CLARK COUNTY, NEVADA

CLERK OF COURT

THOMAS A. PICKENS,
Plaintiff,

CASE NO. D-17-560737-D

vs.

DEPT. J

DANKA K. MICHAELS,
Defendant.

SEALED

FINAL BILLING FOR TRANSCRIPTS

The office of Transcript Video Services filed transcript for John Jones, Esq., on September 1, 2020 for the following proceedings in the above-captioned case:

FEBRUARY 14, 2020; FEBRUARY 21, 2020

Original transcript and one copy were requested.

The transcript total is 419 pages, for a final cost of \$1,663.85. A deposit in the amount of \$1790.00 was received on August 18, 2020. A refund of \$126.15 will be process to the credit card provide directly to **Verbatim Reporting and Transcription.**

DATED this 1st day of September, 2020.

Maria Balagtas

Maria Balagtas, Legal Office Asst. II
Transcription Video Services

Balance of -126.15 Check # _____ CC# 20-1603 CASH _____ CLERK _____

Received by: *George Berdahl* this 1st day of September, 2020.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

EIGHTH JUDICIAL DISTRICT COURT - TRANSCRIPT VIDEO SERVICES
601 N. Pecos Road, Las Vegas, Nevada 89101 (702) 455-4977

AA07263

1 TRANS

2 ORIGINAL

FILED

SEP - 1 2020

CLERK OF COURT

5 EIGHTH JUDICIAL DISTRICT COURT
6 FAMILY DIVISION
7 CLARK COUNTY, NEVADA

9 THOMAS A. PICKENS,)
10 Plaintiff,)
11 vs.)
12 DANKA K. MICHAELS,)
13 Defendant.)

CASE NO. D-17-560737-D

DEPT. J

(SEALED)

14
15 BEFORE THE HONORABLE CYNTHIA DIANNE STEEL
16 SENIOR DISTRICT COURT JUDGE

17 TRANSCRIPT RE: NON-JURY TRIAL

18 FRIDAY, FEBRUARY 14, 2020

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APPEARANCES:

The Plaintiff:
For the Plaintiff:

THOMAS PICKENS
JOHN JONES, ESQ.
MICHELE LOBELLO, ESQ.
10777 W. Twain Avenue,
Suite 300
Las Vegas, Nevada 89135

The Defendant:
For the Defendant:

DANKA MICHAELS
JENNIFER ABRAMS, ESQ.
6252 S. Rainbow Boulevard
Suite 100
Las Vegas, Nevada 89118

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1 LAS VEGAS, NEVADA

FRIDAY, FEBRUARY 14, 2020

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

3 (THE PROCEEDINGS BEGAN AT 9:14:50)

4
5 THE CLERK: We're on record.

6 THE COURT: Thank you. Good morning, everyone.

7 MR. JONES: Good morning.

8 MS. LOBELLO: Good morning, Your Honor.

9 THE COURT: Judge Hughes couldn't make it this week
10 and also she has me scheduled for all of next week so this way
11 we can keep our next week Friday date also. They asked me
12 step in today that she wouldn't be -- one foot in here and
13 then figure out when to put your -- second part of your trial
14 on. Judge Steel for those of you who don't know me. I'm a
15 retired Senior Judge, and I am working under the auspice of
16 the Supreme Court Commission.

17 So, I just wanted to go on the record and we'll call
18 the case. It is Case Number 560737. Can I have appearances
19 for the record, please?

20 MR. JONES: Yes, John Jones, Bar Number 5 -- 6699
21 and Michele LoBello, Bar Number 5527, appearing on behalf of
22 the Plaintiff who's also present.

23 THE COURT: Thank you.

24 MS. ABRAMS: Good morning, Your Honor, Jennifer

1 Abrams, Bar Number 7575 on behalf of Dr. Michaels. With me is
2 Stephanie Stoltz who is my paralegal.

3 THE COURT: Thank you. As is my want in these --
4 and your attorneys know me pretty well, I have read your
5 entire file, I know from the day of the first complaint to the
6 second amended or whatever and so on and so forth. I have not
7 reviewed any of the exhibits that have been attached to
8 anything, because that's also something I don't do. But I see
9 that we have a couple of binders here. And it will be your
10 duty for the next however long it takes to let the Court know
11 if you're going to approve the acceptance of all these
12 exhibits.

13 In other words, do you oppose any of their exhibits?

14 MR. JONES: We -- we have a pretrial conference two
15 days ago, Your Honor, and I think we agreed to a lot of the
16 exhibits coming in.

17 THE COURT: I want to know which ones are -- are
18 permitted.

19 MR. JONES: Oh, and I think --

20 THE COURT: So, on your list --

21 MS. LOBELLO: Can we finish setting up, please, Your
22 Honor?

23 THE COURT: Yeah, I -- I'm --

24 MS. LOBELLO: I --

1 THE COURT: -- just telling you what I'd like to do.

2 MS. LOBELLO: Yeah, but we'll do that, yes.

3 THE COURT: I'd like you guys to -- I'm going -- I'm
4 going to go away.

5 MS. LOBELLO: Okay.

6 THE COURT: I just wanted to call the case and sort
7 of get bearings here, and let everybody know what's going on.
8 So, I need to know which exhibits are being automatically
9 entered so I know which ones I can look at as you talk about
10 them. And then the ones that are going to be challenged.

11 MS. LOBELLO: Okay.

12 THE COURT: So, the ones that are automatically
13 entered, I like them in one spot if we can as much as
14 possible. And the ones that are going to be challenged, I'd
15 like them somewhere else so -- any questions for the Court
16 before we begin?

17 MR. JONES: I don't think so, Your Honor.

18 THE COURT: Okay. I'll be back. Just call me
19 whenever you guys are ready --

20 MS. ABRAMS: Actually I --

21 THE COURT: -- to put that on the record.

22 MS. ABRAMS: -- do have one.

23 THE COURT: Hmm?

24 MS. ABRAMS: Do you mind if she knits? She's --

1 likes to knit otherwise she'll get nervous. Is that --
2 THE COURT: Can I crochet?
3 MS. ABRAMS: Is -- is that -- I'm just --
4 THE COURT: I have no --
5 MS. ABRAMS: -- asking.
6 MR. JONES: I have no --
7 THE COURT: -- problem.
8 MR. JONES: -- objection to her knitting, Your
9 Honor.
10 THE COURT: That's fine, she can knit if she --
11 MS. ABRAMS: Okay.
12 THE COURT: -- please.
13 MS. ABRAMS: All right. Thank you very much.
14 THE COURT: I will not find it to be rude if she
15 does that if that's --
16 MS. ABRAMS: Thank you.
17 THE COURT: -- your -- if that was your purpose
18 there.
19 MR. JONES: And I won't comment on it.
20 THE COURT: Okay. Very good. All right. So, I
21 will be back down as soon as you guys send me a 411 that
22 you're ready to go.
23 MS. ABRAMS: Okay.
24 MS. LOBELLO: Thanks, Your Honor.

1 MR. JONES: Thank you, Your Honor.

2 THE COURT: But that's the first thing we'll do is
3 put on the record, admitted or challenged. All right?

4 (COURT RECESSED AT 9:18:07 AND RESUMED AT 9:35:23)

5 THE COURT: Okay. Good morning, everyone. We're
6 back on the record. This is the Pickens v. Michaels matter.
7 Can I -- I've already got appearances. Can I have your short
8 list of those that are rejected, or those that are accepted?
9 Which --

10 MS. LOBELLO: How about I'll --

11 THE COURT: -- one is it?

12 MS. LOBELLO: -- I'll read the Plaintiff's and you
13 read the Defendant's? Is that --

14 THE COURT: Are you ready?

15 MS. ABRAMS: That's fine.

16 THE CLERK: Yeah.

17 THE COURT: Okay. Go ahead.

18 MS. LOBELLO: So, I want to distinguish, we have
19 stipulations of exhibits that will come in without objection.

20 THE COURT: Yes.

21 MS. LOBELLO: Ms. Abrams will have some objections
22 as to relevance of several of the exhibits. So, do you want
23 those --

24 THE COURT: On the stipulated --

1 MS. LOBELLO: -- to be admitted?
2 THE COURT: -- ones?
3 MS. ABRAMS: So, look, we're not stipulating as to
4 the authen -- and I think the Court is going to want to see
5 this anyways. I'm just stating on the record that I'm not
6 sure that doing an audit of the marriage is relevant to the
7 transaction -- I mean of the marriage -- an audit of what
8 happened during the relationship is relevant to the
9 transaction that took place in September. But my -- my guess
10 is the Court's going to want to hear that anyway. So, I just
11 wanted to state that for the record.
12 THE COURT: It's either stipulated or is isn't. If
13 there's going to be some hold-back on relevance, then it's not
14 stipulated.
15 MS. ABRAMS: Okay.
16 MS. LOBELLO: Are we holding back?
17 MS. ABRAMS: Yeah.
18 MS. LOBELLO: Okay.
19 MS. ABRAMS: Yes, then --
20 MS. LOBELLO: And we've stipu --
21 THE COURT: Anything --
22 MS. ABRAMS: -- yes.
23 THE COURT: -- that has been truly stipulated, go
24 for it.

1 MS. LOBELLO: We've stipulated on Exhibit 1,
2 Plaintiff's Exhibit 2, it's going to be a really short list,
3 I'm sorry. Exhibit 96 --

4 MS. ABRAMS: Actually 96 I did not say I stipulated
5 to.

6 MS. LOBELLO: Okay.

7 MS. ABRAMS: That was the one that I said --

8 THE COURT: There's a person in the courtroom
9 reading some of the exhibits in the back.

10 MS. LOBELLO: Oh, we asked him to leave.

11 MR. JONES: Yeah.

12 MS. ABRAMS: So, Your Honor --

13 THE COURT: Is this a closed hearing?

14 MS. MICHAELS: Can he please stay?

15 MR. JONES: It's a sealed case.

16 MS. MICHAELS: It is my son.

17 THE COURT: Uh-huh (affirmative).

18 MS. ABRAMS: Yes.

19 THE COURT: Sealed is sealed.

20 MS. ABRAMS: He's not listed as a witness and --

21 THE COURT: I really don't care. I'm going to ask
22 him to step out.

23 UNIDENTIFIED MALE: Please --

24 THE COURT: I mean he's already doing stuff behind

1 the bar that he probably shouldn't be doing, reading the
2 exhibits and flipping through the pages back there.

3 MS. ABRAMS: And is that the reason that you --
4 because if that's what's bothering you, we'll ask him not to
5 do that and he'd like to --

6 THE COURT: He needs --

7 MS. ABRAMS: -- be --

8 THE COURT: -- to not be --

9 MS. ABRAMS: Okay.

10 THE COURT: -- in here.

11 MS. ABRAMS: That's fine.

12 THE COURT: Parties have a right --

13 MS. LOBELLO: Knowing that he's --

14 THE COURT: -- parties have a right to have a
15 personal hearing at this time, and so that's what I'm granting
16 actually is their right to have a personal hearing.

17 MR. JONES: Thank you, Your Honor.

18 MS. LOBELLO: Unfortunately then we just have a -- a
19 stipulation for Plaintiff's Exhibits 1 and 2.

20 THE COURT: 1 and 2.

21 (Plaintiff's Exhibits 1 & 2 admitted)

22 MS. ABRAMS: Okay. And I believe we have a
23 stipulation for Exhibits --

24 THE COURT: For Defendant's exhibits?

1 MS. ABRAMS: For Defendant's Exhibits A, C, G, J, K,
2 L, M, and N as in Nancy.

3 (Defendant's Exhibits A, C, G, J, K, L, M & N admitted)

4 THE COURT: Okay.

5 MR. JONES: It might save us some time if maybe we
6 address the issue of -- of rele -- I mean she's not objecting
7 to the authenticity of --

8 MS. ABRAMS: Right.

9 MR. JONES: -- 99 percent of our documents. She's
10 saying that how much money he contributed to the expenses of
11 the business or the building or this or that isn't relevant
12 for this Court's exercise. Tax returns of the parties
13 throughout the mar -- throughout -- throughout their
14 relationship, marriage, ceremony, whatever you want to call it
15 is not relevant.

16 Now, I've never seen the Court deny tax returns
17 during the course of a relationship as not relevant or bank
18 statements or summaries of bank statements. So, I -- I guess
19 the question is does the Court think it's relevant; or do we
20 want to have this argument every single time we try to move an
21 exhibit?

22 THE COURT: Counsel?

23 MS. ABRAMS: The summaries for sure, that wasn't
24 even something that I said I would stipulate to with just the

1 relevance objection. That's up to the Court. I -- you know,
2 I'm not objecting to the authenticity. There are some of
3 those exhibits where I feel like there may be some pages
4 missing and so the understanding was if they do come in, if
5 the Court feels that they're relevant and you admit them, the
6 only reservation at that point that I would have is to -- if
7 there is pages missing to supplement those pages. Like for
8 example there were -- there was a subpoena to a title company
9 for their file, only pieces of the file are included in some
10 of these proposed exhibits and so that was the reservation I
11 had. But that's -- that's up to the Court.

12 THE COURT: Okay.

13 MS. ABRAMS: I think that the transaction that
14 occurred in September is really what this Court should be
15 looking at. And whatever occurred prior to that I don't think
16 is -- if the Court's going to uphold that transaction, I don't
17 know that we need to go through that exercise. But --

18 THE COURT: I appreciate that. I think that with
19 this particular case --

20 MS. ABRAMS: Uh-huh (affirmative).

21 THE COURT: -- that there was some unique parts I'll
22 put it that way. I'm going to let them try to do their case
23 the way they feel like they need to prove their case.

24 MS. ABRAMS: Okay.

1 THE COURT: They should have the tools at hand that
2 they need to prove their case. They've got one day to do it.
3 We're not going to be putting this on for like I'll be here,
4 you know, and I'll be work -- having a cane and grayer hair
5 for -- yeah, I mean --

6 MS. LOBELLO: Just one thing I should tell you
7 though --

8 THE COURT: We have a two-day trial, that's it.

9 MS. LOBELLO: -- we did stipulate because both of us
10 subpoenaed Shannon Evans --

11 THE COURT: Uh-huh (affirmative).

12 MS. LOBELLO: -- for our case in chief. And
13 Ms. Evans obviously didn't want to show up on this Friday and
14 next Friday so we have her coming on Mon -- or on next Friday,
15 the 21st. She'll be the first witness.

16 THE COURT: That's fine.

17 MS. LOBELLO: But I'm calling her in my case in
18 chief so --

19 THE COURT: That's fine.

20 MS. LOBELLO: -- I won't be resting until --

21 THE COURT: Is that all right?

22 MS. ABRAMS: My understanding was they're putting
23 their case on today and with the exception of Shannon Evans
24 who's going to be the first witness --

1 THE COURT: Because you both --
2 MS. ABRAMS: -- I'm --
3 THE COURT: -- subpoenaed her.
4 MS. ABRAMS: -- next week, right?
5 THE COURT: Okay.
6 MS. ABRAMS: And then they're going to rest and then
7 we'll put our case on for the rest of the day next week.
8 THE COURT: Yes, that sounds good to me.
9 MS. LOBELLO: Thank you, Judge.
10 THE COURT: You're trying to do some time
11 management, because this could get way out of hand.
12 MS. ABRAMS: Yes, and I --
13 MS. LOBELLO: We're going to waive opening, too,
14 so --
15 MR. JONES: Yeah.
16 MS. LOBELLO: -- we'll get right into --
17 MS. ABRAMS: So, if that's the case, if the
18 relevance is the ruling of the Court, then I think that
19 there's a list of exhibits that, you know, my only reservation
20 on those was the completeness of it. So, do you want to put
21 those on? I could read them off or she could?
22 THE COURT: Okay.
23 MR. JONES: Why don't we go ahead do that.
24 MS. ABRAMS: Because there's --

1 THE COURT: Let's go ahead and --
2 MS. ABRAMS: -- a significant --
3 THE COURT: -- do that.
4 MS. ABRAMS: -- there's a significant number of
5 those.
6 THE COURT: Okay. With rel -- you'll have
7 relevance?
8 MS. ABRAMS: Right.
9 MR. JONES: No, where -- where --
10 THE COURT: Complete --
11 MR. JONES: -- like we've got a --
12 THE COURT: -- document?
13 MR. JONES: -- title file that was this big --
14 THE COURT: Complete document.
15 MR. JONES: -- and we really wanted the Deed of
16 Trust and the -- and the Deed, you know?
17 THE COURT: Okay.
18 MR. JONES: So, we just took those two things out
19 and they have the Bates numbers.
20 THE COURT: I'm going to ask you on those situations
21 where you feel like you didn't get the complete record if what
22 they are presenting without all the bells and whistles if
23 enough to try to throw those things out. So, do you
24 understand what I'm saying?

1 MS. ABRAMS: I think what I anticipated doing was if
2 there were pages that were missing to just supplement them in
3 our case in chief. I mean it was things that were exchanged
4 that they had if it's -- they -- you can see that this is not
5 something I had a chance to go through every single page of
6 exhibits.

7 THE COURT: Well, I hope you did, because you're in
8 trial now.

9 MS. ABRAMS: Well, I understand. But can I just
10 point something out? When we did discovery in this case, we
11 got --

12 THE COURT: You guys have been doing discovery for
13 -- since 2017.

14 MS. ABRAMS: Yes. And that's what I wanted to -- to
15 indicate. We've been doing discovery for a very long time.
16 The discovery that we got wasn't until late -- later in the
17 case. It was some statements, out of order, a few pages here,
18 few pages there. They were mixed up. It was a --

19 THE COURT: I --

20 MS. ABRAMS: -- disaster. On the very last day of
21 discovery we got a dump of --

22 THE COURT: Right.

23 MS. ABRAMS: -- over a thousand pages.

24 THE COURT: Ms. Abrams, all I am saying is --

1 MS. ABRAMS: So --
2 THE COURT: -- if you make an objection --
3 MS. ABRAMS: I understand.
4 THE COURT: -- because they put something in without
5 all the bells and whistles, make sure it's a significant
6 reason for making the objection. Other than that, I don't
7 have any problem.
8 MS. ABRAMS: So, I'm saying I'm not making the
9 objection, I'm just reserving the right to supplement some
10 missing pages.
11 THE COURT: Fine.
12 MS. ABRAMS: That's -- that's what I'd like to do.
13 THE COURT: If you feel like it's important
14 enough --
15 MS. ABRAMS: Yes.
16 THE COURT: -- yes. Okay. There may be some times
17 where you just go it's not that big of a deal. So, please be
18 measured in that thought. Yes, ma'am?
19 MS. LOBELLO: Well, I was going to read the ones
20 that we're stipulating --
21 MS. ABRAMS: Yeah.
22 THE COURT: Okay.
23 MS. LOBELLO: -- on.
24 THE COURT: Yeah, go ahead.

1 MS. LOBELLO: So, we're stipulating -- and just so
2 everyone understands, basically we're stipulating on bank
3 statements and tax returns and credit card statements, right?
4 MS. ABRAMS: That's pretty -- that's accurate.
5 There's also medical records and --
6 MR. JONES: There's the -- the title --
7 MS. ABRAMS: -- Deeds and the --
8 MR. JONES: -- documents, the Deeds --
9 MS. ABRAMS: -- title companies.
10 MS. LOBELLO: Okay.
11 THE COURT: Uh-huh (affirmative).
12 MS. LOBELLO: Then we're going to stipulate -- are
13 you ready?
14 MS. ABRAMS: I -- I'm going to try to --
15 MS. LOBELLO: We're going to --
16 MS. ABRAMS: -- follow -- there's a lot here so go
17 ahead.
18 MS. LOBELLO: We're going --
19 THE COURT: Okay.
20 MS. LOBELLO: -- to stipulate to Plaintiff's Exhibit
21 3, Plaintiff's Exhibit 4, Plaintiff's Exhibit 5, Plaintiff's
22 Exhibit 6, 7 --
23 MS. ABRAMS: Uh --
24 MS. LOBELLO: No?

1 MS. ABRAMS: Okay, yeah, 7.

2 (Plaintiff's Exhibits 3 - 7 admitted)

3 MS. LOBELLO: 8 and then we're going to stipulated
4 on Exhibits 9 through 33 -- I'm sorry 32. 33 we are missing
5 Danka Michaels' 2017 tax return and maybe when a witness comes
6 -- shows up next week, we can ask the accountant who prepared
7 about that, because it said it was in his file and it was not.
8 So, we don't have anything on 33 yet. We're stipulating on
9 Exhibits -- no, I'm sorry, 33 and 34 are both missing.

10 (Plaintiff's Exhibits 8 - 32 admitted)

11 MS. ABRAMS: Uh-huh (affirmative).

12 MS. LOBELLO: So, we are stipulating up to 32, not
13 33, not 34. Then we're stipulating to Plaintiff's Exhibits 35
14 through 60.

15 (Plaintiff's Exhibits 35 - 60)

16 MS. LOBELLO: We're stipulating on Exhibit 63, 65,
17 67 --

18 MS. ABRAMS: Wait, hold on. I have a --

19 MS. LOBELLO: Sorry.

20 MS. ABRAMS: -- 63 -- okay, go ahead.

21 MS. LOBELLO: 63, 65, 67, 69, 70, and 71.

22 (Plaintiff's Exhibits 63, 65, 67, 69, 70 & 71 admitted)

23 MS. LOBELLO: Stipulate on Plaintiff's Exhibit 74,
24 76, 78, 79, 80. Stipulate on Exhibits 82 through 90.

1 Stipulate on Exhibit 96.
2 (Plaintiff's Exhibits 74, 76, 78, 79, 80, 82 - 90)
3 MS. ABRAMS: That was not one of the ones.
4 MS. LOBELLO: No? Okay.
5 MS. ABRAMS: It was 90 -- starting at 97.
6 MS. LOBELLO: So, that's a no. Stipulate on
7 Exhibits 97 all the way through 119.
8 (Plaintiff's Exhibits 97 - 119 admitted)
9 MS. LOBELLO: Stipulation on Exhibit 125, 126, 127,
10 128, 129.
11 (Plaintiff's Exhibits 125, 126, 127, 128 & 129 admitted)
12 MS. LOBELLO: Stipulate on Exhibits 132, 133, 134,
13 136, and 138. And stipulate on Exhibit 144 and I think that's
14 all of them.
15 (Plaintiff's Exhibits 132, 133, 134, 136, 138 & 144 admitted)
16 MS. ABRAMS: Yes, I had a few things to add to that.
17 So, again, just with the understanding that she -- I know
18 she's saying stipulate but that's with the understanding that
19 I was --
20 THE COURT: You're free --
21 MS. ABRAMS: -- I'm objecting as to --
22 THE COURT: -- to say that there's something
23 missing.
24 MS. ABRAMS: I -- I --

1 THE COURT: Okay.

2 MS. ABRAMS: -- well, first preliminarily my
3 objection was as to relevance. The Court ruled against that.
4 With regards to Number 4, we asked for -- that's incomplete,
5 we asked for a complete record. I'm still waiting for a
6 response from -- because it's health information, we can't
7 actually produce it until -- unless we have a specific
8 authorization to do so. I had asked a few times and I'm still
9 waiting for a response on that.

10 With regards to some of these -- I'm just going to
11 say any of the ones where they've added highlights or notes or
12 whatever, we --

13 THE COURT: Where they've altered the document?

14 MS. ABRAMS: Exactly.

15 THE COURT: Okay.

16 MS. ABRAMS: We would have -- just reserve the right
17 on those to say that those documents have been altered or
18 highlighted.

19 MR. JONES: Oh, yeah, her issue is that there's
20 highlights transactions on bank statements.

21 MS. ABRAMS: Well, okay, so that's an --

22 MR. JONES: So -- so --

23 MS. ABRAMS: -- alteration.

24 MS. LOBELLO: Which we acknowledge.

1 MR. JONES: Right. I mean if we highlighted every
2 -- every --
3 THE COURT: She doesn't like to --
4 MR. JONES: -- transaction --
5 THE COURT: -- bring it to my attention. Go ahead.
6 MS. ABRAMS: I -- I just, you know, I want that to
7 be clear.
8 THE COURT: It's supposed to be clean copies.
9 MS. ABRAMS: Well, they don't have clean copies, I'm
10 just saying that --
11 THE COURT: I understand.
12 MS. ABRAMS: -- I want the Court to note that.
13 THE COURT: That's fine.
14 MS. ABRAMS: Okay.
15 MR. JONES: Yes.
16 MS. ABRAMS: And then on others, there's pages
17 missing which like I said the -- we will supplement. Let me
18 see, I think -- I think that's it.
19 THE COURT: Thank you.
20 (COUNSEL CONFER BRIEFLY)
21 THE COURT: Plaintiff, on your -- if you have
22 something else, give it to me in a minute.
23 MS. LOBELLO: Could I --
24 THE COURT: On your pretrial memorandum, you say

1 you're calling one person and anybody else that we might have
2 mentioned along the way. Can you give me some idea of who you
3 intend --

4 MS. LOBELLO: Uh-huh (affirmative), sure.

5 THE COURT: -- to call?

6 MS. LOBELLO: Calling the parties, calling Shannon
7 Evans, and calling Dara Lesmeister.

8 THE COURT: And who is Dara Lesmeister?

9 MS. LOBELLO: She is a percipient witness that will
10 testify that she worked with both parties and she understood
11 they were married.

12 THE COURT: Okay.

13 MS. LOBELLO: Among other things, she knows that of
14 the incident.

15 THE COURT: Who is your forensic accountant?

16 MS. LOBELLO: We do not have a forensic accountant.

17 THE COURT: I hope you don't think it's going to be
18 me.

19 MS. LOBELLO: Your Honor, what I --

20 MR. JONES: (Indiscernible - simultaneous speech)

21 MS. LOBELLO: -- was anticipating and --

22 THE COURT: I just -- I'm laying it out there --

23 MS. LOBELLO: -- because --

24 THE COURT: -- because I'm seeing all these records

1 of 50 percent of that and 40 percent of this and blah-blah-
2 blah. I'm not going to go through all of these exhibits. I'm
3 telling you right now, you need a forensic accountant.

4 MS. LOBELLO: We certainly understand that the Court
5 reserves jurisdiction on --

6 THE COURT: Yes.

7 MS. LOBELLO: -- assets in the event you determine
8 that there was a community and that the concept should apply
9 by analogy. And I will tell you, Your Honor, I would have
10 loved to have had a forensic accountant but he can't afford
11 it.

12 THE COURT: Okay.

13 MS. LOBELLO: And he simply -- he couldn't pay the
14 lawyers, and -- and I know that they started out --

15 THE COURT: This -- this is --

16 MS. LOBELLO: -- with the object of retaining one.

17 THE COURT: -- calls for a forensic accountant, no
18 matter what.

19 MS. LOBELLO: So, what we're hoping is that you can
20 make rulings on the substantive issues --

21 THE COURT: I'm just giving you --

22 MS. LOBELLO: -- in his second Amended --

23 THE COURT: -- a head's up.

24 MS. LOBELLO: -- Complaint.

1 THE COURT: So, that you can shape however you're
2 going to present your case to me.

3 MS. LOBELLO: Got it.

4 THE COURT: Because there -- there's a lot of stuff
5 here, there's a lot of properties, there's a lot of
6 transactions here that you're going to be saying this and this
7 and this and she's going to be saying, no, no, no; this or
8 this or that. There should be a forensic accountant probably
9 for both sides. All right.

10 MS. LOBELLO: Your Honor, one more thing --

11 THE COURT: Yes.

12 MS. LOBELLO: -- Ms. Abrams mentioned that --

13 THE COURT: So, you're calling three witnesses, the
14 parties and two others?

15 MS. LOBELLO: Well --

16 THE COURT: Four?

17 MS. LOBELLO: -- yeah, four.

18 THE COURT: Okay.

19 MS. LOBELLO: Ms. Abrams mentioned on -- when we met
20 this last Wednesday --

21 THE COURT: Uh-huh (affirmative).

22 MS. LOBELLO: -- for our pretrial conference, she
23 did ask if we could pull --

24 MR. JONES: For Exhibit 4.

1 MS. LOBELLO: -- referring to Exhibit 4, the Nevada
2 Prescription Monitoring for Tom Pickens. When I originally
3 requested that, it was for a limited period of time and
4 Ms. Abrams asked can we go all the way back to when Danka
5 started treating Tom. And I said I needed to talk to him.
6 And yesterday when I met with him, I failed to even ask him.
7 And then she asked me again last night if it was okay, and I
8 hadn't -- I forgot to ask him, and I -- I was wiped out so.
9 So, I asked him and it's fine.

10 The only thing we request is if Dr. Michaels is have
11 -- is given an authorization, she will go back all the way to
12 the beginning of 2000 when she started treating him, but she
13 needs to go all the way to the present. Because we want to
14 see what's gone on since she stopped being his treating
15 physician.

16 In that event, we will stipulate to re-open
17 discovery on that one piece of evidence.

18 THE COURT: You okay with that?

19 MS. ABRAMS: Yeah.

20 THE COURT: All right.

21 MS. LOBELLO: So, it needs to be through the
22 present.

23 THE COURT: Okay.

24 (COUNSEL AND CLIENT CONFER BRIEFLY)

1 MS. ABRAMS: Oh, she can't get it to the present.
2 MS. MICHAELS: I can't. I ceased to -- I -- I --
3 may I say --
4 THE COURT: No.
5 MS. MICHAELS: -- something?
6 THE COURT: She can --
7 MS. ABRAMS: No.
8 THE COURT: -- get it I assume only to where she
9 knows, and she was the actual providing --
10 MS. ABRAMS: Is that right?
11 MS. MICHAELS: Yes.
12 THE COURT: -- physician.
13 MS. MICHAELS: Yes.
14 THE COURT: But if there's --
15 MS. LOBELLO: But she stopped --
16 THE COURT: -- a new providing physician --
17 MS. MICHAELS: Correct.
18 THE COURT: -- that person needs to provide it.
19 MS. LOBELLO: I got it directly from Nevada
20 Prescription Monitoring but it doesn't happen overnight.
21 THE COURT: Okay.
22 MR. JONES: Right. That's the only concern
23 obviously.
24 MS. LOBELLO: So, I will then -- I will tell you

1 that I will do my best to get the complete by next week.

2 MS. ABRAMS: Okay.

3 MS. LOBELLO: All right?

4 THE COURT: Okay. Counsel, anything preliminarily?

5 MS. ABRAMS: I think we're good.

6 THE COURT: Okay. I know you're going to waive
7 opening statements, but I would just like a bullet point,
8 we're going to prove this. Don't tell me how you're going to
9 prove it, just tell me what you're going to prove and then
10 we'll move on. Okay?

11 MR. JONES: Okay. Very briefly, Your Honor, we're
12 going to prove that a marriage existed, that the requirements
13 for the Court to make a determination either as to the
14 existence of a valid marriage or a putative spouse or Michoff
15 claim is established. We're also going to establish that the
16 transactions in September of 2016 were as a result of not only
17 undue influence but a breach of fiduciary duty. We're going
18 to establish the significant contributions that the -- that
19 the Plaintiff made to the community assets, to the joint
20 assets.

21 And we're going to establish that based upon the
22 totality of the circumstances and the equities of where the
23 parties sit today as a result of their relationship, and as a
24 result of what I believe to be an obscene breach of fiduciary

1 duty and exertion of undue influence that this Court will have
2 no choice but to determine that the vast majority of the
3 assets listed on the recently filed FDF of the Defendant, are
4 assets to which the parties need to -- that the parties need
5 to divide.

6 And that's I think what Ms. LoBello was saying is
7 that the -- the issue of this Court determining the legal
8 issue is probably the most germane thing that we're going to
9 present today. And if you find, yes, I'm setting aside this
10 LLC transaction for X, Y, Z reason; or I'm -- regardless of
11 whether I'm setting it aside, I'm finding that there was a
12 marriage and therefore this business formed during the
13 marriage is community property. Then the parties after you
14 rule on the legal issues and define what the joint or
15 community estate is, then the parties can either get
16 valuations or have a separate, you know, partition action or
17 whatever they need to do.

18 But there isn't a forensic accountant on either side
19 simply because I think both sides, while we may not agree on
20 much, agree that the legal issue of what the Plaintiff is
21 entitled to rather than what the value is, is the most
22 relevant issue for the trial today and next week.

23 THE COURT: Thank you. Briefly?

24 MS. ABRAMS: I would prefer to reserve until our

1 case in chief. But --
2 THE COURT: Fine.
3 MS. ABRAMS: Okay. Thank you.
4 THE COURT: I just wanted to know what you guys are
5 going to -- while I roadmap it.
6 MR. JONES: I understand, Your Honor.
7 THE COURT: All right. Call your first witness.
8 MR. JONES: The Defendant, Your Honor.
9 THE COURT: Please take the stand. You probably
10 won't want to knit on the stand or whatever you're doing.
11 MS. MICHAELS: Unless you let me.
12 THE COURT: No, no, no. That'd be really
13 inappropriate.
14 THE BAILIFF: Just remain standing over there.
15 THE CLERK: Can you please raise your right hand?
16 MS. MICHAELS: Yes, I can.
17 THE CLERK: You do solemnly swear the testimony
18 you're about to give in this action shall be the truth, the
19 whole truth, and nothing but the truth so help you God?
20 THE WITNESS: I do.
21 THE CLERK: Thank you. Please be seated.
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DANKA MICHAELS

called as a witness on behalf of the Plaintiff, having been
first duly sworn, did testify upon her oath as follows on:

DIRECT EXAMINATION

BY MR. JONES:

Q Can you please state your name and spell your name
for the Court?

A My first name is Danka, D-a-n-k-a; last name is
Michaels, M-i-c-h-a-e-l-s.

Q And you were born in Bratslava (sic) -- Bratislava,
correct?

A Bratislava.

Q Bratislava. I -- I'll try to get the dialect right.
Is that right?

A Correct.

Q And you met Tom in the spring of 2000 when he was
brought into Summerlin Hospital ICU; is that right?

A Yes.

Q And after he was released from the hospital, he
followed up his medical care with you; is that right?

A And his cardiologist.

Q But you were his primary care physician from 2000 to
2017, right?

A Yes.

1 Q And you've dra -- began prescribing him medicine in
2 2000; is that right?

3 A Yes.

4 Q And in the summer of 2001, you began a romantic
5 relationship with him, right?

6 A Yes.

7 Q And you continued being his physician after that
8 relationship began?

9 A Yes.

10 Q And you continued to prescribe him medicines while
11 you were dating, correct?

12 A Yes.

13 Q One of his primary medical issues for which he had a
14 cardiologist and needed follow-up care was cardiac in nature,
15 right?

16 A Yes.

17 Q Now, as far as the medicines that you prescribed
18 him, you were prescribing him Percocet, Tramadol, Xanax, and
19 Ambien primarily, correct?

20 A No.

21 Q Okay. I'm going to have you turn to in the book in
22 front of you if you could turn to Exhibit 4?

23 A You are asking primarily, it's not a primarily --

24 THE COURT: Just -- no, no --

1 THE WITNESS: -- medication.

2 THE COURT: -- don't argue with him, please. He's
3 asking a question, you answer it honestly. If he's not
4 getting his question right, that's on him.

5 MR. JONES: And -- and --

6 THE COURT: Tell him --

7 MR. JONES: -- I'll clarify.

8 THE WITNESS: Okay.

9 BY MR. JONES:

10 Q Looking at Exhibit 4, if you would turn to Exhibit 4
11 in that book right in front of you -- and why I said
12 primarily, ma'am, is that -- Doctor, sorry, is that there was
13 one prescription I saw in there for Subutex as well. But the
14 -- a majority of --

15 A Okay. Excuse me. Sub --

16 Q Subutex?

17 A -- Sub -- Suboxone.

18 Q Yes.

19 A Yes.

20 Q Okay. So -- but the majority of your prescriptions
21 at least during the time frame on Exhibit 4 were those four
22 drugs; is that right?

23 A Yes.

24 Q Okay. Now, if you'd turn to Exhibit 4 where it has

1 the Nevada Prescription Monitoring Program, there's a list of
2 prescriber in the seventh column from the left. Do you see
3 that?

4 A Yes.

5 Q I'm assuming DA, MIC is you?

6 A Yes.

7 Q And if you'd turn to page two of that exhibit,
8 there's also entries for Ro -- R-o-c-a-r. Who is R-o-c-a-r to
9 your understanding?

10 A Mr. Roberto Carillo, nurse practitioner.

11 Q He's -- he is a nurse practitioner employed in your
12 office?

13 A Yes.

14 THE COURT: I'm sorry, could you ask the last
15 question again? I was distracted trying to find which volume
16 I needed.

17 MR. JONES: Sorry.

18 THE COURT: That's all right.

19 MR. JONES: Yes. Do you want -- do you want me --
20 do you want the last two questions?

21 THE COURT: Yes.

22 MS. LOBELLO: You're --
23 //
24 BY MR. JONES:

1 Q Basically the two prescribers listed on Exhibit 4,
2 D-a-m-i-c, and R-o- -- is it B -- B-a-r?

3 MS. LOBELLO: C-a-r.

4 BY MR. JONES:

5 Q C-a-r, that is you and your nurse practitioner,
6 right?

7 A Yes.

8 MS. LOBELLO: Your Honor, do you have a list of
9 which exhibits are in which binder?

10 THE COURT: Well, I'm hoping that --

11 MS. LOBELLO: That's sort of a master --

12 THE COURT: -- on the front page of this it has
13 Plaintiff's Exhibits and it says Exhibit 1 through 20, Volume
14 I.

15 MS. LOBELLO: We did a list. Oh, your clerk has it.
16 Sorry.

17 (COURT AND CLERK CONFER BRIEFLY)

18 THE COURT: Can you give me your list?

19 THE CLERK: Sure.

20 THE COURT: Just make -- have somebody make a copy
21 for me. Thank you.

22 MR. JONES: And for the ease of the Court during
23 this examination, I'll be using binder one and binders 11 and
24 12.

1 THE COURT: Okay. That's great.
2 MR. JONES: Whether or not --
3 THE COURT: Thank you.
4 MR. JONES: -- the things in 11 and 12 are
5 stipulated to, I'm not even sure. But those are the binders
6 I'll be using.
7 THE COURT: Binders 1 and binder 11 -- Marsha, can
8 you help me?
9 MR. JONES: I can do that.
10 THE COURT: Someone. These two right here are 11
11 and 12. Are these the judge's copies here? Or the --
12 THE CLERK: The judge's.
13 THE COURT: Okay. Thank you very much. Okay. So,
14 we're set up for the first part of your -- go ahead.
15 MR. JONES: Thank you.
16 THE COURT: Sorry for all the interruptions.
17 MR. JONES: No worries. And 4's already in, right?
18 MS. LOBELLO: Yes.
19 THE COURT: Was 4 in with a caveat that there needs
20 to be supplements --
21 MR. JONES: Yes.
22 THE COURT: -- correct?
23 MR. JONES: Yes.
24 THE COURT: Thank you. Go ahead.

1 BY MR. JONES:

2 Q Now, in prescribing the drugs that you were
3 prescribing, obviously you were aware of the side effects of
4 each drug before you --

5 A Yes.

6 Q -- prescribed them to -- to Tom?

7 A Yes.

8 Q And you were aware of the effects of those drugs as
9 they pertain to taking them in combination, right?

10 A Yes.

11 Q Do you recognize the Physician's Desk Reference as a
12 reliable resource as it pertains to medications?

13 A PDR?

14 Q Yeah, the PDR.

15 A Yes.

16 Q Now -- and do you recognize the AMA as sort of the
17 governing body for ethical issues for physicians?

18 A Partially.

19 Q Now, you're aware that maintaining a romantic or
20 sexual relationship with a parent -- or with a patient
21 according to medical ethics opinion 9.11 is unethical, right?

22 A Not really. That's why my nurse practitioner was
23 seeing him most of the time.

24 Q So, you don't believe that the AMA says that that

1 type of relationship is unethical; is that right?

2 A I'm not aware of it.

3 Q Are you aware that one of the reasons the AMA finds
4 such a relationship to be unethical is that it, quote, may
5 exploit the vulnerability of the patient?

6 A Say it again.

7 Q I said are you aware that one of the reasons the AMA
8 finds those types of dual relationships to be unethical is
9 that such a relationship may exploit the vulnerability of the
10 patient?

11 A I am not aware of it.

12 Q Are you aware that having a romantic relationship
13 with a former patient is also unethical?

14 A Possibly.

15 Q Now, in 2002, you participated in a ceremony with
16 Tom in a Catholic church in your hometown of Bratislava,
17 right?

18 A Yes.

19 Q In order to be allowed to have that ceremony in that
20 Catholic church in your hometown, you -- you need -- you and
21 Tom needed a letter from a Catholic priest here in Las Vegas,
22 right?

23 A That's what we were told.

24 Q And a letter from a priest in Las Vegas was obtained

1 so that you could have the ceremony in Bratislava, right?

2 A Yes.

3 Q And your mother made the arrangements for the
4 wedding and the -- and the celebration that followed, right?

5 A Yes.

6 Q And you and Tom exchanged rings at the ceremony,
7 right?

8 A Yes.

9 Q And as a result of the ceremony, a marriage
10 certificate was issued, right?

11 A No.

12 Q I'm going to have you turn to Exhibit 2, please.

13 THE COURT: What was the correct -- what was the
14 exact question postured to her?

15 MR. JONES: The question was and as a result of the
16 ceremony, a marriage certificate was issued, correct?

17 BY MR. JONES:

18 Q And if you look at Exhibit 2, that is already in
19 evidence, it is a document that has a Bratislavan certificate
20 and then there's a translation -- certified translation on
21 page two and then the affidavit of the translator. Do you see
22 that?

23 A Yes.

24 Q And you've seen this document before, right?

1 A Yes.

2 Q Okay. Turning to page two of the document, can you

3 tell me --

4 THE COURT: Sorry, which is the exhibit number?

5 MR. JONES: Exhibit 2.

6 THE COURT: Thank you.

7 MR. JONES: Working off the translation because I'm

8 assuming the Court can't translate Bratislavan.

9 THE COURT: Nope. Not even Bulgarian. Go ahead.

10 (COUNSEL CONFER BRIEFLY)

11 BY MR. JONES:

12 Q Looking at page two of Exhibit 2 --

13 THE COURT: What's your Bates stamp number?

14 MR. JONES: TP-0006.

15 THE COURT: Thank you.

16 BY MR. JONES:

17 Q Do you see that translation document?

18 A This is page two?

19 Q If you look in the lower right-hand corner you'll

20 see TP-0006.

21 A Yeah, got it.

22 Q Okay. Now, can you tell me anywhere on that page

23 where it says commitment ceremony?

24 A No.

1 Q It doesn't say that?

2 A No.

3 Q Okay. Can you tell me where on that page -- how far
4 down from the top it says marriage certificate?

5 A Oh, it's on the top.

6 Q Approximately one and a half inches down from the
7 first line of text?

8 A Yes.

9 Q And you and Tom had photos taken that day, right?

10 A Yes.

11 Q And if you can turn to Exhibit 1 which is already in
12 evidence? Are those true and correct copies of -- actually
13 the first three pages, are those true and correct copies of
14 photos that were taken the day of the ceremony?

15 A Yes.

16 Q On the first page marked Bates Number TP-0001, who
17 are the parties in the picture with you and Tom?

18 A My parents.

19 Q All right. Now, if you could turn to Bates Number
20 TP-0004?

21 A Is that an announcement that the photographer also
22 created for you and Tom?

23 A Yes.

24 Q And can you tell me anywhere on there -- on that

1 announcement where it says commitment ceremony?

2 A No.

3 Q There is no reference to a commitment ceremony on
4 that notice?

5 A No.

6 Q It does say marriage though, right?

7 A Yes.

8 Q And it says it took place on April 7th, 2002?

9 A Yes.

10 Q And for the photographs, you actually went to the
11 photographer's studio that day, right?

12 A Yes.

13 Q And you wore an off-white dress or a cream dress
14 that day?

15 A Yes.

16 Q And that was your -- you were previously married,
17 right, so you chose not to wear white; is that right?

18 A It was just a white dress that I bought.

19 Q And Tom as I look in the picture appears to be
20 wearing a tuxedo; is that right?

21 A Possibly.

22 Q After you returned from Las Vegas after the
23 ceremony, the two of you opened a joint bank account, correct?

24 A I don't remember.

1 Q Do you recall having your deposition taken?
2 MR. JONES: Do we have the original?
3 BY MR. JONES:
4 Q Your deposition taken on January 23rd, 2020?
5 A Yes.
6 MS. ABRAMS: Okay. I'd like to make an objection.
7 First of all, we asked whether the depo transcript was ready,
8 we've been trying to get a copy of the depo transcript, we
9 have sent several requests, no response. So, because the
10 deposition was taken so recently, we didn't -- we didn't
11 even --
12 MS. LOBELLO: You didn't order --
13 MS. ABRAMS: -- know that it was --
14 MS. LOBELLO: -- a copy?
15 MS. ABRAMS: Huh?
16 MS. LOBELLO: You didn't order a copy of the
17 deposition?
18 MS. ABRAMS: We ordered a copy of the deposition, we
19 heard nothing back. Actually Stephanie of my office emailed
20 you at least, what, two times?
21 MS. STOLTZ: I think about two, yeah.
22 MR. JONES: You heard nothing back from Litigation
23 Services?
24 MS. ABRAMS: We did not hear back from anybody. So,

1 that's the first --
2 MS. LOBELLO: I was told it's unethical to give
3 you --
4 MR. JONES: Yeah, we can't make a copy --
5 MS. LOBELLO: -- the other side a copy of --
6 MR. JONES: -- and give it to you.
7 MS. LOBELLO: -- a deposition.
8 MS. ABRAMS: No, we were -- the question was, is it
9 ready. Have you heard that it's ready, right?
10 MS. STOLTZ: I believe so, yes.
11 MS. ABRAMS: Yeah.
12 MS. LOBELLO: I would assume that you'll call and --
13 THE COURT: Before we go --
14 MS. LOBELLO: -- sorry but --
15 THE COURT: -- into all of that, Counsel, you said
16 -- your question to me -- or the litigant was when you
17 returned, you opened a joint checking account?
18 MR. JONES: Right.
19 THE COURT: But that could be any --
20 MR. JONES: At any time --
21 THE COURT: -- on the very day --
22 MR. JONES: -- after.
23 THE COURT: -- can you give it a little bit more
24 sharpness --

1 MR. JONES: Well --
2 THE COURT: -- as to your question before we go
3 into --
4 MR. JONES: Okay.
5 THE COURT: -- a bunch of --
6 MR. JONES: Actually, it can be very -- the bank
7 statements which will come into evidence --
8 THE COURT: There you go.
9 MR. JONES: -- will establish that.
10 THE COURT: Very fine.
11 MR. JONES: And actually they're already in
12 evidence, the bank statements.
13 THE COURT: Very fine.
14 BY MR. JONES:
15 Q So -- so at some point after the ceremony, you and
16 Tom opened a joint bank account, right?
17 MS. ABRAMS: I'm going to --
18 THE WITNESS: I don't even have --
19 MS. ABRAMS: -- object.
20 THE WITNESS: -- a recollection of it.
21 BY MR. JONES:
22 Q You don't remember ever having a joint bank account?
23 A We do. I don't remember when we opened the joint
24 checking account --

1 Q And you think --
2 A -- that's what you --
3 Q -- it might have been before the ceremony?
4 A I don't have any recollection when.
5 Q Okay. But you -- you do agree that you and Tom have
6 a joint -- or had a joint bank account --
7 A Yes.
8 Q -- right? At least one, right?
9 A Yes.
10 Q Because originally you were at B of A and when it
11 was helpful to move over to Wells Fargo, I think when you
12 refinanced the building, you opened a joint account at Wells
13 Fargo, right?
14 A Yes.
15 Q And during your relationship with Tom, you were
16 added as a cardholder to Tom's American Express cards, right?
17 A Yes.
18 THE COURT: Before you get too far astray on that,
19 Counsel, since it's already in evidence, can you just let me
20 know when they opened the first joint checking account from
21 the --
22 MR. JONES: Um --
23 THE COURT: -- exhibits? Because it's already --
24 MR. JONES: Actually can --

1 MS. LOBELLO: I don't believe the exhibits actually
2 go back that far.

3 THE COURT: Okay. Very fine. Go ahead.

4 MR. JONES: Okay. Well, and if we -- if we have a
5 record of the earliest date, when we take our first break,
6 I'll -- I'll --

7 THE COURT: Fine. Thank you.

8 MR. JONES: -- look that up for you, Your Honor.

9 THE COURT: Go ahead.

10 BY MR. JONES:

11 Q And in 2014, Tom was made the office manager of your
12 practice, right?

13 A 2014?

14 Q Yes.

15 A No.

16 Q Okay.

17 MR. JONES: May I approach just to give her a
18 different book, Your Honor?

19 THE COURT: You may.

20 MS. ABRAMS: Where are we looking?

21 MR. JONES: 141. And the issue with this is -- Your
22 Honor, and I think this is one of the appropriate objections
23 that were made earlier.

24 THE COURT: Is this in evidence?

1 MR. JONES: I don't -- was 141 admitted? I don't
2 believe so.

3 MS. ABRAMS: No.

4 MS. LOBELLO: No, it's not.

5 THE CLERK: 141 is not.

6 MR. JONES: And one of the issues is there are a
7 group -- it's a group of emails, some of from -- some are from
8 other parties, other people. Obviously those would be hearsay
9 documents and I wouldn't be moving them in. But within
10 Exhibit 41 (sic) --

11 MS. LOBELLO: 141.

12 MR. JONES: I mean 141, I'm sorry, Bates Number 5376
13 is an email from the Defendant.

14 THE COURT: My --

15 MS. ABRAMS: Well, these are all out of order.

16 THE COURT: My 141 has Bates stamped 5406, are
17 your --

18 MR. JONES: Right. And if you skip ahead --

19 THE COURT: The -- the Bates stamps are not in
20 order.

21 MS. ABRAMS: Unh-unh (negative).

22 MR. JONES: Correct. Well, they're --

23 THE COURT: So, 53 what?

24 MR. JONES: 5376.

1 (COUNSEL CONFER BRIEFLY)

2 MR. JONES: Well, they're in order from --

3 THE COURT: Mine starts off at 406, -7, -8, -10, and
4 then it goes down to 367. So, they're not in order in my
5 book.

6 MR. JONES: Right. But from 364 --

7 THE COURT: I guess --

8 MR. JONES: -- forward, they're --

9 THE COURT: -- 376 --

10 MR. JONES: -- in order.

11 THE COURT: -- I've got it.

12 BY MR. JONES:

13 Q So, 5376, do you have that, Doctor?

14 A What am I supposed to look for?

15 MR. JONES: I'll --

16 THE COURT: You can help her.

17 MR. JONES: The Bates numbers are --

18 THE COURT: They're not in order, Counsel, in my
19 book, they're not. Might not be in her book either.

20 BY MR. JONES:

21 Q Looking at Bates Number 5376, is your email address
22 Dankashen@ -- or at least in April of 2014, was your email
23 address Dankashen@icloud.com?

24 A Yes, it still is.

1 Q Okay. And that's what the from says there. But at
2 the to, can you tell me who the people listed there are?
3 A Oh, guy (sic), those are my all -- my employees.
4 Q In 2014, those people all worked for you?
5 A Yes.
6 Q Okay. And turning to the text of the email that you
7 sent to your employees --
8 A Uh-huh (affirmative).
9 Q -- you tell them that Mr. Pickens will take over the
10 management of the office effective immediately, right?
11 A Yes.
12 Q And you sent that email, right?
13 A Yes.
14 Q Okay. But it was your testimony that he didn't
15 actually take over the management of the office?
16 A Yes.
17 Q Okay. Now, you referred to Tom as your husband,
18 right? To third parties?
19 A Yes.
20 Q And according to you, that was for ease in social
21 settings, right?
22 A Yes.
23 Q But you also referred to Tom as your husband in
24 emails to third parties, right?

1 A Yes.

2 (COUNSEL CONFER BRIEFLY)

3 MR. JONES: Oh, Your Honor, for 141, I'd like to

4 move into evidence just Bates Number 5376.

5 THE COURT: Any objection?

6 MS. ABRAMS: I do not have any objection.

7 THE COURT: I would prefer to put it in as the next

8 in --

9 MR. JONES: Next in --

10 THE COURT: -- order.

11 MR. JONES: -- order?

12 THE COURT: Yes.

13 MS. LOBELLO: Number 146?

14 THE COURT: Yes.

15 MR. JONES: Pull that out and make it that. That

16 makes it sense.

17 THE COURT: Pull it out and make it 146. It'll be

18 admitted.

19 (Plaintiff's Exhibit 146 admitted)

20 THE COURT: Is that all right? Did you get that --

21 THE CLERK: Yes.

22 THE COURT: Okay.

23 MS. LOBELLO: 537?

24 MR. JONES: 5376, yes.

1 MS. LOBELLO: Okay.

2 THE COURT: And if you're doing parts of a document,

3 we'll just make it the next --

4 MR. JONES: I think that makes --

5 THE COURT: -- in order.

6 MR. JONES: -- all the sense in the world --

7 THE COURT: Cleaner.

8 MR. JONES: -- for cleanness.

9 MS. ABRAMS: So, it's which number, 146?

10 MR. JONES: 5376 of 141.

11 THE COURT: Is now --

12 MS. LOBELLO: And it's becoming 146.

13 MR. JONES: And it's becoming 146.

14 MS. ABRAMS: Uh-huh (affirmative).

15 MR. JONES: Okay.

16 MS. LOBELLO: Is it admitted?

17 MR. JONES: Yes, she said -- there was no objection,

18 right to that one?

19 THE COURT: No objection, she didn't --

20 MR. JONES: Okay.

21 THE COURT: -- object to it.

22 MS. ABRAMS: Right.

23 THE COURT: It's in.

24 MS. ABRAMS: Uh-huh (affirmative).

1 MR. JONES: Your Honor, I don't know how you want to
2 handle this, it's another similar issue. At Exhibit 124 --

3 THE COURT: If you do pieces and parts, I just want
4 it to be next in order.

5 MR. JONES: I'm sorry?

6 THE COURT: If you're going to do pieces and parts
7 of an exhibit, we'll just do it next in order.

8 MR. JONES: Okay. All right. If you could -- 124's
9 in a different book, let me grab that for you. Oh, you're way
10 ahead of me. Thank you.

11 THE COURT: Is 124 in?

12 THE CLERK: 124 is not in.

13 THE COURT: Thank you.

14 BY MR. JONES:

15 Q Looking at Exhibit 124, I'm looking at the Bates
16 numbers in the lower right-hand corner. Actually let's skip
17 ahead to Bates Number 00078. Do you see that? And that was
18 the same email address we just discussed in the other exhibit;
19 is that right?

20 A I beg your pardon?

21 Q And that's the same e -- that's your same email
22 address that we discussed from the prior exhibit?

23 A Yes.

24 Q The iCloud address?

1 A Yes.

2 Q And do you recognize this email? Is that an email
3 that you sent?

4 A I don't remember this email.

5 Q Okay. But that is your email address, right?

6 A Yes.

7 Q Okay. And in it you state nobody knows my password
8 not even my husband, do you see that?

9 A Yes.

10 Q And you're referring to Tom in that email, right?

11 A Yes.

12 MR. JONES: Move to admit Bates Number 000078 as
13 next in order.

14 MS. ABRAMS: I object. The witness testified she
15 doesn't recall sending this email and there's not been
16 estab -- an establishment that no one else had access to that
17 email account other than her. So, in case somebody else had
18 access to it, she may not have been the author of that or she
19 might, I don't know.

20 THE COURT: Counsel?

21 MR. JONES: Well, Your Honor, she's acknow -- she's
22 identified it as her email address. I mean I guess I can ask
23 her more questions about who the people she sent it to would
24 be if that'll satisfy the Court.

1 THE COURT: You're going to need to establish that
2 she actually sent the email.

3 MS. ABRAMS: Well, but she's already testified that
4 she has no recollection of --

5 THE COURT: I --

6 MS. ABRAMS: -- sending that.

7 THE COURT: -- understand.

8 MR. JONES: Okay.

9 MS. ABRAMS: Okay.

10 BY MR. JONES:

11 Q So, you don't recall sending that email?

12 A No.

13 Q Move on to Bates Number TP-000081. Do you see that
14 email?

15 A There is two -- three emails here.

16 Q There's -- there -- well, it looks like there's two
17 e -- there's an email from you to a Chris Wallace, and an
18 email from Chris Wallace to you. Do you see that?

19 THE COURT: It's an email string.

20 THE WITNESS: A string of --

21 BY MR. JONES:

22 Q An exchange of emails.

23 A Yes, I see it.

24 Q Okay. Do you know -- and is that your email address

1 that this email is from?

2 A Yes, that's my email address.

3 Q Okay. I'm required to ask that every time.

4 A Oh.

5 Q I -- I don't mean to annoy you. And Chris was
6 someone at Bank of America, Chris Wallace, do you know that
7 name?

8 A I -- possibly.

9 Q Okay. Do you have any reason to believe that you
10 did not have this email exchange with Chris Wallace May 22nd,
11 2013?

12 A Do I exactly recall this? No.

13 MR. JONES: Okay. So, Your Honor, I guess --

14 THE COURT: I understand.

15 MR. JONES: -- the -- the ruling of the Court --

16 THE COURT: Ask your question.

17 MR. JONES: -- is that if someone says I don't
18 remember sending an email --

19 BY MR. JONES:

20 Q Well, actually let me ask you this, Doctor, have you
21 ever given anybody your email password?

22 A I don't think so.

23 Q So, there would be no way for anybody to have
24 written this email from your account to a third party, right?

1 A I -- I guess so, yes.

2 MS. ABRAMS: I -- I'm going to object, that's not

3 actually a true statement. If somebody leaves their email

4 open, then a password isn't necessary for someone else to --

5 to use it.

6 MR. JONES: Then I guess that will go to weight,

7 Judge.

8 THE COURT: It does go to weight.

9 MS. ABRAMS: That's fine.

10 THE COURT: Go ahead.

11 MR. JONES: So, with that being said actually let's

12 -- we'll just go with moving, Your Honor, 000081 of Exhibit

13 124, as next in order.

14 THE COURT: Any objection, Counsel?

15 MS. ABRAMS: Just the objections that I've stated

16 already.

17 THE COURT: I will permit the admission. Next in

18 order.

19 (Plaintiff's Exhibit 148 admitted)

20 (COUNSEL CONFER BRIEFLY)

21 MS. LOBELLO: So, is that going to be 147, Your

22 Honor?

23 THE COURT: Yes.

24 BY MR. JONES:

1 Q Let's move ahead to --
2 THE CLERK: Actually 148. She did the objection
3 for --
4 MS. LOBELLO: Oh, okay.
5 THE CLERK: -- 0078.
6 MR. JONES: Oh, and you already -- and you already
7 numbered that --
8 THE COURT: Yes.
9 MR. JONES: -- as 147?
10 THE COURT: Yes.
11 MR. JONES: Okay.
12 THE CLERK: 00081 will be 147 -- I'm sorry 148.
13 THE COURT: Okay.
14 MS. LOBELLO: Move to admit 0078 then.
15 MR. JONES: Under the same argument we just had not
16 -- no one having her password, I would move 00078 into
17 evidence as 147 since it's already been numbered.
18 THE COURT: And your objection was only that she
19 didn't recall, Counsel? She -- he wants to now have that
20 admitted.
21 MS. ABRAMS: Let me take a look at that one. Which
22 one was it? 0078?
23 MS. STOLTZ: Uh-huh (affirmative).
24 MR. JONES: Yeah, that one was 00078.

1 MS. ABRAMS: Yeah, I believe that her testimony was
2 she had no recollection of sending that.

3 THE COURT: I'll -- I'll admit it unless I -- unless
4 she can show that there's -- someone else had access and
5 could've acted in her stead.

6 (Plaintiff's Exhibit 147 admitted)

7 BY MR. JONES:

8 Q And if you could turn to Bates Number 000093 of that
9 exhibit? Actually, I'm sorry, we're going to need to start
10 since it's a long chain, we're going to need to start at
11 000090.

12 (COUNSEL CONFER BRIEFLY)

13 BY MR. JONES:

14 Q Okay. Starting at that Bates Number, I'll have you
15 look at the first three pages after 000090 until you get to
16 000093. Do you see that email exchange with Andy Glendon?

17 A Yes.

18 Q Okay. On page 000093, you write to Mr. Glendon, my
19 husband and I are partners in this deal together, his name is
20 Tom Pickens. That was a true statement, correct?

21 A Yes.

22 Q Okay.

23 MR. JONES: Move to admit -- if you want the
24 completion -- complete exchange, we could go from 90 to 93 as

1 the next in order but 93 is really the only one I'm concerned
2 about.

3 THE COURT: You're asking it to be complete so --

4 MR. JONES: Then let's do 90 through 93 as next in
5 order.

6 THE COURT: Correct.

7 (Plaintiff's Exhibit 149 admitted)

8 MS. LOBELLO: Is it admitted?

9 MR. JONES: Is -- is -- has that been admitted as
10 next in order, Your Honor?

11 THE COURT: Yes.

12 MR. JONES: Thank you.

13 BY MR. JONES:

14 Q Okay. If you could turn to Bates Number 000095?
15 That's your -- is -- is that a different email address that
16 you've used in the past at the top of that?

17 A Yes.

18 Q Dankashen@POL.net?

19 A Yes.

20 Q Okay. And did you ever give anybody the password to
21 that email address?

22 A Not as I know.

23 Q Okay. And that's an email then that you sent to
24 Mr. Kamas (ph) in which you ask for your husband to be able to

1 have access to the property at 3320 Buffalo; is that right?

2 A Yes.

3 MR. JONES: Okay. Move to admit 00095 as next in
4 order.

5 THE COURT: It's in. I guess I should say without
6 objection just for the record's clarity.

7 (Plaintiff's Exhibit 150 admitted)

8 BY MR. JONES:

9 Q Okay. The last one for this run of exhibits Bates
10 Number 000099. Again, that's an email from Dankashen@POL.net,
11 do you see that?

12 A Yes.

13 Q And in that email dealing with I believe some travel
14 arrangements you write to the recipient, my husband is not
15 comfortable scanning passports and emailing you the documents.
16 Do you see that?

17 A Yes.

18 Q Okay. And that's an email that you sent?

19 A Don't have a recollection of it but --

20 Q But you didn't give anybody that password, right?

21 A No.

22 MR. JONES: Move to admit 000099 as next in order.

23 THE COURT: Okay. It's in without objection.

24 (Plaintiff's Exhibit 151 admitted)

1 THE COURT: Do you have anything? Okay. The
2 purpose of these emails is to acknowledge that she referred to
3 him as her husband?

4 MR. JONES: Yes.

5 MS. ABRAMS: Right --

6 THE COURT: Thank you. Go ahead.

7 MS. ABRAMS: -- which she admitted --

8 MR. JONES: And also in --

9 MS. ABRAMS: -- about --

10 MR. JONES: -- the one email where she admitted that
11 she and her husband were partners in the deal.

12 MS. ABRAMS: Okay.

13 MR. JONES: But, yes, that's what they establish.

14 BY MR. JONES:

15 Q Now, you and Tom acquired real property together
16 during your relationship?

17 A Yes.

18 MR. JONES: We're going to go back to Book I.

19 MS. ABRAMS: Which exhibit?

20 MR. JONES: Exhibit 5. If you'll look at Exhibit 5
21 and this is one of those exhibits that is sort of a run of
22 Deeds, Your Honor. I don't know that Counsel has a -- oh, is
23 this already in, 5?

24 MS. LOBELLO: Yes.

1 MS. ABRAMS: I thought it was.

2 THE COURT: 5 was admitted, right?

3 THE CLERK: Yeah, 5 is admitted.

4 BY MR. JONES:

5 Q If you could turn to Bates Number TP-0040 of that
6 exhibit? Do you have 0040?

7 A I do.

8 Q Okay. That would be the Deed for the purchase of
9 Queen Charlotte Drive, do you see that?

10 A Yes.

11 Q And you purchased that property from Bradley and Kym
12 Booke?

13 A Yes.

14 Q Okay. And you took title to the property as Danka
15 K. Michaels and Thomas A. Pickens, wife and husband, as joint
16 tenants; is that right?

17 A Yes.

18 Q Now, the mortgage on that property when you
19 purchased it was also in both names, correct?

20 A Yes.

21 MS. ABRAMS: I'm sorry, I missed the question.

22 BY MR. JONES:

23 Q The mortgage on that property was in both names as
24 well?

1 A Yes.

2 Q Meaning you and Tom were both obligors on the note,
3 right?

4 A Yes.

5 MR. JONES: Is 7 in?

6 THE CLERK: 7 is.

7 MS. LOBELLO: Yeah.

8 MR. JONES: Okay.

9 BY MR. JONES:

10 Q If you'd turn to Exhibit 7. And this is a little
11 harder to look at because it's your Bates numbers, and they're
12 much smaller and it's Bates Number Dankamichaels-000507 in the
13 lower right-hand corner.

14 MS. LOBELLO: 507?

15 MR. JONES: Yes, 507.

16 BY MR. JONES:

17 Q Do you see that document?

18 A Yes.

19 Q And that would be the Deed of Trust for the purchase
20 of the Queen Charlotte property, correct?

21 A Yes.

22 Q Okay. And you and Tom are both obligors on that
23 Note, correct?

24 A I only see my name.

1 Q Maybe I have the wrong one. Well, if you could turn
2 to 000524 and tell me if you see your signature and Tom's
3 signature on the Deed of Trust?

4 A The -- the page four out of four, it's only me as a
5 buyer, guarantor.

6 Q Okay. If you could turn to 14 of 20 which is Bates
7 Number 520?

8 A Okay. I see it, yes.

9 Q Okay. And that's your signature and Tom's
10 signature?

11 A Yes.

12 Q And can you turn back to page -- the first page that
13 we talked about, 000507, just so we have clarity?

14 A 00-what?

15 Q 507 are the last three digits.

16 A 507, 507. Yes.

17 Q Okay. Under borrower, who's listed on the Deed of
18 Trust?

19 A Oh, Danka Michaels, a married woman, and Thomas
20 Pickens, a married man.

21 Q Okay. As joint tenants?

22 A Yes.

23 Q Okay. Now, if you could turn to -- you also
24 purchased property with Tom located at Lowe Avenue, correct?

1 A Yes.

2 Q And I'm going to have you turn to Exhibit 6. If you
3 could turn to Bates number ending in 56, TP-0056?

4 A Okay.

5 Q And that would be the deed from which you purchased
6 the Lowe Avenue property from the Custom Estates LLC; is that
7 right?

8 A I guess.

9 Q Um --

10 A I don't remember this.

11 Q And you took title to that property as Danka
12 Katarina Michaels and Thomas A. Pickens, wife and husband, as
13 joint tenants, correct?

14 A I don't see it.

15 Q TP --

16 THE COURT: What page are you on?

17 MR. JONES: -- 0056.

18 THE WITNESS: 0056.

19 THE COURT: 00056?

20 MR. JONES: No, just two zeros, 56.

21 THE COURT: Oh.

22 MR. JONES: Because it's TP.

23 THE WITNESS: Oh, here it is, yes, I see it.

24 BY MR. JONES:

1 Q Okay. And so you see that the -- other than I
2 believe adding your middle name to this one, it's the same
3 vesting as the other property at Queen Charlotte?

4 A Yes.

5 Q And when was -- and that property would have been
6 purchased in 2011?

7 A Yes.

8 Q And the Queen Charlotte property was purchased in
9 2004; is that right?

10 A Yes.

11 Q And on the mortgage for Lowe Avenue, Tom was also an
12 obligor on that note as well, correct?

13 A Yes.

14 Q I'll have you turn to Exhibit 8. This one's a
15 little confusing because there's two Bates numbers. I think
16 one came from the title company and one was then Bates by your
17 counsel. But for ease of eyes, we're --

18 MR. JONES: Well, actually how would the Court
19 prefer, to leave it as the Dankamichaels --

20 THE COURT: I'd rather that Danka ones.

21 MR. JONES: Okay.

22 BY MR. JONES:

23 Q Then looking at Dankamichaels-000735. Do you see
24 that that is the Deed of Trust for the Lowe Avenue --

1 property?

2 A Yes.

3 Q And again, you and Tom on page one, paragraph B are

4 both the borrowers on that loan, correct?

5 A Yes.

6 Q Now, both of these purchases were made after the

7 ceremony and brought to Slava, correct?

8 A Yes.

9 Q Now, also after the ceremony you and Tom formed an

10 LLC called Patience One, correct?

11 Q Yes.

12 A And the two of you were equal members of that LLC?

13 Q Yes.

14 Q And that LLC was the entity that purchased the

15 commercial building in which your medical practice operates,

16 correct?

17 A Yes.

18 Q And both of you had to sign personal guarantees on

19 that mortgage as well, correct?

20 A Yes

21 Q And in 2014 you refinanced that mortgage, correct?

22 A Yes.

23 Q And you and Tom both remained as personal guarantors

24 on the new loan, correct?

1 A Yes.

2 Q And according to your -- and according to your FDF
3 that building is now worth \$4.2 million dollars minus the
4 mortgage, so a net of just under \$3 million dollars, is that
5 fair to say?

6 A I think the mortgage is \$1.4.

7 Q Your FDF says it's worth 4 -- \$4,274,408. Total
8 amount owed \$1,338,000 for a new value of \$2,936,408. Do you
9 think -- do you think when you signed this on February 13,
10 that that was an accurate depiction of the value?

11 A Yes.

12 Q Now, in September 2016, September 13 to be exact,
13 you set a meeting for yourself and Tom at Shannon Evans's
14 office; is that right?

15 A Yes.

16 THE COURT: 2014?

17 MR. JONES: 2016.

18 THE COURT: 2016.

19 MR. JONES: September 13, 2016.

20 BY MR. JONES:

21 Q And at that meeting, Tom signed deeds transferring
22 Queen Charlotte and Lowe Avenue properties, correct?

23 A His half. Half.

24 Q Right.

1 A Half of it.

2 Q Transferring his half.

3 A Yes.

4 Q In fact, the transfer actually went from you -- you

5 and Tom as husband and wife to you and Tom as -- single

6 persons. Correct? Initially?

7 A I -- yes.

8 Q And then, you at the same time, you then transferred

9 -- or then -- then there was a transfer from the two of you as

10 single persons to you individually, right?

11 A Yes.

12 Q And then you transferred the properties into your

13 trust. Right?

14 A Yes.

15 THE COURT: Her share of it?

16 MR. JONES: 100 percent of it.

17 THE COURT: Okay. All right. Got it.

18 MR. JONES: 100 percent of the properties were then

19 transferred into your trust, right?

20 THE WITNESS: No.

21 MR. JONES: How much -- Okay. Let's go back and go

22 one --

23 THE COURT: Yeah, I need it --

24 MR. JONES: -- and go --

1 THE COURT: -- have that -- yeah.
2 MR. JONES: -- one property at a time.
3 THE COURT: Yes.
4 MS. LOBELLO: I'll give you the deeds.
5 MR. JONES: So --
6 THE COURT: Which property are we talking about?
7 All of them?
8 MR. JONES: I -- I -- well, I was talking about Lowe
9 --
10 THE COURT: Yes.
11 THE COURT: -- And Charlotte together. Let's go one
12 at a time. So --
13 THE COURT: Very good.
14 BY MR. JONES:
15 Q On September 13, Tom executed -- Tom and you and
16 executed deeds to Queen Charlotte from married persons to
17 unmarried persons, correct?
18 A Let me transfer the -- let me change the all the --
19 the answers to yes at that time. All three questions is yes.
20 Q Okay. For --
21 A For simplicity.
22 Q -- Queen Charlotte, it went from --
23 A Yes.
24 Q -- you and Tom as married persons to you --

1 A Yes.

2 Q -- and Tom as unmarried persons to you as an
3 individual --

4 A Yes.

5 Q -- and then into your trust?

6 A Yes.

7 Q For Lowe on the same day, the same four transactions
8 occurred?

9 A Yes.

10 Q Okay. Now, with regard to Queen Charlotte, did you
11 transfer anything to Tom on September 13 in exchange him
12 transferring that property?

13 A No.

14 Q Did you pay him any cash?

15 A No.

16 Q Did you write him a check?

17 A No.

18 Q With regard the Lowe Avenue property, did you
19 transfer him any property at that -- on that date in exchange
20 for the Lowe property?

21 A No.

22 Q Did you pay him any cash?

23 A No.

24 Q Did you write him a check?

1 A No.

2 Q Did you give him any other consideration for either
3 of those transactions?

4 MS. ABRAMS: Objection. Calls for a legal
5 conclusion.

6 THE COURT: Sustained.

7 BY MR. JONES:

8 Q Do you -- do you know what consideration for a
9 transaction is? Meaning -- let me -- let me -- let me give
10 you my definition --

11 A I know --

12 Q -- of consideration.

13 A -- what it is.

14 Q That would be is someone was transferring something
15 to you, you're trans something -- transferring something to
16 them in exchange. Okay. If we use that as the definition,
17 even if it's the wrong definition, did you give you Tom any
18 consideration for either of those transactions?

19 MS. ABRAMS: Same objection.

20 THE COURT: I'll -- I'll overrule that and let her
21 answer the question.

22 MS. ABRAMS: Okay.

23 THE WITNESS: No.

24 MR. JONES: Okay.

1 THE COURT: You have certainly the right to cross
2 examine her on it.

3 BY MR. JONES:

4 Q And at that time, on September 13, 2016, Tom was at
5 that time, a beneficiary of your trust; 50 percent of your
6 trust, right?

7 MS. ABRAMS: Objection as to the form it's vague --

8 THE COURT: Sustained.

9 MS. ABRAMS: -- I don't know what time. Yeah.

10 MR. JONES: At the --

11 THE COURT: You're talking about the LLC -- call it
12 what it is because it's (indiscernible) --

13 MR. JONES: No. She -- she also --

14 MS. LOBELLO: Do a better question.

15 MR. JONES: Okay.

16 THE COURT: Yeah.

17 BY MR. JONES:

18 Q You have -- you also had an estate plan where you
19 did a trust, right?

20 A Yes.

21 Q The trust that received the real property is the
22 trust that I'm referring to. Okay?

23 THE COURT: The one after 2016?

24 MR. JONES: This was on September 13, 2016.

1 THE COURT: Okay.

2 BY MR. JONES:

3 Q Your trust named Tom as a beneficiary, correct?

4 MS. LOBELLO: The Mich Mich Trust.

5 MR. JONES: The Mich Mich Trust.

6 THE WITNESS: The Mich Mich Trust? No.

7 BY MR. JONES:

8 Q Tom was never a beneficiary?

9 A I don't think so.

10 Q Okay. Let's go to -- let me get you the right book.

11 DR. MICHAELS: May I have my water please?

12 THE COURT: No. Yes.

13 (Laughter)

14 MS. LOBELLO: What volume are you in?

15 THE WITNESS: Thank you.

16 MR. JONES: Volume 12

17 MS. ABRAMS: What is it again?

18 MR. JONES: Volume 12, 139.

19 MS. ABRAMS: Thank you.

20 (Pause)

21 MR. JONES: All right. Sorry.

22 THE COURT: This is not in evidence at this time?

23 MS. ABRAMS: It isn't.

24 MR. JONES: Right. It is not.

1 (Pause)

2 MR. JONES: If you would turn -- hang on one sec.

3 (Pause)

4 MR. JONES: If you would turn to bates number

5 Dankamichael000687 of that -- of that exhibit.

6 (Pause)

7 BY MR. JONES:

8 Q Okay. Do you see that exchange of emails?

9 A Amendment. Oh, this is an amendment.

10 Q Right.

11 A Yes.

12 THE COURT: I'm sorry, where are we?

13 MR. JONES: Bates number 000687 of exhibit 139.

14 THE COURT: Okay. Is there -- Okay. Go ahead.

15 It's not in yet. Go ahead.

16 MR. JONES: No, it's not in.

17 BY MR. JONES:

18 Q Looking at the bottom half of that, your

19 communication to Shannon Wilson.

20 MS. LOBELLO: Evans.

21 MR. JONES: Oh, I'm sorry, Evans. Shannon Evans,

22 Shannon Wilson is an associate in my firm, sorry. Shannon

23 Evans -- that's the Danke Schoen (ph) Icloud.com email

24 address, right?

1 THE WITNESS: Yes.

2 BY MR. JONES:

3 Q And we've already established that you never gave
4 anybody your password to that, right?

5 A Yes.

6 Q Okay. And do you recall sending this email to
7 Shannon Evans?

8 A I don't have a recollection of it --

9 Q Okay.

10 A -- but, yeah, I've been through this so many times.

11 Q But, did you recall telling her to remove the
12 sentence from the family trust about in the event of my death
13 Tom will inherent 50 percent of the properties?

14 A Yes.

15 Q You remember instructing her as such, right?

16 A Yes.

17 THE COURT: What was that?

18 MR. JONES: Yeah, move to admit that bates number --

19 MS. ABRAMS: So --

20 MR. JONES: -- next in order.

21 MS. ABRAMS: -- I believe that's already part of our
22 exhibit -- let's see, B.

23 THE COURT: Which is --

24 MS. ABRAMS: Oh.

1 THE COURT: -- not in evidence.
2 MS. ABRAMS: Okay.
3 MR. JONES: Right. But, I don't know that
4 everything that's in their exhibit --
5 MS. ABRAMS: Okay. So --
6 MR. JONES: -- is admissible.
7 MS. ABRAMS: -- if they want to do this page as
8 their next numbered, I don't have a problem with it.
9 MS. LOBELLO: It's 152, I hope, right?
10 MS. ABRAMS: Yes, 152.
11 THE COURT: And this is 0005 --
12 MS. ABRAMS: 687.
13 MS. LOBELLO: 687.
14 THE COURT: 687?
15 (COURT AND CLERK CONFER)
16 (COUNSEL CONFER BRIEFLY)
17 THE COURT: Is that -- that's a complete, just the
18 one page is a complete document?
19 MR. JONES: Just the one page. Yes, Your Honor.
20 THE COURT: Okay.
21 (COURT AND CLERK CONFER BRIEFLY)
22 MR. JONES: I think it's 152, is that what we said?
23 MS. LOBELLO: Uh-huh (affirmative).
24 MR. JONES: Yes.

1 MS. ABRAMS: 152. Yes.

2 MR. JONES: All right, now.

3 THE COURT: So 150 -- it's in -- it's in exhibit
4 152?

5 MR. JONES: No. It's now exhibit --

6 THE COURT: Oh, Okay. Yeah.

7 MR. JONES: That one page is now exhibit 152. But,
8 it was --

9 THE COURT: So it is in 152.

10 MR. JONES: It was in 139. But yes, you're right,
11 it's now 152.

12 BY MR. JONES:

13 Q Now, on the same day in September of 2016 --
14 September 13, 2016, Tom also signed documentation -- documents
15 rather, transferring his LLC interest in Patience One to you,
16 correct?

17 A Yes.

18 Q At the time he transferred you, and -- and just so
19 The Court is clear, Patience One owns the building that we
20 just talked about, the value -- the net value is about three
21 million dollars, right?

22 A Yes.

23 Q Okay. At the time of that transfer, did you
24 transfer anything to Tom?

1 A No.

2 Q Did you pay him any cash?

3 A No.

4 Q Did you write him a check?

5 A No.

6 Q Did you sign any documents -- legal documents that

7 day that waived any claims or interest that you might have

8 had?

9 A I don't understand the question.

10 THE COURT: I don't either.

11 BY MR. JONES:

12 Q Did you sign any document that gave back to Tom,

13 something that you might have had a claim to?

14 A No.

15 Q And on September 13, 2016 you were still Tom's

16 primary care giver, right -- primary physician, right --

17 primary care physician?

18 A My nurse practitioner was his primary care.

19 Q Yeah, but you still prescribing him medicines,

20 correct?

21 A My nurse practitioner was prescribing his medication

22 Q -- Okay.

23 A -- as well.

24 Q Well, let's go back to exhibit 4.

1 THE COURT: Council, I think it'll probably be more
2 helpful to the Court if you establish the relationship between
3 doctor and nurse practitioner.

4 MR. JONES: Yeah. I'll do that Your Honor. But, I
5 also did want to point out -- if we look at -- okay --

6 THE COURT: If that makes any sense.

7 BY MR. JONES:

8 Q Your nurse practitioner is an employee in your
9 office, right?

10 A Yes.

11 Q And although they are able to sign prescriptions,
12 their doing so under your medical license, correct?

13 A No.

14 Q You have responsibility for them, right as far as
15 prescription writing?

16 A No.

17 Q So, your nurse practitioner can write scripts to
18 anybody and it has no impact on you?

19 A Yes.

20 Q But, your nurse practitioner was an employee of
21 yours, right?

22 A Yes. I am an employee of mine.

23 Q Employee of you, of your -- of your -- of your
24 professional corporation?

1 A I am an employee of my corporation, as well.

2 Q Okay. And according to exhibit 4, the prescriptions

3 that were prescribed to Tom in the -- in August of 2016 were

4 120 Percocet, 360 Xanax, and 240 Tramadol. Does that sound

5 about right?

6 A Yes. It's not about right, it's exactly correct.

7 Q And then, the next time he was prescribed meds would

8 have been in January of 2017, at least according to this.

9 A Yes.

10 Q Okay. Now, four years prior to you meeting Tom in

11 1996, you filed for bankruptcy, correct?

12 A Yes.

13 Q And currently according to the FDF --

14 A No.

15 Q -- that you filed yesterday --

16 A No. 1995, it was complete in 1996.

17 Q Okay. So, you received your discharge in 1996?

18 A 1996, yes.

19 Q And according to your financial declaration form

20 filed yesterday, you're net worth without putting a value on

21 your business is about \$4.5 million dollars, is that right?

22 A Possibly.

23 Q Well, do you think there's -- that your financial

24 declaration form is accurate?

1 A Should be.

2 MR. JONES: I pass the witness, Your Honor.

3 MS. ABRAMS: I want to reserve to my case --

4 MS. LOBELLO: Is it possible that we could take a
5 comfort break, please?

6 THE COURT: Yes. I do plan to break at noon because
7 I've got to meet with Judge Hugh's law clerk for the next
8 week, so I'm going to have an hour and a half at noon --

9 MR. JONES: Okay.

10 THE COURT: But yes, you may certainly have a
11 comfort break.

12 MS. LOBELLO: Thank you, Judge.

13 MR. JONES: And I'm sorry, council did you say
14 you're going to reserve?

15 MS. ABRAMS: I'm going to reserve for my case in
16 chief.

17 THE COURT: Okay. So then, you'll be reserving any
18 cross -- re-direct?

19 MR. JONES: Right.

20 THE COURT: Thank you.

21 MR. JONES: Well, yeah -- I mean -- I'll -- I'll --
22 I gotta -- to -- I guess to -- to the --

23 THE COURT: It's going to bleed in --

24 MR. JONES: -- to the extent --

1 THE COURT: -- together but, okay.

2 MR. JONES: -- that the cross that she has -- if

3 she's going to do it on direct, I get to cross everything she

4 asks anyway, so we --

5 THE COURT: Okay.

6 MR. JONES: -- don't have to worry about going down

7 the scope.

8 THE COURT: Very good.

9 MR. JONES: Thank you very much, Your Honor.

10 THE COURT: Thank you and you may step down.

11 MS. LOBELLO: Five minutes, ten minutes?

12 THE COURT: Five minutes.

13 MS. LOBELLO: All right. Let's go.

14 THE BAILIFF: You can just leave your stuff in here.

15 THE COURT: Unless you have a need for a longer

16 break.

17 THE BAILIFF: I'll lock the doors.

18 (Off record)

19 MS. LOBELLO: Tom Pickens.

20 THE COURT: Thank you. Mr. Pickens take the stand.

21 MR. JONES: Do you wanna be here so you can get --

22 MS. LOBELLO: No.

23 THE BAILIFF: Sir, you can bring your water up if

24 you need it, just so you have it.

1 MR. JONES: Here take a -- take a fresh one.
2 DR. MICHAELS: May I get my water from there?
3 THE BAILIFF: I can get it for you. Yes, ma'am.
4 DR. MICHAELS: Oh. Thank you.
5 MR. PICKENS: Thank you.
6 THE CLERK: Can you please raise your right hand.
7 You do solemnly swear the testimony you're about to give is
8 actual to be the truth, the whole, and nothing but the truth,
9 so help you God.
10 THE WITNESS: I do.
11 THE CLERK: Thank you. Please be seated.
12 MS. LOBELLO: I'm afraid I may not do as good of a
13 job as John did in telling you which -- book your need to be
14 in, but he's going to help me --
15 THE COURT: All right.
16 MS. LOBELLO: -- make sure this goes as smoothly as
17 possible.
18 THE COURT: Good.
19 THOMAS PICKENS
20 called as a witness on his own behalf, having been first duly
21 sworn, did testify upon her oath as follows on:
22 DIRECT EXAMINATION
23 BY MS. LOBELLO:
24 Q Will you please state your full legal name for the

1 record?

2 A Thomas Allen Pickens.

3 Q You're the plaintiff in this case?

4 A Yes.

5 Q What is your home address?

6 A 4514 Blue Mesa Way, Las Vegas, Nevada.

7 Q How long have you been a resident of Clark County,

8 Nevada?

9 A Twenty years or more.

10 Q Your intent is to continue to live in Clark County,

11 indefinitely?

12 A Yes.

13 Q What's your date of birth?

14 A 10/05/56.

15 Q That makes you how old?

16 A 63.

17 Q And do you know how old Danka is?

18 A She's 64.

19 Q What is the date of your wedding to Danka?

20 A April 7, 2002.

21 Q And prior to marrying Danka, were you married

22 previously?

23 A Yes.

24 Q Who were you married to last?

1 A Terry Meadows.
2 Q And do you remember when you divorced Terry?
3 A Early 2001.
4 Q And who made the choice to divorce, you or Terry?
5 A She did.
6 Q Was your marriage to Danka the first marriage for
7 her?
8 A No.
9 Q Who was she married to prior to you?
10 A Mr. Michalecko.
11 Q Was she divorced from him when you met her?
12 A I presumed -- I'm saying yes.
13 Q Do you have any -- did you have any children at the
14 time you participated in the wedding ceremony with Danka?
15 A No.
16 Q Did she have any children at the time of your
17 wedding?
18 A Yes.
19 Q How many?
20 A One.
21 Q What is his name?
22 A Jakub Michalecko.
23 Q He was the gentleman in court earlier that --
24 A That's correct.

1 Q -- we asked to step out? Have -- do you have any
2 children, you and Danka together?

3 A No.

4 Q You have no children?

5 A No children.

6 Q Prior to the wedding with Danka what was your
7 highest level of education?

8 A My it's -- high school -- four years of high school,
9 total of six years of college. Two years in Pensacola
10 Florida, two years in -- or one year in Pensacola Florida, two
11 years in -- Hinds Junior College in Mississippi, and four
12 years in University of Southern Mississippi.

13 Q And do you have any military service?

14 A Yes. I was in the navy for three years active,
15 three years reserve.

16 Q When did you first meet Danka?

17 A In 2000.

18 Q Okay. Where did you meet her?

19 A I met her at -- Summerlin Hospital on ICU.

20 Q Why were you in the Summerlin Hospital ICU?

21 A I was having a heart -- pains or I had a heart
22 condition that I was being seen for.

23 Q Why did you happen to meet Danka while you were
24 there for your heart condition?

1 A She was introduced to me by the cardiologist and
2 because I didn't have a -- a primary practice doctor, he
3 recommend that she could do that for me and she was the
4 attending physician for me at the hospital.

5 Q So, following meeting Danka in the hospital in early
6 2000, what relationship did you establish with her? What was
7 your initial relationship?

8 A One more time, I'm sorry.

9 Q What was your initial relationship of Danka after
10 you met her that day?

11 A She was my primary care doctor.

12 Q After that, did you develop any other type of
13 relationship with Danka?

14 A Yes. In 2001, say September we started having a
15 relationship.

16 Q What kind of relationship?

17 A It was a romantic relationship.

18 Q At some point did you and Danka begin living
19 together?

20 A Yes. It was --

21 Q Do you remember when that was?

22 A September, November is when we started living
23 together.

24 Q Of 2001?

1 A Yes.

2 Q Do you recall the entire length of time that Danka
3 was your primary care physician?

4 A From 2000 -- from 2000 to 2017.

5 Q Do you recall for what Danka has treated you over
6 the years? What medical reasons she has treated your
7 conditions?

8 A She has treated me for gout, anxiety, cholesterol,
9 high blood pressure, that's pretty much the list.

10 Q And back in 2000, when Danka became your primary
11 care physician and was treating you, were you a party to a
12 lawsuit?

13 A No.

14 Q Have you ever been a party to a lawsuit, other than
15 a divorce or any of your cases with Danka now?

16 A No.

17 Q And what were you doing career wise, when you met
18 Danka?

19 A I was working for Peck Jones out of California.
20 When I met her, I was actually on a project at Sherman Oaks
21 Galleria in California.

22 Q What do you do for a living? Describe for The Court
23 what your profession is.

24 A I'm a construction manager for large construction

1 projects.

2 Q And your position at Peck Jones, in case I missed it

3 was project manager?

4 A That's correct.

5 Q Do you recall approximately what you were making

6 annually in 2000 when you met Danka -- what average

7 compensation --

8 A Right around 100 -- \$100,000 a year.

9 Q Where was Danka working when you met her?

10 A Summit Medical Group.

11 Q She was an associate physician?

12 A That's correct.

13 Q When you established your relationship with Danka in

14 2001, did she own her own medical practice?

15 A No. She worked for Summit.

16 Q When you met Danka, where were you living?

17 A I was living at Bodega Drive in Las Vegas.

18 Q Was that a rental home?

19 A It was rental home, yes.

20 Q And where was Danka living?

21 A She was living at the Copparo house.

22 Q And was that home she owned?

23 A She owned that home.

24 Q Following your divorce from Terry, the divorce in

1 2001, what assets do you recall that you had? What --

2 A The only real assets -- I had a truck and some
3 furniture.

4 Q What assets did Danka have?

5 A She had the house, a car, and I think she might
6 have had a 401K.

7 Q Do you recall approximately what her 401K was worth?

8 A I believe it was around 50,000.

9 Q And do you recall whether she had a mortgage on the
10 Copparo house?

11 A Yes, she did.

12 Q You're not aware that she had any other assets other
13 than the assets you just described?

14 A No.

15 Q How was your credit when you met Danka?

16 A My credit was good.

17 Q How was her credit when you met Danka?

18 A Her credit -- the only thing I know about her credit
19 is she had a -- a previous bankruptcy that she was coming out
20 of.

21 Q Was your general understanding that your credit was
22 better or her credit?

23 A I would think at that time, my credit was better.

24 Q Okay. Have you ever filed bankruptcy?

1 A No.

2 Q At the time you met Danka, what if anything, did she
3 tell you about legal problems she was having?

4 A We -- we had several conversations about you know,
5 she was going through some malpractice pending lawsuits. I
6 mean, they weren't finalized, but she was going through, I
7 think there was five pending lawsuits.

8 A Medical malpractice --

9 Q Medical prac --

10 Q -- lawsuits?

11 A And she was definitely concerned about it. I mean
12 you know, I don't wish that on anybody for sure, so.

13 Q What specific concerns do you recall her explaining
14 to you about her malpractice lawsuits?

15 A Well, she was concerned about her license and you
16 know, her finances for sure.

17 Q What -- all right. So you -- I believe you
18 testified that you and Danka first lived together in either
19 September or November of 2001 to the best of your
20 recollection?

21 A Yes.

22 Q When you began living together, where did you live?

23 A We lived in -- in -- at the Copparo address.

24 Q In Danka's house?

1 A In Danka's house. Yes.

2 Q When you began living together who paid for what?

3 A At the beginning she was paying for things. During
4 that time, I know that I -- I started helping her with
5 finances. But, at the beginning she paid for the majority of
6 things.

7 Q When you say things do you mean --

8 A Well, the house payment, the electric, because I
9 didn't really know anything about it at that time when I moved
10 in.

11 Q Do you recall at what point you may have begun
12 sharing expenses for that house?

13 A I know when we got back from the -- the wedding in
14 Slovakia that I started paying my share or whatever I could
15 pay.

16 Q And the wedding in Slovakia, you're referring to the
17 ceremony in April of 2002?

18 A That's correct.

19 Q What, if any further issues have you had with your
20 heart since you first met Danka in 2000.

21 A I had several issues. I -- in -- in Las Vegas I was
22 treated by a group that -- there was a question in my mind
23 whether they were doing the right thing. And I had four or
24 five angiograms, three stints, and I ended up -- my family

1 almost recommended that I go get a second opinion. So, I
2 ended up getting a second opinion at Cleveland Clinic in Ohio
3 in I believe it was September of 2000. The day that they did
4 a angiogram and as soon as they got done with the angiogram,
5 they put me on the list to have open heart surgery the next
6 week. There was a stint that was placed that either -- either
7 moved or it was placed incorrectly. And therefore, they ended
8 up bypassing every single stint that they put in, in Las
9 Vegas.

10 Following that, I came -- I got out of the hospital
11 at Cleveland Clinic and I ended up getting a blood clot in my
12 lung of -- I stayed in the hospital for a period of time. I
13 came back to Las Vegas months later, I can't tell you the
14 date. I was having a problem with -- with my heart. And I
15 went to the -- my doctor -- he sent me to the hospital, I had
16 an angiogram, I flat-lined on the table. They brought me back
17 and -- and since that date continually having heart issues so.
18 So, that's pretty much it.

19 Q Thank you.

20 THE COURT: Could I get a --

21 A I think my last angiogram --

22 THE COURT: -- time frame on all of this?

23 MS. LOBELLO: Pardon me?

24 THE COURT: Can I get a time frame?

1 MS. LOBELLO: Oh yes. Can you clarify, when were
2 you in the Cleveland Clinic?

3 THE WITNESS: Cleveland Clinic, I was in September
4 2000. I came back to Las Vegas in October. The next
5 angiogram, I -- I can't tell you when I back -- went back in
6 the hospital for that. My last angiogram was I think 2015, is
7 when my last angiogram was.

8 THE COURT: When did you flat-line?

9 MR. PICKENS: What's that?

10 THE COURT: You said you flat-lined.

11 THE WITNESS: I flat-lined probably in -- I'm gonna
12 say -- I don't know, May, June 2001.

13 THE COURT: Thank you.

14 THE WITNESS: I'm not certain, but I'm --

15 THE COURT: That's okay --

16 THE WITNESS: -- pretty sure.

17 THE COURT: -- I just need a general.

18 THE WITNESS: I've had several angiograms since that
19 date.

20 MS. LOBELLO: May Mr. Jones approach the witness?

21 MR. JONES: It's not an exhibit, just frame of
22 reference.

23 MS. LOBELLO: I have a copy of the complaint.

24 THE COURT: Sure. The original complaint?

1 MS. LOBELLO: Yes.

2 MR. JONES: And -- and the first amended and second.

3 MS. LOBELLO: Would Your Honor like a copy?

4 THE COURT: I have them right here on my desktop.

5 MR. JONES: I can give you a hard copy if you want.

6 THE COURT: That's okay.

7 BY MS. LOBELLO:

8 Q Tom, have you read the complaint that Mr. Jones just
9 handed you filed in this case of October 21, 2017?

10 A Yes.

11 Q And the title is that was a complaint for divorce --

12 A That's correct.

13 Q -- and for -- and for set aside of deeds of real
14 property and assignment of LLC interest. Is that right?

15 A That's correct.

16 Q In that document, you alleged that both you and
17 Danka were residents of Clark County, is that still true?

18 A That's true.

19 Q In this document, you alleged that you were legally
20 married to Danka on April 7, 2002 in Bratislava, Slovakia.

21 A That's correct.

22 Q And why did you make the allegation in this first
23 complaint?

24 A Because I believed I was married in Slovakia.

1 Q When did you and Danka decide to get married?

2 A We decided to get married -- I'm -- two or three
3 months before we got married in April. We talked about it,
4 the talk went back and forth. We thought about not getting
5 married and then Danka decided well, let's get married in
6 Slovakia. And I said fine, let's go get married.

7 MS. ABRAMS: I'm just going to --

8 THE WITNESS: She had family --

9 MS. ABRAMS: I'm sorry, go ahead. I thought you
10 were done.

11 THE WITNESS: Okay.

12 MS. ABRAMS: Please finish.

13 THE WITNESS: So, she had family and friends in
14 Slovakia and she said she would like to get married there and
15 I agreed to go.

16 MS. LOBELLO: Ms. Abrams, he's finished with the
17 answer.

18 MS. ABRAMS: Your Honor, I just want to make a
19 general objection so that I don't interrupt the proceedings.
20 They're assuming there was a marriage, it was referred to as a
21 commitment ceremony or a marriage. I just want to preserve
22 that objection on the record so I don't interrupt every time
23 she's asking about a marriage, they're -- they've -- it's been
24 established that there was no marriage. They withdrew the

1 complaint for divorce and so --

2 MS. LOBELLO: Which is the --

3 MS. ABRAMS: There's --

4 MS. LOBELLO: -- line of questioning I'm covering
5 right now, so.

6 MS. ABRAMS: Okay.

7 THE COURT: Okay.

8 MR. JONES: And -- and it's quite possible given the
9 testimony of the defendant where she referred to it as a
10 marriage, that we will be amending our second amended
11 complaint to conform to the -- to the evidence under CP14.
12 You know, we don't know how all the evidence is going to shake
13 out.

14 THE COURT: Okay.

15 MS. ABRAMS: Okay.

16 THE COURT: That -- that may be it for the future.
17 Go ahead.

18 BY MS. LOBELLO:

19 Q So, at that time did you and Danka love each other?
20 Was that your understanding?

21 A Yes.

22 Q You believed she was in love with you?

23 A Yes.

24 Q Prior to the marriage, did you and Danka discuss

1 asset protection?

2 A Yes.

3 Q And what was the specific concern there?

4 A Well, the concern was because of the -- the pending

5 lawsuits that if we got married there could be a possibility

6 of -- of everything we had together would be attacked, I mean

7 let's just say. So then --

8 Q So how did -- how did have the wedding in Slovakia

9 help with that concern?

10 A The conversation was is that if we got married in

11 Slovakia that it would take creditors much more time to figure

12 out that we were married. And therefore, we just never

13 brought it to the United States.

14 Q Was there any other reason for picking Slovakia

15 besides the asset protection concern?

16 A The other reason, her family lived there, her

17 friends were there. There were 25 people at the -- the

18 wedding --

19 Q Where was Danka born?

20 A She was born right in Slava.

21 Q So, you were going back basically to her home?

22 A Correct.

23 Q Did you and Danka ever discuss the concept of a

24 commitment ceremony?

1 A Never.

2 Q Never heard Danka say the word commitment ceremony
3 prior to this law suit being filed?

4 A Never.

5 Q Did Danka want to have a wedding?

6 A I believe she did, yes.

7 Q And what specifically did she tell you about the
8 kind of wedding she wanted?

9 A Well, she said she wanted a Catholic ceremony and a
10 Catholic church in her home town. She remembered being little
11 and her grandmother going to the Catholic church. So, that's
12 why I presumed she wanted to get married there.

13 Q Was it your intent when you participated in the
14 ceremony in Slovakia to have a legal marriage?

15 A Yes.

16 Q How did you prepare for the wedding?

17 A Well, we actually went out and got -- rings, we made
18 travel arrangements, we made hotel arrangements. Her mother
19 made arrangements with the church. She set up all the
20 photographs. We went and bought Danka her dress that she
21 wore.

22 Q Were guests invited to the wedding?

23 A Yes.

24 Q Anything else you had to do before you could get

1 married in the Catholic church in Slovakia?

2 A We had to go to a church in Las Vegas, I don't
3 recollect the church. We had to be seen by a priest and he
4 had to give us our blessing. I'm not sure what that is, I'm
5 not familiar with the Catholic church.

6 Q Did you have to have pre-marriage instruction?

7 A Correct. And we got a letter from him. We took it
8 to Slovakia with us and gave to the priest there.

9 Q Who arranged for the meeting with the priest in Las
10 Vegas?

11 A Danka did.

12 Q Do you remember the ceremony in Slovakia on April 2
13 --

14 A Oh --

15 Q -- or April 7, 2002?

16 A -- yes. Yeah, it was --

17 Q Was it a formal wedding?

18 A It was a formal wed -- wedding. It was a religious
19 ceremony. The -- the priest was at the alter, her father
20 walked her down the -- the aisle. I didn't understand
21 everything because it was either in Latin or Slovakian. So, I
22 wasn't -- didn't really know what was going on. Danka would
23 translate most of what was going on to me.

24 Q Were you pronounced husband and wife at the close of

1 the ceremony?

2 A Yes.

3 Q After the ceremony did anything else happen at the
4 church?

5 A We did -- before the ceremony we did go in to the
6 office and I believe we signed the -- they had a book that we
7 signed. That's all I remember.

8 MS. LOBELLO: Is exhibit book 1 in front of the
9 witness?

10 MR. JONES: I believe so.

11 BY MS. LOBELLO:

12 Q Turn to exhibit 2, please. Exhibit 2, which is
13 already admitted, is a copy of the marriage certificate. Do
14 you recall that, Tom?

15 A Yes.

16 Q Did you ever -- during the course of the ceremony in
17 April 2002 in Slovakia, did you ever have possession of that
18 marriage certificate?

19 A No.

20 Q How did you come into pos --

21 THE COURT: I'm sorry what -- when did -- you said
22 before you were married? What time frame did you just --

23 MS. LOBELLO: I'm sorry.

24 THE COURT: -- give that? I'm sorry.

1 MS. LOBELLO: At any time in April of 2002, when the
2 wedding occurred, did you ever have possession of that
3 marriage certificate?

4 THE WITNESS: No.

5 BY MS. LOBELLO:

6 Q Have you ever had possession of that marriage
7 certificate?

8 A Not until 2017 or '18 when -- I had a friend --
9 Danka's friend actually go out and see if she could get it
10 from the church and send it to me and she did.

11 Q So, the first time you saw this was in 2017?

12 A Correct.

13 Q And why did you ask Danka's friend to go and get a
14 copy of the marriage certificate?

15 A Because I believed we were married and, you know, I
16 knew the church would have a record of it. So, I asked her to
17 -- to see if she could get it for me and she did --

18 Q Was it --

19 A -- and this is what she sent to me.

20 Q That was after you learned in this lawsuit that you
21 -- there was a contention --

22 A There was a question. Yes.

23 Q -- you were not legally married?

24 A Correct.

1 Q Who handled the legalities of the wedding in
2 Slovakia?

3 A Danka did.

4 Q Did you and Danka ever in 2002, discuss the act of
5 registering the marriage certificate?

6 A No.

7 Q Did you ever hear about an issue of registering or
8 not registering that marriage certificate before this lawsuit
9 was filed?

10 A No.

11 Q So, in exhibit 1 and you don't even need to look at
12 it, I already know you know what it is and it's in evidence.
13 But, Danka talked about the wedding announcement. That's one
14 of the photographs that announces your wedding. Do you recall
15 that wedding announcement back in 2002 when you got married?

16 A Yes, I did.

17 Q What happened to that announcement after you
18 received copies of it, you and Danka?

19 A We -- we received a package from the photographer
20 with those announcements that we brought back to United
21 States. We sent them to family and friends here in United
22 States.

23 Q Now, following the wedding April 2002, did you and
24 Danka celebrate your wedding anniversary, annually?

1 A Yes.

2 Q Every year on April 7, until you separated?

3 A Yes.

4 Q What did you do on your anniversary, typically? For
5 example, give the Judge what you typically did.

6 A Flowers, dinner, gifts.

7 Q What kind of gifts?

8 A Most of the time I'm a jewelry giver and most of the
9 time I'd give her jewelry.

10 Q Now, in the complaint for divorce that was filed,
11 the initial complaint for divorce filed on October 24, 2017
12 you made the allegation that were community assets and debts
13 to be divided by the court; is that right?

14 A That's correct.

15 Q You asked for an equitable division of community
16 assets and debts, right?

17 A Correct.

18 Q And you asked the court to find that you and Danka
19 were incompatible in marriage.

20 A Correct.

21 Q Is that right? Okay. Now when you signed this
22 complaint, the first complaint, did you believe you were
23 legally married?

24 A I believed we were married, yes.

1 Q Now, this complaint also contains the second cause
2 of action to set aside deeds of real property and assignment
3 of LLC interest. Do you recall that?

4 A Yes.

5 Q Okay. So, you specifically asked to have those
6 transactions set aside when you first filed for divorce?

7 A Yes.

8 Q All right. And we'll come back to talk about that
9 more later. Now, I need the second amended now. I'm going to
10 talk about the second amended complaint and I'll have copies
11 for everyone who needs them.

12 THE COURT: I have it on my desktop.

13 (Pause)

14 THE WITNESS: Thank you.

15 BY MS. LOBELLO:

16 Q The document that Mr. Jones just handed you, this is
17 the second amended complaint for equitable relief under the
18 punitive spouse doctrine, and pursuant to express and arm
19 fight agreement to hold property as if the parties were
20 married until Michoff, and to set aside deeds of real property
21 and assignment of LLC interest filed in this case on October
22 15, 2018. Did I read that correctly, Tom?

23 A Yes.

24 Q Now, did you also sign this second amended

1 complaint?

2 A Yes, I did.

3 Q Why in this second amended complaint do you not ask
4 for a divorce?

5 A Because it was found that the marriage in Slovakia
6 wasn't certified or wasn't taken to the local community and
7 certified.

8 Q Do you recall about when you learned it was not
9 certified, that marriage certificate? Was it before of after
10 this case was filed?

11 A It was after this one.

12 Q Do you recall --

13 A It was -- it was before this one and after the first
14 one, I'm sorry.

15 Q But, just this case in general --

16 A Yeah.

17 Q -- it happened.

18 A Correct.

19 MS. ABRAMS: Wait, I'm sorry. I didn't really
20 understand the answer to that --

21 THE COURT: My understanding is, and correct me if
22 I'm wrong or ask further follow up questions. He learned
23 about the failure of the signature of the filing in Slovakia
24 to be a problem for asking for divorce in between the first

1 complaint and the second amendment.

2 THE WITNESS: That's correct.

3 MS. LOBELLO: Correct.

4 THE COURT: Does that --

5 MS. ABRAMS: So there --

6 THE COURT: -- answer your question?

7 MS. ABRAMS: -- was a first amended complaint in

8 between here as well. They jumped from the --

9 THE COURT: Yes, they did.

10 MS. ABRAMS: -- from the complaint --

11 MS. LOBELLO: That's -- that's a subject for cross

12 examination.

13 MS. ABRAMS: Okay.

14 THE COURT: Okay.

15 MS. ABRAMS: I'm just trying to --

16 THE COURT: Okay.

17 MS. ABRAMS: -- make sure I understand --

18 THE COURT: We -- we did --

19 MS. ABRAMS: -- what's (indiscernible) --

20 THE COURT: We did the complaint --

21 MR. JONES: Sometime between the first complaint and

22 the second amended complaint is when he found out.

23 THE COURT: Okay.

24 THE WITNESS: Ex -- Exactly.

1 THE COURT: That's what we got.

2 THE WITNESS: That's correct.

3 THE COURT: That's what I understand it to be. Go
4 ahead.

5 THE WITNESS: That's correct.

6 BY MS. LOBELLO:

7 Q And you found out because experts looked into it,
8 right, Tom?

9 A That's correct.

10 Q When you heard that the marriage certificate had not
11 been registered correctly in Slovakia, were you surprised?

12 A I -- not -- I was surprised, shocked, among other
13 things for sure. I believed for the fifteen years we were
14 together, we were basically married.

15 Q After the wedding in April 2002, you and Danka
16 obviously continued to live together?

17 A Correct.

18 Q What, if anything changed financially between the
19 two of you after the wedding ceremony?

20 A We opened up checking accounts together. We paid
21 bills together. We lived our lives as husband and wife.

22 MS. LOBELLO: A moment of indulgence, Your Honor.
23 Where's our exhibit list?

24 (Pause)

1 BY MS. LOBELLO:

2 Q Did anything change after 2002 with regard to your
3 employment?

4 A In 2002, I left Peck Jones. We discussed before I
5 did it.

6 Q Who's we?

7 A Danka and I. I actually had an episode in
8 California. I was driving back and forth to California every
9 week. I had an episode in California and it -- we just
10 decided it was best that I didn't go back to California
11 anymore. Then, we decided to open her private practice at
12 7373 Peak Boulevard. And --

13 Q When did you decide you were going to open a private
14 practice for her?

15 A What's that?

16 Q When did you and Danka decide you were going to open
17 her a private practice?

18 A It was 2003 is when we started putting things
19 together.

20 Q So, if you were not earning a paycheck, a
21 traditional paycheck doing construction in that time period,
22 is that because you were working with Danka on the practice?

23 A Yes.

24 Q So, when did you and Danka actually acquire that

1 first business?

2 A 2003, we opened her new practice -- she found a
3 space at the -- The Swisher Hall building on Peak Boulevard or
4 Avenue, I think.

5 Q So, the Peak -- let's talk about the Peak Avenue
6 rental. Tell The Court about that building.

7 A She found a space that was brand new, no previous
8 tenant improvements were done and it was just concrete floors.
9 We -- the architect upstairs between Danko and I and them, we
10 designed the space. A friend of mine ended up doing the
11 construction, basically he let me run it. We -- I bought out
12 all the trades. The contract went to Swisher Hall. They gave
13 us \$35.00 a square foot for the tenant improvement.

14 Q So, let me just clarify a few things. Swisher Hall
15 was the landlord in that building?

16 A That's correct.

17 Q So, you did the negotiation with the landlord?

18 A That's correct.

19 Q And what was the deal you reached, specifically?

20 A It -- we were going to build it out for the tenant
21 improvement amount that they offered.

22 Q You brought the general contract --

23 A I brought the general contractor in. I managed the
24 project, I hired all the sub contractors, I helped do the

1 build out. A good -- a friend of mine did all the framing,
2 Todd Kilty. He brought his sons in and we did all the build
3 out for the cost. There was no cost overruns.

4 Q Did you get paid --

5 A No.

6 Q -- for your time on that project?

7 A No.

8 Q Did Arfa Construction get paid for their time?

9 A No. They did it as a favor to me.

10 Q You having experience working in the construction
11 industry in that time, was the build out at \$35.00 a square
12 foot a reasonable cost?

13 A No, it was a screaming deal. There's no way you
14 could build out that space for that amount of money.

15 Q Unless you got your friends --

16 A If it wasn't for --

17 Q -- to work for free.

18 A -- before my -- because of my contacts we got it
19 done for the price that they gave us.

20 Q Other steps taken when you decided to start the
21 business, your first business together, the medical practice
22 besides the build out, do you recall?

23 A I had other contacts that I brought in to give us
24 advice. Avi Schlesinger, was the -- he was the office manager

1 for Nevada Orthopaedics and he had a -- practice management
2 group that he worked, or he owned. And so, I asked for his
3 advice. So, he would make some recommendations, some of them
4 Danko liked, some she didn't. But overall, he gave us a start
5 on the business.

6 Q What kind of systems did Mr. Schlesinger help you
7 establish?

8 A Well, he helped us with the billing, he helped us
9 with the licensing is basically what he brought to the table.
10 I mean, he didn't do all the work but he -- he offered to
11 help.

12 Q And there was obviously a professional corporation
13 set up for that business?

14 A Yes.

15 Q And you're not a licensed physician, right?

16 A No.

17 Q So your name could not be on the corporation?

18 A No.

19 Q All right. So, were you present at the office when
20 it opened?

21 A Yes.

22 Q How frequently?

23 A Two or three times a week at that time.

24 Q What did you do when you were present at the office,

1 for the business on behalf of the business.

2 A I would do whatever was necessary. If she needed a
3 box of supplies I would go, if she needed help looking at
4 billing, I would help her with that. I would try to you know,
5 anything around the office I'd try to help her with.

6 Q How many employees did -- Danka Michaels, MD PC have
7 when that first office opened.

8 A There was probably four or five.

9 Q Were you compensated as an employee when the
10 business first opened?

11 A Not at the beginning, no.

12 Q Were you eventually added to the payroll, do you
13 know?

14 A Yes.

15 Q Were you eventually provided the benefit of a 401K?

16 A Yes.

17 Q So, during the time that the building -- the tenant
18 improvements were being completed, you didn't have a different
19 job?

20 A No.

21 Q At some point, did you obtain employment separate
22 from helping with running the business?

23 A In 2004, I went to work for Station Casinos. It
24 might have been the end of 2003, 2004.

1 Q Station Casinos, what was your title?
2 A Project Manager.
3 Q How long did you work for Stations?
4 A Until 2008.
5 Q So, we talked about the first business you and Danka
6 started together. Did you start any other businesses
7 together?
8 A Yes. She opened a health spa in the practice. We
9 had a doctor sharing the space when we originally opened up,
10 Dr. Verni. He decided to leave and after he left, Danka
11 wanted to do medical -- try a medical spa business because it
12 was the up and coming business to actually be able to make
13 money.
14 So, I renovated the four offices where Michael Verni
15 was. We added sinks to two of the rooms, added more power,
16 more lights, added a front desk for them -- separate desk for
17 them. So, that was the other business we opened up from -- in
18 2000 -- probably '04 or '05, I'm going to '05.
19 Q And that was while you were employed with Stations?
20 A Yes.
21 Q Did you work full time at Stations?
22 A Yes.
23 Q What was the name of this new business?
24 A It was -- Blue Point Medical Spa.

1 Q What -- what does the medical spa do, specifically?
2 If you can describe just briefly for The Judge.

3 A I'm not very good at it, but I'll take a stab.
4 Botox, fillers, -- laser treatments, beauty treatments, I
5 don't -- I'm not sure if it's beauty or not, but that's beside
6 the point.

7 Q Who was the general contractor for the project when
8 you did that renovation for Blue Point Medical Spa?

9 A Same, Barry Arfa.

10 Q Did he charge for his service --

11 A No.

12 Q -- on that?

13 A No.

14 Q Does the medical spa have specialized equipment?

15 A Yes.

16 Q Can you describe some of the specialized --

17 A The --

18 Q -- equipment?

19 A The lasers that you use in a medical spa are fairly
20 spendy. They -- I can't explain all that they do but -- they
21 help tighten up skin, remove hair, but it's very expensive
22 equipment.

23 A Could you describe after 2005 when the medical spa
24 was opened, some of the equipment that you and Danko

1 purchased?

2 A We ordered a -- it -- tough but I will. We ordered
3 one laser. And we ordered one single laser, then we ordered
4 another, a Lume, I think it was a Lume 1 that had different
5 treatments you could do on it. And that equipment was
6 extremely expensive.

7 Q What are -- give an example of some of the costs of
8 these --

9 A They --

10 Q -- machines.

11 A -- can go from hundreds to millions of dollars.

12 Q At any point was any of the equipment purchased for
13 Blue Point Medical Spa, paid by a source other than Danka's
14 medical practice?

15 A Yes, later in -- I'm going to say 2015, my company
16 purchased half of one of the new lasers. It cost me \$43,000.

17 Q Do you recall what the cost was to do the renovation
18 of the Dr. Verni's old section of the --

19 A It was --

20 Q -- office?

21 A -- It was 20 to 30 thousand.

22 Q Now you described --

23 A Danka paid that --

24 Q -- the medical --

1 A -- out of pocket.

2 Q -- practice, you described Blue Point Medical --

3 MS. ABRAMS: I'm sorry, they were talking over each

4 other.

5 THE WITNESS: Okay.

6 MS. ABRAMS: Can --

7 THE COURT: Go ahead.

8 THE WITNESS: Danka paid for that finance the -- the

9 construction. Go ahead, I'm sorry.

10 BY MS. LOBELLO:

11 Q The medical practice?

12 A Yes - for the spa.

13 Q All right. So, in addition to the medical practice

14 and the medical spa, did you and Danka establish any other

15 businesses after your wedding?

16 A Yes.

17 Q What was the next business you started together?

18 A The next business was Patience One, LLC.

19 Q When did the idea for Patience One begin?

20 A Patience One started -- it -- probably I'm going to

21 say 2009, 2008. She had been in the Swisher Hall building for

22 some time and we decided to start looking for an office

23 building that we could purchase, because it made more sense to

24 own our own building and run our businesses out a new

1 building.

2 Q Now ultimately, when did Patience One find a
3 building?

4 A I think it was 2012, 2011.

5 Q Which is why because it took so long to find a
6 building --

7 A Yes.

8 Q -- it's called Patience One?

9 A Correct. That's correct.

10 Q That's a cute story. Now, there -- are there any
11 other businesses besides the three that you've already talked
12 about that were established after you two had your ceremony?

13 A I opened Blue Point Development in 2008.

14 Q What does Blue Point Development do?

15 A It was a construction management/owners rep
16 business.

17 Q And why did you start Blue Point in 2008, what had
18 happened?

19 A 2008 the -- when the economy went down, I was laid
20 off of Stations Casinos. I formed Blue Point Development and
21 went to work for Stations' sister-brother company UFC. So, I
22 did it as a consultant to them and overseeing all of their
23 construction. I oversaw their corporate office renovation,
24 several office buildings within that complex, I renovated. I

1 oversaw The Ultimate Fighting -- series renovation of that
2 movie set. I oversaw Bishop Gorman for the Fertitta's, the
3 expansion of Bishop Gorman at that time. I did a project for
4 the Fertitta family in Laguna -- in California for they had a
5 private gym they wanted open and I oversaw that project. So,
6 I stayed pretty busy.

7 Q So you did -- started the company in 2008 --

8 A That's correct.

9 Q -- is that -- Okay. Is that still in business?

10 A Yes.

11 Q Okay. When you started the company how many
12 employees did you have?

13 A When I started I only had one, me.

14 Q And what were the best years for your company?

15 A In 2012, I -- I was recommended to a group out of
16 New York, Guggenheim Partners out of New York, to be a --
17 someone that I should be -- they should hire for their
18 construction project in Las Vegas. I was recommended by the
19 Fertittas. I received that -- that contract and in 2014, when
20 I completed it, I received a one million dollar bonus for the
21 project. It was -- they also gave me -- awarded me two other
22 projects. One in Marco Island and one in -- St. Thomas.

23 Q Okay. So, what -- at the height of -- of your
24 business what -- what was the most employees Blue Point had?

1 A I think at the most I had was six.

2 Q How many employees do you have now?

3 A None.

4 Q How many employees does Danka's medical practice and
5 Blue Point Spa have combined now? If you know.

6 A I think probably 14 or 15, I don't know -- I'm not
7 sure.

8 Q Okay. Let's talk about -- we talked about the
9 businesses that you and Danka formed following your wedding
10 ceremony. Let's talk about the property that you've acquired.

11 A Okay.

12 Q All right. We need to talk about the building,
13 obviously in Patience One, but did you buy any other property
14 together, real property?

15 A In 2004, we bought Queens Ridge.

16 Q What's the address of Queens Ridge?

17 A 9517 Queen Charlotte.

18 Q Could you turn in the book that says binder one, to
19 exhibit 5 please?

20 THE COURT: We are coming close to a topic change.

21 MS. LOBELLO: Oh.

22 THE COURT: We'll be taking our --

23 MR. JONES: It's almost noon.

24 THE COURT: -- break, so if you're --

1 MS. LOBELLO: Okay. Let me --

2 THE COURT: -- moving from one topic --

3 MS. LOBELLO: -- actually, we'll do this really
4 quick, Your Honor --

5 THE COURT: That's fine.

6 MS. LOBELLO: -- because I'm worried that I'm going
7 to run out of time.

8 THE COURT: Very good.

9 BY MS. LOBELLO:

10 Q So, you don't even need to look at the exhibit. You
11 bought the property when, Tom? I know you remember this.
12 We've talked about it so many times.

13 A Yeah. We bought -- 2004 we bought -- bought Queens
14 Ridge.

15 Q Okay. And the address of that property, again?

16 A 9517 Queen Charlotte.

17 Q Las Vegas, Nevada?

18 A That's correct.

19 Q Okay. Purchased on or about September 30, 2004?

20 A That's correct.

21 Q Okay. What was the source of funds that was used as
22 the down payment on that property?

23 A The down payment was made by Danka's sale of her
24 house in Copparo. The -- we -- the house -- the house was

1 sold for \$326,000. She put --

2 Q The Copparo house, you mean?

3 A That's correct. She --

4 Q How much was the mortgage at that time?

5 A At Copparo?

6 Q Yes.

7 A It wasn't -- I don't -- I can't tell ya. \$500 or

8 \$600 -- it wasn't that much.

9 Q I mean the total owed on the property.

10 A Oh, I don't know. I can't tell you.

11 Q Okay. Do you recall -- or do you recall -- recall

12 approximately how much was put down on the Queen Charlotte

13 house --

14 A Yeah.

15 Q -- out of the Copparo --

16 A Yeah.

17 Q -- proceeds?

18 A What -- what ended up happening is the -- the

19 mortgage was paid off from that -- the funds that were

20 received and we put down our -- we put down \$200,000 on the

21 Queen Charlotte house.

22 MR. JONES: It's time to stop.

23 MS. LOBELLO: You want to stop?

24 MR. JONES: Well, The Judge says (indiscernible)

1 THE COURT: When we come to a break in your --
2 MS. LOBELLO: Okay. We can stop.
3 THE COURT: This type of questioning --
4 MS. LOBELLO: This is fine. This -- this is good.
5 THE COURT: This is a good spot?
6 MS. LOBELLO: Yeah.
7 THE COURT: Okay. All right. Let's resume at 1:30.
8 MR. JONES: Okay. Thank you Judge.
9 THE COURT: Thank you.
10 (Off record)
11 THE COURT: Did you guys settle over lunch?
12 MS. ABRAMS: Sorry.
13 THE COURT: No problem.
14 MS. LOBELLO: If we can call a witness out of order,
15 I'd like to call a witness out of order. I'd like to call
16 Dara Lesmeister.
17 THE COURT: Any problem with that?
18 MS. ABRAMS: No problem.
19 THE COURT: Okay.
20 MR. JONES: I will tell the Court that there was a
21 very brief conversation between Counsel.
22 THE COURT: That's nice. I like it when you guys
23 talk.
24 MR. JONES: About resolution.

1 THE CLERK: Is her name Dara?
2 MS. LOBELLO: Dara.
3 THE CLERK: Dara?
4 MS. LOBELLO: Yes.
5 THE CLERK: Okay.
6 MR. JONES: Should be the one out there in work
7 boots.
8 THE CLERK: Can you please raise your right hand?
9 You do solemnly swear the testimony you're about to give in
10 this action shall be the truth, the whole truth, and nothing
11 but the truth, so help you, God? .
12 THE WITNESS: Yes, I do.
13 THE CLERK: Thank you. Please be seated.
14 THE COURT: Proceed.
15 DARA LYNN LESMEISTER
16 called as a witness on behalf of the Plaintiff, having been
17 first duly sworn, did testify upon her oath as follows on:
18 DIRECT EXAMINATION
19 BY MS. LOBELLO:
20 Q Will you please state your full legal name?
21 A Dara Lynn Lesmeister.
22 Q Do you know Tom Pickens?
23 A I do.
24 Q And do you know Danka Michaels?

1 A Yes, I do.

2 Q So let's start with Tom. When did you first meet
3 Tom?

4 A Around 2006, I -- I believe. We both worked for
5 Station Casinos.

6 Q So that's how you met him? You worked together?

7 A Yes.

8 Q Do you recall how long you and Tom worked together
9 at Stations?

10 A We completed Red Rock, and then we moved on to
11 Aliante, and I believe that was six or seven years, total.

12 Q So when you met Tom through work at Stations, did
13 you and he become friends?

14 A Yes, we did.

15 Q Based on your friendship with Tom, what was your
16 understanding of his marital status?

17 A I always knew he was married.

18 Q Who was he married to?

19 A Danka.

20 Q When did you first meet Danka?

21 A I did not meet her, actually meet her, talk to her,
22 until after we were working at Aliante, and I had need for a
23 doctor, and one of the other project managers for Stations had
24 told me that Tom's wife was a doctor. So I asked Tom, and he

1 referred me to her.

2 THE COURT: Can you get a time frame on that?

3 BY MS. LOBELLO:

4 Q So that was when you said you were working at
5 Aliante?

6 A Yes, but still for Station Casinos. It was just --

7 Q So --

8 A -- a different project.

9 Q So would that have been in I'm guessing sometime
10 between 2004 and 2008?

11 A Yes.

12 Q The judge was just wondering if there -- if you
13 had -- had a time frame of when you met her.

14 A It was probably 2007, when I became her patient.

15 Q Did Danka ever make any statements when you were in
16 her -- were in her presence regarding her marital status?

17 A We always talked about Tom as her husband, so. She
18 knew that I was Tom's friend, and that I had worked with both
19 Tom and her son, Jakub.

20 Q Have you ever heard Danka say anything that would
21 make you believe that Tom was not her husband?

22 A No, I have not.

23 Q Did you ever hear Danka refer to herself as an
24 unmarried person?

1 A No, I did not.

2 Q Did you refer any other patients to anyone at
3 Danka's practice?

4 A Yes, actually. Initially, my daughter, and then her
5 husband, and then both of her husband's parents. They're all
6 still being seen at Danka -- Danka's practice.

7 Q When you referred your family members to Danka's
8 practice, how did you describe Danka to your family members,
9 how you knew her?

10 A As Tom's wife. My daughter actually worked with Tom
11 and I, so he -- she knew that I had gone to -- to a -- the
12 doctor, and it was Tom's wife.

13 Q When did you leave Stations? Do you remember?

14 A When -- I would say -- no, I don't remember the
15 exact time. It was when the economy crashed here in town, and
16 all the construction stopped.

17 Q And actually, that question wasn't that important.

18 A Okay.

19 Q Sorry. After you and Tom no longer worked together
20 at Stations, did you ever have occasion to work together
21 again?

22 A Yes, we did.

23 Q Okay. What year did you and Tom begin working
24 together again?

1 A It was February of 2015.

2 Q Where did you and Tom work together?

3 A At his business, Bluepoint Development.

4 Q Did you have an understanding of -- actually, let
5 me -- what was your position?

6 A I was safety director, and superintendent, and
7 anything else he needed to have done.

8 Q Where was the office of Bluepoint Development?

9 A 3320 North Buffalo.

10 Q Did you know any of the other tenants in the
11 building at 3320 North Buffalo, besides Bluepoint Development?
12 Were you aware of who the tenants were of the building?

13 A Yes. It was Danka's practice, and then the spa.

14 Q So did you have occasion to see Danka at the
15 building while you were working for Bluepoint Development?

16 A Yes.

17 Q Did you see her frequently?

18 A Yes. Either -- I would go down for a doctor's
19 appointment, she would come up to see Tom, I'd take mail down,
20 so yeah. I saw them very frequently.

21 Q Did you have any understanding as to who owned the
22 building located at 3320 North Buffalo?

23 A Tom and Danka.

24 Q How did you come to that understanding, that they

1 both owned the building?

2 A The first time I heard about it was prior to going
3 to work for Tom, but after that, we'd both left Stations, I
4 was Danka's patient. And she had actually told me in their
5 office that her and Tom had bought a building, and they would
6 be moving there.

7 Q While you were working at Bluepoint, did you have
8 access to see how the -- how busy the company was, how the
9 company's workload was?

10 A Yes.

11 Q So in 2015, when you began your employment, how was
12 the workload?

13 A We were very busy.

14 Q So did there come a time after February, 2015, that
15 you noticed the workload of the company changed?

16 A Yes. It was probably at least a year and a half or
17 so into my employment there, when new jobs weren't coming in,
18 and the jobs were ending.

19 Q That was about August, then, of 2017 or so?

20 A Yeah.

21 Q So the workload then was lighter or heavier than
22 when you --

23 A Lighter.

24 Q Now, did you witness anything that would explain why

1 the workload had decreased?

2 A I think it was greatly due to a couple of Tom's
3 employees that went behind his back, and shared personal
4 information with our client.

5 Q Who was the client?

6 A The main person was Henry (ph) -- I can't think of
7 his last name, but it was the --

8 MS. ABRAMS: I'm going to object. It -- there needs
9 to be a foundation of how she knows this.

10 THE COURT: Yes. Let's --

11 MS. ABRAMS: It sounds like hearsay.

12 THE COURT: I need to -- yes. Give me some more
13 information first.

14 MS. LOBELLO: Okay.

15 BY MS. LOBELLO:

16 Q So first of all, let's explore what specifically
17 would you witness that indicated who worked at the company?

18 A I worked at --

19 MS. ABRAMS: I'm not sure that --

20 THE COURT: I don't, either.

21 THE WITNESS: I'm confused.

22 BY MS. LOBELLO:

23 Q Did you --

24 A So Art Zargaryan --

1 Q Or -- so --
2 A -- who's one of Tom's clients, personally told me
3 that he --
4 MS. ABRAMS: Well --
5 THE COURT: Wait, you can't say what --
6 MS. ABRAMS: -- I'm going to object to as to
7 hearsay.
8 THE COURT: -- somebody else said to you.
9 THE WITNESS: All right.
10 MS. LOBELLO: Sorry, sorry. And I apologize, Your
11 Honor, but I did not prepare this witness --
12 THE COURT: That's all right.
13 MS. LOBELLO: -- because I didn't want there to be
14 any --
15 THE COURT: What -- what you can testify to is
16 anything you saw, tasted, smelled, heard. You personally, not
17 what somebody else told you happened.
18 THE WITNESS: All right.
19 MR. JONES: Unless it was -- unless it was the
20 Defendant.
21 THE COURT: Unless it's the Defendant, yes.
22 THE WITNESS: Glad to know --
23 MR. JONES: I didn't mean to correct the Court.
24 THE COURT: That's all right.

1 MS. LOBELLO: So I'm sorry --
2 THE COURT: Sometimes I need a good correction.
3 THE WITNESS: I did -- I did witness phone calls --
4 BY MS. LOBELLO:
5 Q Let me start -- I'm going to start over --
6 A -- so --
7 THE COURT: She's going to start all over again.
8 BY MS. LOBELLO:
9 Q -- so it's fair to you. Because it's not fair to
10 you.
11 A All right.
12 Q I can see that you're trying to answer a question,
13 and I didn't ask the right question, so it's my fault. So You
14 had occasion to work with other employees of Bluepoint?
15 A Correct.
16 Q Who were the other employees that you worked with
17 during 2017?
18 A Sarah Nacora (ph), Jakub Michalecko, Todd Kilde, Art
19 Zargaryan.
20 Q And Jakub, did he have any relation to Tom and
21 Danka?
22 A He was Tom's stepson, he was Danka's son.
23 Q Okay. And in your interactions with -- let's start
24 with Art specifically --

1 A Right.

2 Q -- did you work -- did you see him on a regular
3 basis?

4 A Yes, I did.

5 Q Okay. So did you ever see him interacting with
6 clients of Bluepoint?

7 A Yes, I did.

8 Q Can you describe any specific incidents that you saw
9 him communicating directly with clients?

10 A Yes, I can.

11 Q Can you pinpoint when that would have happened?

12 A It was actually sitting in Art's office. He was on
13 a conference call, and he --

14 Q Who was on -- who was he on the conference call
15 with?

16 A The people from -- the client that we had was an
17 investment company, and they changed their name like three or
18 four times. So at the point when I was in Art's office and
19 there was a conversation that I listened to, I don't remember
20 the name of the -- what they were calling themselves at that
21 time.

22 Q But it was your understanding that Art was talking
23 to a client of Bluepoint?

24 A Yes.

1 Q Okay. Can you, without saying what anyone said
2 during that conversation, what was your impression of the
3 conversation that you overheard?

4 A That it was inappropriate.

5 Q How, in your impression, was it inappropriate?

6 A Personal information about Tom was being relayed to
7 the client.

8 Q And did you witness any other interactions of
9 employees with other people, other employees or third parties,
10 that were concerning to you, during the time period in August
11 of 2017, or thereabouts?

12 A I did. On St. Thomas Island with Todd Kilde, and
13 the construction group that we were overseeing their
14 construction for the client, he also was sharing inappropriate
15 personal information about Tom.

16 Q With whom was Mr. Kilde sharing inappropriate
17 information about Tom?

18 A With the construction company that we were
19 overseeing.

20 Q How do you tie -- how -- what, logically, makes you
21 believe that those conversations may have led to a decreased
22 workload for Bluepoint? Can you explain that?

23 A I think it gave the client the idea that Tom may not
24 be running his business and/or his life appropriately.

1 Q When you were working for Bluepoint, did you ever
2 personally look at either Tom or Danka's tax returns?
3 A Only in an envelope -- in a sealed envelope.
4 Q So you saw a sealed envelope. Did you ever
5 actually --
6 A I saw --
7 Q -- lay eyes on their tax returns?
8 A No, I did not.
9 Q When you were working for Bluepoint, did you ever
10 lay eyes on either Tom or Danka's estate planning documents,
11 trusts, wills, anything like that?
12 A No, I did not.
13 Q While you were working for Bluepoint, did you
14 perform any duties for any company other than Bluepoint?
15 A Yes, I did.
16 Q What other company?
17 A For the company that owned the -- the building.
18 Q Patience One LLC, is that --
19 A Yes, yes.
20 Q -- right? Okay. What would you do for Patience One
21 LLC?
22 A I would coordinate inspections with the county, with
23 the elevator people. I would arrange for tools to be bought
24 or available when repairs needed to be done. I actually

1 helped Jakub scrape up tile for the remodel of one of the
2 tenant spaces. I collected rent, I opened the mail, and, when
3 Tom was out of town, deposited the checks, or gave stuff to
4 Danka or Tom that needed to be signed.

5 Q Were you compensated by Patience One?

6 A No, I was not.

7 Q You were -- you were only compensated by Bluepoint?

8 A That's correct.

9 Q Did you ever witness Tom performing any work on
10 behalf of either Patience One or Danka's medical practice?

11 A Yes, I did.

12 Q What was your understanding of his relationship to
13 those companies?

14 A Well, that it was owned by him and Danka, and they
15 were -- he was doing everything he could to keep everything
16 solvent, and in the best financial and physical shape that it
17 could be.

18 Q So do you remember when the last month or year it
19 was that you worked for Bluepoint?

20 A It was May or June of 2017.

21 Q So let's go a year prior to that.

22 A Okay.

23 Q A year prior to May of 2017. How was Tom's demeanor
24 during that time?

1 A During that last year, there was quite a few
2 tragedies in Tom's life, so he just seemed to be depressed,
3 more withdrawn, and -- am I allowed to say my opinion?

4 MS. ABRAMS: I guess if you do, we can --

5 MR. JONES: So based upon your -- well, I need --
6 do -- I don't know that she gets to ask the question. You can
7 say what you want to say, and --

8 THE COURT: Say what you want to say --

9 MR. JONES: -- if there's an objection --

10 THE COURT: -- if somebody doesn't like it, they'll
11 object to it. Go ahead.

12 THE WITNESS: Okay. And he compensated by working
13 more.

14 BY MS. LOBELLO:

15 Q Was he -- did you -- or -- did you have occasion to
16 know when he was working Vegas, as opposed to working outside
17 of the State of Nevada?

18 A Absolutely.

19 Q Was he traveling quite a bit?

20 A Yes, he was.

21 Q Was in Vegas very much?

22 A Not a lot, no.

23 Q Do you recall if he -- based on your testimony, you
24 were, but you were an employee of Bluepoint in September of

1 2016, correct?

2 A Yes, I was.

3 Q How was Tom's demeanor in September of 2016?

4 MS. ABRAMS: I'm going to object as to foundation.

5 I mean, I let some of this go, but I think --

6 THE COURT: Yeah.

7 MS. ABRAMS: -- she needs to establish a foundation.

8 THE COURT: Please.

9 MS. LOBELLO: All right.

10 BY MS. LOBELLO:

11 Q All right. In 2016, do you recall Tom was working

12 primarily, what state?

13 A Florida.

14 Q Do you recall what project he was working on?

15 A I do. It was a Marriot.

16 Q And how often did you see Tom in the month of

17 September, 2016?

18 A Probably every time I went to Florida.

19 Q How often would that be, approximately?

20 A At least once a month.

21 Q And do you have any specific instances that happened

22 during the month of September that concerned you about his

23 behavior?

24 MS. ABRAMS: Found -- I'm going to object as to

1 foundation.

2 MR. JONES: But, Judge --

3 MS. LOBELLO: She can describe the instance. That's
4 what I'm trying to do, is lay the foundation.

5 MR. JONES: As long as she is -- I'll read it.
6 Opinions of lay witnesses. If the witness is not testifying
7 as an expert, his testimony in the form of opinions or
8 inferences is limited to those opinions or inferences which
9 are one, rationally based on the perception of the witness,
10 and two, helpful to a clear understanding of his testimony,
11 her in this case, or the determination of a fact at issue.

12 MS. ABRAMS: Right. But it doesn't say that --

13 MR. JONES: So if she's saying, I saw him once a
14 month, and based upon my observations of him, this is my
15 opinion of X, that's permitted under 50.265.

16 MS. ABRAMS: I know. But if she wants to talk about
17 a specific incident in September, I think they need to lay a
18 foundation. She said she saw him once a month. How long,
19 what -- you know, et cetera. She needs -- they need to lay
20 a --

21 THE COURT: I mean, did she -- did she --

22 MS. ABRAMS: -- foundation.

23 THE COURT: -- walk past him in a hallway, or --

24 MS. ABRAMS: Right.

1 THE COURT: -- or what? We need a little bit more
2 than that. A little --

3 BY MS. LOBELLO:

4 Q So you --

5 THE COURT: -- context, please.

6 MS. LOBELLO: Thank you, Your Honor.

7 BY MS. LOBELLO:

8 Q So you were traveling to Florida once a month, you
9 testified?

10 A At least once a month, yes. And --

11 Q How often -- or how long did you stay in Florida
12 when you were traveling there for work?

13 A At least a week at a time.

14 Q So during the week that you would be in Florida for
15 Bluepoint Development, right, in your employment --

16 A Correct.

17 Q -- how often did you have contact with Tom?

18 A Every day.

19 Q How many hours of an average day would you have
20 contact with Tom during that week?

21 A 12 to 15. The entire day.

22 Q So during the month of September, 2016, during the
23 week that you were working with Tom and had contact with him,
24 did you -- what did you observe about his demeanor at that

1 time?

2 A Well, he had -- he had gotten really depressed. I
3 know he was taking a lot of pain medication.

4 MS. ABRAMS: Objection as to the foundation of that.

5 THE COURT: Yes.

6 THE WITNESS: Well, actually, I picked the
7 medication up and brought it to him.

8 BY MS. LOBELLO:

9 Q Okay. So you testified that he was taking a lot of
10 medication.

11 A Correct.

12 Q So let's establish how you know he was taking a lot
13 of medication. You -- you had an opportunity to see Tom's
14 medication with your own two eyes?

15 A Yes, I did.

16 Q Do you recall what kind of medication it was?

17 A I think it was pain -- I -- I know it was pain
18 pills. I don't think, I know it was pain pills.

19 Q You don't know the specific brand, or the -- the --

20 A I don't remember off the top of my head, no.

21 Q Okay. Now, what made you believe that they were
22 pain pills? Did you ever have a --

23 A Because I was asked to take Tom his pain pills.

24 Q Were you asked by Danka?

1 A I picked them up from Danka, or --
2 Q And that would be before you took a trip to Florida
3 to work with Tom; is that right?
4 A Correct.
5 Q Okay. So when you -- when you arrived in Florida
6 with the pain pills, what did you do with them?
7 A I gave them to Tom.
8 Q So what makes you say he was taking a lot of pain
9 pills? What makes you believe that?
10 A Because when we were not at work, he was sleeping a
11 lot. He -- he was groggy a lot of the time.
12 Q Do you have any personal knowledge about Tom and
13 Danka separating?
14 A I do.
15 MS. ABRAMS: I'm sorry. I didn't hear the question.
16 THE WITNESS: I do. Oh, I'm sorry.
17 MR. JONES: Do you have personal knowledge about
18 Danka and Tom separating?
19 BY MS. LOBELLO:
20 Q So are you aware of when Tom and Danka separated?
21 MS. ABRAMS: Well, can we estab -- okay. Go ahead.
22 THE COURT: She has to ask her the question first.
23 MS. ABRAMS: Yeah, I know. I know, I know. Okay.
24 BY MS. LOBELLO:

1 Q Are you aware of when they separated?

2 A Not the exact date, no.

3 Q Okay. Are you aware of the approximate time?

4 A Correct. It was sometime in 2016.

5 Q So let's go back to when you were in Florida. You
6 had brought Tom pain pills. That was in we believe September
7 of 2016. I understand --

8 A Right.

9 Q -- this was a long time ago. Was that -- what --
10 what was your understanding of what was going on between Tom
11 and Danka, based on your observations of Tom? Did Tom -- or
12 did you witness Tom reacting to what was going on with Danka?

13 MS. ABRAMS: Objection, vague and --

14 THE COURT: Yeah. That -- that's too loose. Sorry.

15 BY MS. LOBELLO:

16 Q Well, what -- how did you learn that Tom and Danka
17 were separated?

18 A Either Tom or Danka had told me. Initially --
19 eventually, they had both told me.

20 Q Okay. And do you recall an occasion where Tom was
21 upset about the separation?

22 A Yes, I do.

23 Q Okay. And do you recall when that was,
24 approximately?

1 A It was in 2016.

2 Q And what did -- without telling what Tom said, what
3 did you witness Tom doing?

4 A Making appointments to see an attorney.

5 Q Did you see Tom make an appointment?

6 A I was in the office when he came back to go to the
7 appointment, yes.

8 Q Oh, okay. So what else did you witness going on
9 with Tom at that time that he was going to an attorney's
10 office?

11 A He was distraught. He was very upset. He was
12 devastated that his marriage was suffering greatly.

13 Q Was he in Florida when that happened?

14 A Yes, he was. He came -- and he came right back.

15 Q What do you mean, he came right back? Did he --
16 what do you mean? Back where?

17 A He came from Florida back to LA to try -- LA, I'm
18 sorry. Back to Las Vegas to try to salvage his marriage.

19 MS. ABRAMS: I'm --

20 BY MS. LOBELLO:

21 Q How much time passed between the time that he knew
22 about the appointment with the lawyer, and getting back to Las
23 Vegas, if you remember?

24 A Right away.

1 MS. ABRAMS: What was -- I'm sorry. I didn't even
2 hear the question.

3 MR. JONES: How much time elapsed between him
4 learning about the appointment with the lawyer, and when he
5 returned to Vegas.

6 MS. ABRAMS: Okay.

7 THE COURT: He came back to Vegas, and he saw a
8 lawyer. How much time --

9 MS. ABRAMS: That -- okay.

10 THE COURT: -- went by.

11 MS. ABRAMS: So I -- that's not what she -- her
12 testimony was she heard him on the phone making an
13 appointment --

14 THE COURT: Well, that's not what she said.

15 MS. LOBELLO: No, it isn't what she said.

16 THE COURT: She said she was in the office when he
17 came back to go to a -- to go to an appointment. It was kind
18 of a weird thing.

19 MS. ABRAMS: I --

20 THE COURT: She didn't say -- she said he was making
21 appointments with attorneys.

22 MR. JONES: Yeah.

23 THE COURT: You asked if she --

24 MS. LOBELLO: And I said did she see him --

1 THE COURT: Did she see him, and she said --
2 MS. LOBELLO: -- making --
3 THE COURT: -- and she said no, but she saw him come
4 back to the office to leave to go to an appointment with an
5 attorney.
6 MS. ABRAMS: Okay.
7 THE COURT: Is that -- do I have that right?
8 THE WITNESS: Yes, ma'am.
9 THE COURT: Thank you.
10 BY MS. LOBELLO:
11 Q And where was your understanding of his appointment
12 with an attorney? Was that in Florida, or Las Vegas?
13 A In Las Vegas.
14 Q Did you have any understanding of why he needed to
15 meet with an attorney?
16 A Yes, I did.
17 Q What was your understanding of why he needed to meet
18 with --
19 MS. ABRAMS: Objection, lacks foundation.
20 BY MS. LOBELLO:
21 Q -- an attorney?
22 MS. LOBELLO: Okay. Let me --
23 (COUNSEL CONFER BRIEFLY)
24 BY MS. LOBELLO:

1 Q So did there come a time when you learned about this
2 lawsuit?
3 A Yes, there was.
4 Q Okay. And do you recall when that happened?
5 A In the exact same time frame that we're all talk --
6 speaking of right now, in 2017.
7 Q In 2017, you learned about the lawsuit?
8 A Yes, I did.
9 MS. ABRAMS: I thought we were talking about 2016 up
10 until now?
11 THE COURT: That's when he was going to lawyers.
12 THE WITNESS: I -- I'm sorry. 2016. I do mean
13 2016.
14 (COUNSEL CONFER BRIEFLY)
15 THE COURT: You learned about the court case in
16 2016.
17 THE WITNESS: This court case?
18 THE COURT: That's what we're talking about, right?
19 THE WITNESS: Okay.
20 BY MS. LOBELLO:
21 Q Yeah. I --
22 THE COURT: Yes.
23 BY MS. LOBELLO:
24 Q Maybe I --

1 THE COURT: This court case that we're -- you're
2 testifying now.

3 MS. LOBELLO: I am not speaking very artfully.

4 BY MS. LOBELLO:

5 Q When did you -- yeah. When did you learn that there
6 was actually a court -- a court case between Tom and Danka?

7 A 2018 maybe.

8 Q Okay. All right. And how did you learn about there
9 being a lawsuit, if you remember?

10 A Tom told me I was on --

11 Q Okay. You can't --

12 A Okay.

13 Q -- say anything that Tom said.

14 A Sorry.

15 Q It's okay. Okay. Have you discussed your testimony
16 here today with Tom at all?

17 A No, I have not.

18 Q When's the last time you spoke with Tom?

19 A I looked on my phone, and I talked to him on
20 December 16th, 2019.

21 Q Have you been offered anything in exchange for
22 testifying here today?

23 A Absolutely not.

24 Q Other than a pleasant afternoon in court?

1 A I got off work early. That's it.

2 MR. JONES: I have no further questions. Thank you.

3 THE COURT: Pass the witness. Your questions for
4 this witness?

5 MS. ABRAMS: Is it okay if I -- if -- given that
6 this was a witness actually who that was listed on our list,
7 do you mind if I exceed the scope of cross?

8 MR. JONES: I don't have an objection to that, Your
9 Honor.

10 THE COURT: You may.

11 MR. JONES: If it saves -- it saves her coming back
12 next Friday.

13 THE COURT: You may. Go ahead.

14 CROSS EXAMINATION

15 BY MS. ABRAMS:

16 Q What do you know about this case, and what your
17 testimony's being used for -- used to try to accomplish in
18 this case?

19 A My understanding is it's the division of community
20 property.

21 Q Okay. And how do you know that?

22 A Because that's the only thing it could be.

23 Q You just came to that conclusion on your own?

24 A Well, no, with conversations for Danka and Tom.

1 Q You said that the last time you communicated with
2 Tom was in December of 2019, correct?

3 A Correct.

4 Q And that at some time in 2018, am -- is it correct
5 that that's when you were told you were on a witness list?

6 A Yes.

7 Q Okay. And dur -- in 2018, what conversations did
8 you have with Tom about your testimony, or what you would
9 provide as testimony in this case?

10 A Nothing beyond we were talk -- he -- one of us
11 called the other to check up on our job sites, and he
12 mentioned to me that I was on Dank's witness list, and I told
13 him I was shocked, because nobody had contacted me, or asked
14 me about being a witness for either side. So I was --

15 Q When did you stop working with Tom?

16 A When did I stop working with Tom?

17 Q Uh-huh.

18 A May or June of 2017.

19 Q Okay. And how did that -- what led to -- did you
20 quit, were you terminated?

21 A I was laid off.

22 Q Okay. And so in 2018, you're saying that one of you
23 called the other to check on your job sites?

24 A We would always -- we work with a lot of people that

1 we know. We work on job sites. I talk to Tom every couple of
2 months.

3 Q Now, you said that you were -- you would see Tom for
4 12 to 15 hours per day, because you guys were working 12 to 15
5 hours per day, correct?

6 A No, I did not say that.

7 Q Okay. You would see him for 12 to 15 hours per day?

8 A That's correct.

9 Q You would -- are you saying that that some of that
10 time was not work hours?

11 A Yes, that's correct.

12 Q Okay. So about how many hours per day would you say
13 were work hours, of the 12 to 15?

14 A Eight to 10 maybe.

15 Q Eight to 10. Okay. And what were the other hours?

16 A We were staying in the same condo together.

17 Q Oh.

18 A There was a work condo in Marco Island that we --
19 everybody in the company stayed at when they went to Marco
20 Island.

21 Q Okay. And is it surprising to you that someone who
22 is working even eight to 10 hours, would be tired, or groggy,
23 or sleepy?

24 A I was working right alongside of him, so it was

1 unusual for him to be that groggy that quick.

2 Q You talked about personal information about Tom
3 being relayed to clients. What personal information are we
4 talking about?

5 A That Tom had an affair.

6 Q With who?

7 A Stacy (ph).

8 Q When did this --

9 A And also --

10 Q -- when did this begin? If you know.

11 A I don't know.

12 Q Was he with Stacy the entire -- dur -- for the
13 entire duration that you worked with him at Bluepoint
14 Development?

15 A I have no idea.

16 Q You don't know whether he was having a -- do you
17 have any personal observations that would lead you to believe
18 that he was having an affair?

19 A Only that Tom told me that, and Danka told me the
20 same thing.

21 Q So for all the time that you worked together, and
22 the weeks at a time that you were there, and the 10 to 15
23 hours that you would spend with him during the day, there --
24 at that time, you didn't know that he was having an affair

1 with Stacy --

2 A No --

3 Q -- is that your testimony?

4 A -- I did not. That's my testimony.

5 Q Okay. Were you aware of his affair with Sarah

6 Nacora?

7 A No, I was not.

8 Q Okay. Are you --

9 MS. LOBELLO: Objection, foundation.

10 MR. JONES: Objection to found -- assumes facts not

11 in evidence.

12 THE COURT: Counsel?

13 MS. ABRAMS: I'm asking if she was aware of an

14 affair.

15 MR. JONES: If -- if -- if there was one.

16 THE COURT: That's fine. And she said she was not

17 aware. Go ahead.

18 BY MS. ABRAMS:

19 Q Were you aware of his affair with anyone else, other

20 than Stacy?

21 A No, I was not.

22 Q Were you aware of Tom's spending habits in 2014

23 through 2016?

24 A Only for his business.

1 Q Okay. Were you aware that he was charging a lot of
2 personal expenses to the business?

3 A No.

4 Q Were you aware of his cash withdrawals from business
5 accounts?

6 A No.

7 Q Okay. Were you aware of the furnishings or jewelry
8 that he purchased for his girlfriend, Stacy?

9 A No.

10 Q There were -- you said it was busy in 2014, correct?

11 A '15.

12 Q Or 2015.

13 A Correct.

14 Q It was very busy in 2015, yes?

15 A Right. It was busy in 2016, also, up to a point.

16 Q Okay. And so as part of what Tom was doing, would
17 he sign contracts? Or negotiate contracts with any other
18 entity or company or subcontractor, or anything like that?

19 A He was the owner of the company, so yes, I believe
20 he would.

21 Q And how frequently do you believe he was entering
22 into contracts?

23 A I do not know.

24 Q Do you know how many projects he had going in 2015?

1 A Three.

2 Q And were those -- those were large projects? Give

3 us an idea of what types of projects those were.

4 A St. Thomas was a remodel for Marriott, and a --

5 actually, for Wyndham, it was a Jimmy Buffet Margaritaville.

6 Then there was Marco Island, which was for Marriott. And then

7 there was the personal residence of Henry, who was the head

8 owner of the investment company that we represented.

9 Q So large projects?

10 A Correct.

11 Q Okay. And in 2016? What projects did he have going

12 then?

13 A Those three projects that I just told you.

14 Q Same projects. Did, to your observation, Tom have a

15 temper?

16 A No.

17 Q Anger? Did he get angry, yell at people --

18 A No.

19 Q -- in the office? Was he controlling or bossy?

20 A No.

21 Q Okay. Did Dr. Michaels ever express fear of Tom to

22 you?

23 A No.

24 Q She didn't call you and ask you, you know, for

1 advance notice of when he would be coming to Vegas? Is that
2 your testimony?

3 A No, actually she did. She asked me to let her know
4 when he was coming to Vegas.

5 Q Because she was afraid of him, right?

6 A I don't -- not that I know of. Not that I remember.

7 Q What was -- do you recall why she said she wanted
8 notice?

9 A No.

10 Q You indicated Tom was in Florida for most of 2016?

11 A Correct.

12 Q Was that true for 2015, as well?

13 A No.

14 Q But -- oh, but he was traveling --

15 A Correct.

16 Q -- for a large part of 2015, as well?

17 A Correct.

18 Q Okay. You said that -- give me one second. You
19 never actually saw Tom take medication, correct?

20 A No.

21 Q You said that you observed Todd Kilde sharing
22 inappropriate personal information about Tom with the
23 construction company, and your -- when I wrote down what you
24 said, it gave the client the idea that Tom may not be running

1 his business and/or his life appropriately.

2 A Yes.

3 Q Okay. When you said not running his life
4 appropriately, what were you referring to?

5 A Todd accused Tom of wasting money, and having an
6 affair.

7 Q Okay. And when you said -- was there anything else?
8 Wasting money, and having an affair.

9 A Correct.

10 Q When you say, wasting money, what was the issue with
11 wasting money?

12 A You'd have to ask Tom that.

13 Q Okay. And when you said that Tom may not be running
14 his business appropriately, what were you referring to?

15 A You'd have to ask Tom that.

16 Q Well, I'm asking you what you heard. You testified
17 today that you heard this. I'm asking you what you heard.

18 A I heard him say that he was not running his business
19 appropriately. I don't know what he meant by that.

20 Q That was all he said, was that he's not running his
21 business appropriately?

22 A It was not a conversation that I wanted to listen
23 to, so I left, but yes.

24 Q So there was no details. It was just a statement

1 saying he -- he -- he may not be running his business or his
2 life appropriately, and the you walked out?

3 A Yes, ma'am.

4 Q Okay. Now, when you were talking about the
5 appointment with the attorney, you said that was in 2016,
6 correct?

7 A Correct.

8 Q Okay. And then you were asked when you learned
9 about this lawsuit, and you said same time period, right?

10 A No. If I said that, I didn't mean -- it was -- it
11 was between then and now. So I'm confused what I can say as a
12 hearsay or what I actually saw.

13 MR. JONES: Well --

14 THE COURT: Depends on which attorney is asking you
15 the question.

16 THE WITNESS: Okay.

17 MS. ABRAMS: Right.

18 THE COURT: If she's asking an inappropriate
19 question, they will raise the objection.

20 THE WITNESS: Okay.

21 THE COURT: So you just answer the way you feel like
22 you need to. It's on them to raise the --

23 THE WITNESS: Okay.

24 THE COURT: -- objection.

1 THE WITNESS: All right.

2 THE COURT: Okay?

3 THE WITNESS: Thank you.

4 BY MS. ABRAMS:

5 Q Did you contact Dr. Michaels and inform her that

6 they were -- well, actually, strike that. Never mind.

7 MS. ABRAMS: I don't have any further questions for

8 his witness.

9 THE COURT: Redirect?

10 MS. LOBELLO: Nor do we.

11 MR. JONES: No. Thank you, Your Honor.

12 THE COURT: Okay.

13 MS. LOBELLO: Thank you for your --

14 THE COURT: You may escape the building.

15 MS. LESMEISTER: All right. Thank you so much.

16 THE COURT: Thank you for your time and your

17 testimony.

18 MS. LESMEISTER: All right. Thank you.

19 THE COURT: Are we going to recall the Plaintiff --

20 MS. LOBELLO: We are going to recall --

21 THE COURT: -- to the stand?

22 (COUNSEL CONFER BRIEFLY)

23 THE PLAINTIFF: I haven't been in China.

24 THE COURT: I just --

1 THE PLAINTIFF: I'm sorry.
2 THE COURT: You're a traveler.
3 THE PLAINTIFF: Yeah, that's true.
4 MR. JONES: I asked him if he had been to Wuhan
5 lately, and he said no. So we're safe.
6 THE COURT: Yeah, but somebody he met might have.
7 THE PLAINTIFF: Yeah, I was thinking about that.
8 THE COURT: Yeah. We're -- we're under quarantine.
9 We have to stay here for three weeks.
10 MS. LOBELLO: In the hallway, that gal that just
11 testified said one of her coworkers in -- is in a quarantine.
12 They just got back, and he's in a three-week quarantine. It's
13 really -- it's happening.
14 THE COURT: Thanks for sharing.
15 MS. LOBELLO: Sorry.
16 MR. JONES: I mean, she didn't have contact with
17 him. Meaning, he landed and was immediately taken to
18 quarantine, so.
19 MS. LOBELLO: No, she didn't know. She just said he
20 was out of work.
21 THE COURT: Go ahead, Counsel.
22 DIRECT EXAMINATION CONTINUED
23 BY MS. LOBELLO:
24 Q Okay. We were discussing --

1 THE COURT: If we could strike that prior
2 conversation from the record?

3 BY MS. LOBELLO:

4 Q We were discussing the purchase of the Queen
5 Charlotte home in 2004.

6 A We --

7 THE COURT: Can I ask a -- Marshall, can you move a
8 couple of --

9 MR. JONES: Would you like --

10 THE COURT: -- these -- I can't see. I have a
11 really bad -- I'm short, so my --

12 MS. LOBELLO: I was afraid those books were going to
13 be in the way.

14 THE COURT: They are just a little bit. When we
15 need them, somebody will dish them out and find them for you.

16 UNIDENTIFIED VOICE: I'll take care of that.

17 THE COURT: All right. Thank you very much. I
18 appreciate it.

19 (COUNSEL CONFERS BRIEFLY)

20 BY MS. LOBELLO:

21 Q Following the purchase of the home, did you and
22 Danka make any improvements to the Queen Charlotte residence?

23 A Yes. We basically completely remodeled it,
24 repainted it, re-flooring. Most of the equipment was left, so

1 the -- the equipment stayed.

2 Q I'm sorry. The equipment?

3 A Yeah. The -- like, stoves and ovens, we didn't

4 replace those.

5 Q The appliances. I'm sorry.

6 A The appliances.

7 Q Okay.

8 A The appliances. I'm sorry.

9 Q That's okay. So -- but how much do you believe was

10 spent at that time when you first bought the house, on the

11 improvements?

12 MS. ABRAMS: Objection, lacks foundation.

13 MS. LOBELLO: He just --

14 MR. JONES: He has the memory.

15 MS. LOBELLO: He just testified about --

16 THE COURT: He just said there was improvements

17 made. She asked how much he -- you think it was costing.

18 That's fine. Go ahead.

19 MS. ABRAMS: Okay. Depending on -- okay. That's

20 fine.

21 THE PLAINTIFF: 20 or 30 grand, easy.

22 BY MS. LOBELLO:

23 Q Do you recall --

24 MS. ABRAMS: I'm sorry. Which --

1 THE COURT: \$30,000.

2 BY MS. LOBELLO:

3 Q And you already testified that the proceeds of the
4 sale of Danka's house on Copparo was the down payment when
5 you --

6 A Correct.

7 Q -- bought the house.

8 A That's correct.

9 Q Do you recall how you and Danka paid for those
10 \$30,000 for --

11 A I would say joint accounts, plus, again, my friends
12 in the business helped do the work.

13 Q So are you talking about Arfa Construction?

14 A Actually, Moorefield Construction. They came and
15 did the complete demo of the property. We had slate tile on
16 the floor, everywhere. On the -- on the 4,000 square feet, we
17 removed all the slate throughout the whole house. Luckily,
18 Danka and I were on a vacation at that time, and they did it
19 while we were gone, so.

20 Q So do you believe that you got a good value then for
21 the \$30,000?

22 A Oh -- oh, absolutely.

23 Q And that was based on your contacts in construction?

24 A Correct.

1 Q And that property was titled wife and husband as
2 joint tenants when you acquired that, in 2004?

3 A That's correct.

4 Q Now, in 2011, you and Danka acquired another real
5 property. Tell the Court about that.

6 A We acquired the Lowe property. Danka had an
7 employee that was having a hard time, and she asked if I would
8 agree to -- to purchase a -- a new property for her to live
9 in, and I said, yes, of course.

10 Q And what was the place name, please?

11 A Jody (ph) and I'm not -- I don't remember the last
12 name. Her first name was Jody.

13 Q So I'm moving -- trying to move along, since Danka
14 already testified about that. But that house also was
15 acquired wife and husband as joint tenants?

16 A That's correct.

17 Q Do you recall how much was put down --

18 A It --

19 Q -- to purchase the down payment?

20 A 29,000.

21 Q So that's one of the deeds that you executed when
22 you met with Shannon Evans in September of 2016, correct?

23 A That's correct.

24 Q Okay. At -- in 2016, was there still a mortgage on

1 the house?

2 A No.

3 Q And was that --

4 (COUNSEL CONFERS BRIEFLY)

5 BY MS. LOBELLO:

6 Q Could you turn to Exhibit 93, please?

7 MR. JONES: It's the book to your left. That one.

8 BY MS. LOBELLO:

9 Q Now, looking at the first page of Exhibit 93, do you
10 recognize this document?

11 A Yes.

12 Q Who prepared this document?

13 A I did.

14 Q Okay. It says at the top, 7608 Lowe Avenue. That's
15 the house you just testified that you and Danka purchased in
16 2011?

17 A That's correct.

18 MS. ABRAMS: And this is a -- this is something we
19 object to.

20 MR. JONES: It hasn't been moved into evidence.

21 THE COURT: It's not been moved into evidence.

22 BY MS. LOBELLO:

23 Q Oh, and I'm sorry. There is a Bates stamp. This is
24 Bate number TP06233. So what information did you review to

1 prepare this document?

2 A The information came from the bank statement,
3 showing the payments that were made. And I showed the account
4 that it came out of, the checking accounts, or my business
5 account, where the money was used to pay off this property
6 completely.

7 Q Okay. So now the statements that you just
8 described, that were either bank accounts in your name, or
9 bank accounts in your company's name --

10 A Correct.

11 Q -- would that be, if you turned to -- let's see --

12 (COUNSEL CONFER BRIEFLY)

13 BY MS. LOBELLO:

14 Q Oh, I'm sorry. Are those bank statements contained
15 in exhibit --

16 (COUNSEL CONFER BRIEFLY)

17 THE PLAINTIFF: Sorry.

18 BY MS. LOBELLO:

19 Q Those are the bank statements that we have included
20 that are either the Wells Fargo business checking account for
21 Bluepoint --

22 A Correct.

23 Q -- or you had your Wells Fargo checking account in
24 your name, which is the account in Exhibit 74 of the --

1 THE COURT: Is he using this document to refresh
2 memory, or --
3 MS. LOBELLO: No, I'm going to move it into
4 evidence.
5 MR. JONES: It -- it's a summary of the bank
6 statements that she's laying the foundation for, Your Honor.
7 MS. LOBELLO: So --
8 MS. ABRAMS: Exhibit 74?
9 MS. LOBELLO: Exhibit 74.
10 THE CLERK: 74 has been --
11 THE COURT: We were -- we were on 94?
12 MS. ABRAMS: Yeah.
13 MS. LOBELLO: Right. I'm showing you which bank
14 statements, which exhibits support this summary.
15 THE COURT: I see.
16 MS. LOBELLO: Sorry.
17 MS. ABRAMS: So binder --
18 THE COURT: But this summary has not been agreed to?
19 MR. JONES: Correct.
20 MS. ABRAMS: No.
21 THE COURT: And so how are you going to move it into
22 evidence?
23 MS. LOBELLO: I'm going to show you -- I'm going to
24 establish the foundation for which bank statements and which

1 mortgage statements that Mr. Pickens --

2 THE COURT: So we're going to go through each and
3 every single one of them?

4 MS. LOBELLO: No, no. I'm just showing you where
5 they are.

6 THE COURT: Because --

7 MS. LOBELLO: Because they've already been admitted.

8 THE COURT: But I don't know that that correlates to
9 a summary being accurate.

10 MR. JONES: And -- and I'll read the requirements of
11 summaries as soon as I can find it, Your Honor. Summary of
12 voluminous documents. As long as he establishes that the
13 summary was created based upon the documents that are already
14 in evidence --

15 THE COURT: But he's --

16 MR. JONES: -- it's independently --

17 THE COURT: -- the Plaintiff --

18 MR. JONES: -- admiss --

19 THE COURT: He's Plaintiff -- talking about his own
20 documents.

21 MR. JONES: Right. But that's what a summary is.
22 It's a summary of voluminous documents. I -- I should have
23 already had this tabbed. I apologize.

24 THE COURT: And we --

1 MS. ABRAMS: Well, honestly, it goes beyond a
2 summary. It's not just a summary, but he makes conclusions in
3 here, and it has inaccurate information. He doesn't have a --
4 MR. JONES: Where does it have inaccurate
5 information? We discussed this at the --
6 MS. ABRAMS: Well, if it comes in --
7 MR. JONES: -- pretrial conference --
8 MS. ABRAMS: -- then the inaccurate information will
9 be addressed in cross examination. But I don't think it -- it
10 even comes in.
11 THE COURT: I'm just letting you know that there's a
12 hurdle here that I'm --
13 MS. ABRAMS: Yeah.
14 THE COURT: -- not going to just say, oh, well,
15 there's some documents, so let's let it in.
16 MS. ABRAMS: Right.
17 THE COURT: I -- I'm not going to do that, because
18 then I'm kind of stuck with it.
19 MS. LOBELLO: Okay. Well, we're going to --
20 THE COURT: Make me comfortable --
21 MS. LOBELLO: -- that's what I'm trying --
22 THE COURT: -- or --
23 BY MR. JONES:
24 Q So the information --

1 THE COURT: -- it's not coming in.

2 BY MS. LOBELLO:

3 Q The information on page 1 of this summary, which is
4 proposed Exhibit 93, in the column that says Tom's checking
5 account, that would be your checking account at Wells Fargo,
6 ending 3436; is that right?

7 A That's correct.

8 Q Okay. And then the Bluepoint checking account,
9 which is the fourth column for the payments, that would be
10 your Wells Fargo business checking account in the name of
11 Bluepoint, and the account ends 9112?

12 A That's correct.

13 Q So you reviewed statements for the time period
14 listed in column one that start Thursday, July 31, 2014. And
15 it goes all the way through Tuesday, August 30, 2016?

16 A That's correct.

17 Q Okay. So -- and then you indicated from which
18 account you made a payment, right, in either the third or the
19 fourth column, either from your checking account in your name,
20 or your checking account in your business name?

21 A That's correct.

22 Q Okay. And that's how you filled in the numbers in
23 either the third or fourth column, the amount of payment,
24 correct?

1 A Correct.

2 Q Okay. And then in the second column, can you

3 explain what those numbers are --

4 A The --

5 Q -- starting with the 97,783.03?

6 A The second column is straight from the mortgage

7 company's statement.

8 Q And was that the mortgage with Wells Fargo?

9 A That's correct.

10 Q So if you turn in -- in proposed Exhibit 93 to the

11 page, Bate number TP06236?

12 THE COURT: I can't even look at this stuff until

13 it's entered, so --

14 MR. JONES: Well, the act -- okay. The -- can I

15 just --

16 MS. LOBELLO: Well, all the bank statements are

17 already in. We stipulated.

18 THE COURT: The bank statements are in. This --

19 MS. ABRAMS: Actually --

20 THE COURT: -- this summary I can't really look at

21 until --

22 MR. JONES: Well --

23 THE COURT: -- it's in. Do you want to voir dire on

24 this?

1 MS. ABRAMS: Well --

2 THE COURT: You're going to get to before I'll put
3 it in. Go ahead.

4 MS. ABRAMS: Okay.

5 MR. JONES: Well, and, Judge, just so we're clear,
6 file -- it's NRS 52.275, summaries. The contents of
7 voluminous writings, recordings, or photographs, which cannot
8 be conveniently -- can't -- when -- which cannot conveniently
9 be examined in court may be presented in the form of a chart,
10 summary, or calculation --

11 THE COURT: May be. Okay?

12 MR. JONES: Right. May be presented. The originals
13 shall be made available for examination and copy -- they've
14 already been produced during discovery -- or both by other
15 parties at a reasonable time and place. The judge may order
16 that the originals be produced in court, which they're here.

17 THE COURT: Uh-huh.

18 MR. JONES: So if you're saying that this is not
19 going to be helpful and that you want us to go through each
20 line item of each statement --

21 THE COURT: I have no way of understanding whether
22 or not this is accurate.

23 MR. JONES: Other than him telling you --

24 THE COURT: Other than me --

1 MR. JONES: -- all of these numbers --
2 THE COURT: -- looking at every one of these things
3 and finding where that number came from, I don't have an
4 accountant here to say, yeah, I went through all this.
5 MS. LOBELLO: No, we have Tom that went through all
6 of that. And if you're not comfortable --
7 THE COURT: Well, Tom's --
8 MS. ABRAMS: Tom's not an account.
9 MR. JONES: But he doesn't need to be an accountant
10 to prepare a summary of --
11 MS. ABRAMS: Okay.
12 MR. JONES: -- you know, a monkey could --
13 THE COURT: All right.
14 MR. JONES: -- could prepare a summary, Judge, as
15 long as it's reflected in the actual bank statements. I mean,
16 I --
17 MS. ABRAMS: Okay. Well, let's -- let's look at the
18 actual bank statements. Do you mind if I --
19 THE COURT: I think she should voir dire before I'll
20 let it in.
21 MS. LOBELLO: I'm happy for her to --
22 MR. JONES: On the summary? That's -- I mean,
23 that's what I told her she could do --
24 THE COURT: Let's do it.

1 MR. JONES: -- at our pretrial conference.

2 THE COURT: Let's go.

3 VOIR DIRE BY MS. ABRAMS:

4 Q Tom, you have a column here that says Tom's checking
5 account, correct?

6 A Correct.

7 Q And you have a bunch of items in that column,
8 correct?

9 A Correct.

10 Q You -- your testimony is, is that the numbers that
11 came from the column that -- the -- the numbers in the column,
12 Tom's checking account, came from the Wells Fargo ending in
13 3436 that you --

14 THE COURT: What's that exhibit number, by the way?
15 I'm sorry.

16 MS. ABRAMS: 74.

17 THE COURT: 74.

18 BY MS. ABRAMS:

19 Q -- that you're calling Tom's checking account,
20 correct?

21 A Correct.

22 Q Okay. Please turn to Exhibit 74. Are you looking
23 at a statement, PMA Wells Fargo account, ending in 3436?

24 A Yes.

1 Q That's the account you're referring to?
2 A Correct.
3 Q Whose name is on the account?
4 A Tom and Danka.
5 Q Okay. But you refer to this in this summary as
6 Tom's checking account, correct?
7 A Correct.
8 Q Did you do an analysis of every -- well, strike
9 that. You have also listed on this summary page a reference
10 to Tom's B of A account, correct?
11 A Correct.
12 Q We -- you did not provide statements for any B of A
13 account, did you?
14 A Yeah. It's \$7,000. You're correct.
15 Q The answer --
16 MS. ABRAMS: I'm going to object. That was
17 non-responsive. I move to strike.
18 THE COURT: I'll strike it. Ask the question again.
19 MS. ABRAMS: Yes.
20 THE COURT: Answer it appropriately.
21 BY MS. ABRAMS:
22 Q You have a reference on this summary page to -- to a
23 Bank of America account, correct?
24 A That's correct.

1 Q And you did not provide statements for the Bank of
2 America --

3 A That's correct.

4 Q -- account, correct?

5 THE COURT: He said correct.

6 BY MS. ABRAMS:

7 Q Okay. You --

8 MR. JONES: But if you note on the summary --

9 MS. ABRAMS: I'm sorry.

10 MR. JONES: -- Judge, it says in question.

11 THE COURT: I understand.

12 MR. JONES: So he's not claiming that that's part of
13 the total calculation.

14 THE COURT: It's still on his summary account.
15 She's just trying to find out --

16 MS. LOBELLO: There's no difference. It just states
17 what --

18 THE COURT: Summaries are supposed to have backup,
19 there's no backup. Go ahead.

20 BY

21 Q MS. ABRAMS: The -- everything in the column that
22 starts with \$97,783.03, the -- all of the supporting
23 documentation for that are in the pages following that
24 proposed --

1 THE COURT: I'm sorry. Where are you?

2 MS. ABRAMS: In -- in Exhibit 93.

3 THE COURT: In 93 --

4 MS. ABRAMS: Right.

5 THE COURT: -- you're on the first page?

6 MS. ABRAMS: Yeah. In -- in the pages behind the --
7 the first two -- the first three pages are summaries that we
8 object -- absolutely object to. You'll see why we object to
9 the pages following that, as well.

10 BY MS. ABRAMS:

11 Q You're saying that everything for the second column,
12 the one that has the 97,000 figure in it the supporting
13 documentation are the pages that follow it that say, Wells
14 Fargo home mortgage, correct?

15 A That's correct.

16 Q And you see that you only provided page 7 of 8 for
17 each of these statements, correct?

18 A That's correct.

19 Q Okay. You are offering this to -- for the purpose
20 of trying to convince the Court that the payments on the Lowe
21 property came from money that was originated by you; is that
22 correct?

23 A That's correct.

24 Q But there's no tracing or accounting done as to what

1 money traveled through the B of A account, where it originated
2 from, or how money got into the joint account or anything like
3 that, correct?

4 MS. LOBELLO: Objection, relevance.

5 THE COURT: I -- huge relevance.

6 MS. ABRAMS: Exactly.

7 THE WITNESS: I'm going to say that's not correct.

8 BY MS. ABRAMS:

9 Q What's not correct?

10 A It --

11 MS. LOBELLO: Wait, can we rule on the objection?

12 The relevance objection?

13 MR. JONES: She said it was --

14 MS. ABRAMS: Oh, I think she did.

15 THE COURT: I -- it is relevant.

16 MS. LOBELLO: A tracing? Okay. All right.

17 THE COURT: Yes.

18 MS. LOBELLO: Okay.

19 BY MS. ABRAMS:

20 Q So if --

21 A The --

22 Q -- if --

23 A Okay. Okay.

24 Q -- if you asked Dr. Michaels for a check for

1 \$10,000, and you took that check and you deposited into what
2 you call Tom's checking account, but we now know is really
3 Thomas Pickens and Danka Michaels's checking account, and then
4 a payment was made from that account, that would not be
5 reflected in this summary, correct?

6 A That's not correct.

7 Q How is that not correct?

8 A It's so hard to -- I don't know what I can say or
9 what I can't say, but I'm going to say this --

10 Q You -- well -- well, let me ask this --

11 THE COURT: Answer the question. If somebody --

12 THE PLAINTIFF: I'm -- I'm -- I'm going to say this.

13 THE COURT: -- objects to it --

14 THE PLAINTIFF: Okay? Okay.

15 THE COURT: -- then --

16 MR. JONES: She asked why is it not correct?

17 THE PLAINTIFF: Okay. The reason it's not correct,
18 if you looked at 74, the first statement -- bank statement
19 that has Danka and I on it, if you go to page -- oh --

20 THE COURT: I don't know the page of the T number
21 down there.

22 THE PLAINTIFF: If you go to -- to page 5644, she
23 was asking why I only left seven and eight pages? This is the
24 whole checking account. This has that mortgage included in it

1 It's the same thing that's in the other book, 93, is attached
2 to this one, too. So they're the same document. So 93 -- 93
3 and 90 -- and 74, it's the same account, and it shows exactly.
4 That account shows where the money came from --

5 BY MS. ABRAMS:

6 Q Okay. So -- so --

7 THE COURT: Okay.

8 BY MS. ABRAMS:

9 Q But -- but you didn't answer my question. So let's
10 just look, hypothetically for this -- look at the --

11 MR. JONES: Your Honor, I object to the
12 mischaracterization. She said why is it not true, and he just
13 answered the question --

14 THE COURT: I --

15 MS. ABRAMS: No.

16 THE COURT: I recognize --

17 MS. ABRAMS: That was a different question.

18 MR. JONES: No it wasn't.

19 THE COURT: Please stop. My understanding, because
20 I need to be in charge here, is that he only put seven of
21 eight because it had the summary of the document in his
22 summary. So a summary of a summary.

23 MS. ABRAMS: Understood.

24 THE COURT: Your question was how do you know that

1 the money didn't come from where she put some money in, and he
2 put some money into the same account. Is that your question?

3 MS. ABRAMS: Right. So what I'm saying is --

4 THE COURT: How do we know.

5 MS. ABRAMS: -- is there's other accounts that
6 existed that we don't have the statements for.

7 BY MS. ABRAMS:

8 Q So for example, let me ask you this hypothetical.
9 Look at the very first statement on tab 74, TP05641. Do you
10 see that?

11 A Yes.

12 Q Okay. And so You have -- if you look at the first
13 item that you highlighted, online transfer from Blue Point
14 Development business checking \$10,000 into this account. Do
15 you see that?

16 A Yes.

17 Q And it is your allegation in making this summary
18 where you have that, you know, whatever listed, that if the
19 money was transferred from Blue Point Development into this
20 account, that it originated from you; is that correct?

21 A That's correct.

22 Q Okay.

23 A That is correct.

24 Q But there have been instances where -- where you

1 have asked Dr. Michaels for money. She's given you \$50,000
2 checks that you've put into Blue Point Development. Now
3 you're going to use that money and transfer it into this
4 account --

5 MS. LOBELLO: Objection, foundation.

6 MS. ABRAMS: -- and claim that it's your account.
7 Did you ever do a complete analysis of tracing all the dollars
8 of interactions from one account to another?

9 MR. JONES: Objection, relevance, Your Honor.

10 MS. ABRAMS: And it's also --

11 MS. LOBELLO: And objection, foundation.

12 MR. JONES: And I'll explain why. This is not a
13 summary of the source of income. This is a summary of
14 payments made either from his company account or the joint
15 account, which yes, he erroneously called Tom's account. We
16 can write Tom and Danka on it and fix that in no time. Okay?
17 But it's a summary of monies paid for the mortgage and for
18 improvements for that house.

19 So whether the money came from heaven or from Danka
20 or from his million dollar bonus that he testified to doesn't
21 matter. It's about showing that this mortgage was paid off
22 from a joint or his company source. That's -- we don't care
23 where the money came --

24 MS. ABRAMS: It wasn't --

1 MR. JONES: -- into the accounts. Period.

2 MS. ABRAMS: But what I'm saying is it doesn't even
3 show that. It doesn't show that it was paid from a joint or
4 from his company source. It does not show that because there
5 are transactions that when where he was asking her for money,
6 there's transactions that went. There's no telling from this
7 summary anything that they're trying to get you to conclude
8 from looking at the summary.

9 THE COURT: Okay. Wait. Let me -- let me just say
10 this. We've got a summary showing money that was paid towards
11 mortgages, whether -- whether it came from heaven. These
12 monies actually came, the source came from joint checking
13 accounts or his whatever, but these are the sources. And he's
14 claiming that the -- I don't know if he has a special reason
15 for breaking it out between his company and his joint checking
16 account?

17 MR. JONES: Just because it was -- the source of the
18 account was different, meaning --

19 THE COURT: Because don't they both own both
20 accounts if -- under your theory of the case.

21 MR. JONES: Well, yes --

22 MS. LOBELLO: Correct.

23 MR. JONES: -- absolutely.

24 MS. LOBELLO: Correct. But under an alternative

1 theory, if you needed to trace out who paid for what, if you
2 didn't accept the community property by analogy. So it is, in
3 that instance, I can see why you said we need a forensic
4 accounting, right?

5 THE COURT: Uh-huh (affirmative).

6 MS. LOBELLO: But, I mean --

7 MR. JONES: I mean, here's the thing. The bank
8 statements are already in evidence, Judge.

9 THE COURT: Uh-huh (affirmative).

10 MR. JONES: So we can argue all day at the time of
11 the closing argument as to what the total amounts paid from
12 each place based upon each exhibit. So I don't understand the
13 objection to the summary, but to the extent that we're wasting
14 valuable time, because nobody -- there's been no objection on
15 this side that the numbers listed on the bank statements that
16 have been produced and are already in evidence are inaccurate.
17 Okay? She can say that he shouldn't have called it Tom's
18 checking, and I'll agree to that.

19 THE COURT: Can you show me an inaccurate line item?

20 MR. JONES: Line item.

21 MS. ABRAMS: Well, I --

22 THE COURT: Regardless of the source of his checking
23 account, her checking account, or heaven --

24 MS. ABRAMS: So --

1 THE COURT: -- can you show me something that was
2 not applied to the mortgage from the sources that are there?

3 MS. ABRAMS: So here's the thing, Your Honor. There
4 -- the --

5 THE COURT: Because to me, the summary is just
6 saying this is what happened during the marriage on this --
7 these properties.

8 MS. ABRAMS: There was no marriage.

9 THE COURT: Well --

10 MS. ABRAMS: So --

11 THE COURT: Thank you.

12 MR. JONES: Except for everybody in this room has
13 already said there was once today. So -- oh, except for
14 Ms. Stoltz, I'm sorry. She didn't say it.

15 THE COURT: I apologize for -- yes. From the
16 relationship, I'll say that, because I've not made a ruling on
17 the marriage yet. But from the time the two of them got
18 together and started doing transactions together, these monies
19 that are in this summary were actually paid toward the debt
20 that these parties entered into together. Do you have an
21 inaccurate number in there that --

22 MS. ABRAMS: We're not -- we're not disputing that
23 mortgage payments were made.

24 THE COURT: Okay.

1 MS. ABRAMS: We're not disputing that. But what we
2 do have a problem with is that this alleged summary is trying
3 to make it appear as if the payments towards the mortgage were
4 sourced by Tom. It says from Tom's checking, it says from
5 Blue Points checking, but that's not the source of the money.
6 And it's not even an accurate representation of the account
7 that it came out of. There's a reference to another account
8 that we don't even have any statements for. And so what
9 happens is, is it creates, you know, presumptions or
10 assumptions that have not been proven.

11 THE COURT: Okay.

12 MS. ABRAMS: The --

13 THE COURT: Here's what --

14 MS. ABRAMS: -- statements speak for themselves.

15 THE COURT: Here's what I can do. I can enter the
16 summary with the exception that it does not draw any final
17 conclusions as to the source of those monies that are listed
18 on that summary.

19 MS. LOBELLO: We would --

20 MS. ABRAMS: Well --

21 THE COURT: The source would have to be proven that
22 it was independently one person's or another's. Otherwise, it
23 would be determined that these transactions came from joint
24 accounts.

1 MS. ABRAMS: Well, then -- then I don't think it
2 really serves any purpose to help the -- help the Court,
3 because --

4 THE COURT: You think?

5 MS. LOBELLO: The mortgage payment was
6 (indiscernible) because the --

7 MS. ABRAMS: I don't think. And I'll tell --

8 MS. LOBELLO: Because they're huge payments. That's
9 the --

10 MS. ABRAMS: Because there's -- nobody's disputing,
11 it's already been admitted into evidence, that there was a
12 deed of --

13 THE COURT: I'm looking at --

14 MS. ABRAMS: -- trust --

15 THE COURT: I'm looking at --

16 MS. ABRAMS: -- and there's -- and there's --

17 THE COURT: -- mortgage amounts, balances, and
18 payments. That's all I'm looking at.

19 MS. ABRAMS: Okay --

20 THE COURT: I'm not looking at where the source of
21 the things came from.

22 MS. ABRAMS: Then -- then why have the summary at
23 all? Nobody's disputing that there was a deed of trust. The
24 deed of trust has already been admitted into evidence. It

1 shows that there was a mortgage for \$103,920. And there's no
2 dispute that right now, the property is free and clear. So --
3 and all these statements --

4 THE COURT: I cannot use --

5 MS. ABRAMS: -- with it, so --

6 THE COURT: -- this document, to be fair, to say
7 therefore X amount of dollars go to one person or another. I
8 can't do it.

9 MR. JONES: And we're not asking to, Judge.

10 MS. LOBELLO: No.

11 MR. JONES: We're simply --

12 MS. ABRAMS: Then it doesn't help the Court --

13 THE COURT: So what's the purpose of it then?

14 MS. ABRAMS: Exactly.

15 MR. JONES: It's being offered to show that --

16 MS. LOBELLO: Which account --

17 MR. JONES: -- that this mortgage that she's
18 claiming oh, this is my sole and separate property and I own
19 it free and clear, was paid for by either a joint source or
20 his company source, which as you said --

21 MS. ABRAMS: That's not true. That's not true.

22 THE COURT: Okay. I can't -- then I can't --
23 there's a problem.

24 MR. JONES: It's not -- but where is she saying it's

1 not true? What one of these numbers is wrong?

2 THE COURT: Yes.

3 MS. ABRAMS: What I'm saying is you can't say the

4 source. Okay? If I give --

5 MR. JONES: An account.

6 MS. ABRAMS: -- Mr. Jones --

7 MR. JONES: I'll change it to account from a joint

8 or --

9 MS. ABRAMS: If I --

10 MR. JONES: -- his business account. I'm not saying

11 that the source of monies was his income, her income, or found

12 money, or lottery winnings.

13 THE COURT: Only thing I can look at is from the --

14 the lines that are not highlighted. That's the only thing I

15 would admit. I'm not going to admit his -- his lines, her

16 lines, their lines. These are mortgage amounts and payments

17 made towards that mortgage. I don't know how that's going to

18 help you.

19 MS. ABRAMS: So you're saying from starting from top

20 to bottom --

21 THE COURT: Thursday, July 31st --

22 MS. ABRAMS: To Tuesday, August 30th.

23 MR. JONES: You know what, Judge?

24 THE COURT: That's all --

1 MS. LOBELLO: We'll withdraw the request, Judge.
2 MR. JONES: The bank statements are in. We --
3 MS. LOBELLO: Yeah. We'll do it in closing.
4 MR. JONES: So we'll just argue it in closing
5 arguments the exact numbers, period. Instead of you having
6 oh, okay, this is the amount.
7 THE COURT: Yeah, I understand.
8 MR. JONES: Now if they wanted to say no --
9 THE COURT: I'm uncomfortable --
10 MR. JONES: -- these amounts were not paid --
11 THE COURT: Let me tell you, I'm uncomfortable
12 admitting this --
13 MR. JONES: That's fine.
14 THE COURT: -- because the person who created it is
15 not an independent source. He has a reason to name things,
16 certain things certain ways. And so I'm just uncomfortable
17 admitting it for that purpose.
18 MR. JONES: And that's fine, Judge. Except --
19 MS. LOBELLO: It's okay.
20 THE COURT: Not for the purpose -- not for the
21 purpose, what do you call it. Not for the -- not to represent
22 --
23 MR. JONES: Characterization --
24 THE COURT: -- characterization --

1 MR. JONES: -- of a source.

2 THE COURT: -- only. Just as a summary of --

3 MR. JONES: And it wasn't being offered for that.

4 And yes --

5 THE COURT: Proof of the matter asserted.

6 MR. JONES: -- I apologize that --

7 THE COURT: It's not for the proof of the matter

8 asserted --

9 MR. JONES: -- I didn't notice the Tom's checking,

10 even though it's meaningless because we know what account it

11 is and we know it's a joint account.

12 THE COURT: And I'm not certain about the sourcing

13 on his business, either.

14 MS. ABRAMS: Right.

15 THE COURT: So just to say --

16 MR. JONES: You mean the money that went into his

17 business. I'm not saying --

18 THE COURT: Okay.

19 MR. JONES: -- that the money that was in his

20 business account came from any source. I'm just saying that

21 these dollars were --

22 THE COURT: Came from those accounts.

23 MR. JONES: -- paid for this house, from that

24 source.

1 THE COURT: Okay.

2 MR. JONES: And those -- those --

3 MS. LOBELLO: Don't say source, say account. It's
4 this account.

5 MR. JONES: That account. Okay.

6 MS. LOBELLO: The payment came from this account.

7 MR. JONES: Right.

8 MS. LOBELLO: We're not saying it's a tracing.

9 MR. JONES: And you know what? We already have the
10 proof of that.

11 THE COURT: It is not a tracing.

12 MS. LOBELLO: I know, we never said it was.

13 MR. JONES: We already have the proof of that in the
14 admitted bank statements, period.

15 MS. ABRAMS: Then it's -- then it's unnecessary and
16 --

17 MR. JONES: Well, no --

18 MS. ABRAMS: -- it should not be --

19 MS. LOBELLO: They don't --

20 MR. JONES: Here's -- Judge, here's the thing. And
21 I read the statute regarding summaries. It's to save Your
22 Honor time from having to look through 4,000 pages of bank
23 statements to verify what I argue.

24 THE COURT: No, save you time, court time, from

1 having to go through each and every single one of them one at
2 a time --

3 MR. JONES: Right.

4 THE COURT: -- from now until I turn greyer.

5 MS. ABRAMS: Well, if they want to redact
6 everything, like black out or white out everything above
7 Thursday and below Tuesday, I -- I didn't check every single
8 one of these, but I can certainly do that and let you know.

9 THE COURT: Any problem?

10 MR. JONES: That'd be great.

11 THE COURT: All right. It's in, blacking out the
12 everything except for --

13 MS. ABRAMS: So -- or so --

14 MR. JONES: Before next Friday, we'll bring you --

15 MS. ABRAMS: A replace --

16 MR. JONES: -- a replacement exhibit.

17 MS. ABRAMS: Okay. And between now and that time, I
18 will review it for accuracy. And if there's any inaccurate
19 line items over there, then I will certainly bring that to
20 Mr. Jones --

21 THE COURT: I'm comfortable that there probably
22 isn't. I don't see a reason why he would put something on
23 there that he would get caught at.

24 MS. ABRAMS: I'm not saying --

1 MR. JONES: Well, particularly --
2 MS. ABRAMS: -- he would. But people --
3 MR. JONES: -- because he wasn't sure about the B of
4 A thing. That's why he said this was in question.
5 THE COURT: Right.
6 MR. JONES: I mean, this is -- this is a document
7 where he prepared and said listen, I'm pretty sure I did this,
8 but I can't --
9 THE COURT: Replace -- get a --
10 MR. JONES: -- point to that document.
11 THE COURT: -- replacement document. And I'll admit
12 this only for the dated items in there.
13 MR. JONES: And we'll get everything. We'll get a
14 -- we'll get a revised --
15 THE COURT: And not for the purpose of --
16 MR. JONES: -- a document.
17 THE COURT: -- the truth. So -- asserted.
18 MS. ABRAMS: Okay.
19 THE CLERK: That was 93.
20 THE COURT: Then 93.
21 MR. JONES: And does Counsel have an objection if we
22 characterize column three as Tom and Danka's account, and --
23 and --
24 MS. ABRAMS: Oh, no, no, no. No. We're not --

1 every -- we said everything above --

2 THE COURT: No, he said in the new --

3 MR. JONES: I asked if you had a problem.

4 THE COURT: Excuse me, excuse me. Lower your voice.

5 Lower your voice. He asked if you had a problem when he

6 creates the new document, if he re-titled it as their account

7 and his business account.

8 MS. ABRAMS: I do have a problem with that.

9 THE COURT: Because?

10 MR. JONES: What about by account number? That way

11 --

12 THE COURT: Account number would be perfect.

13 MR. JONES: Just by account number.

14 THE COURT: Account number's perfect.

15 MR. JONES: That way, if the Court wants to look at

16 the list and compare it to the bank statements, it can and

17 knows what account number it is.

18 THE COURT: Fine.

19 MS. ABRAMS: And what is the -- what is the purpose

20 of this? What's --

21 THE COURT: I'm not sure yet. I'm sure they will

22 let me know in their closing argument.

23 MS. ABRAMS: So the -- the rule that he read into

24 the record regarding summaries is only if it helps the Court

1 with something.

2 THE COURT: Right.

3 MS. ABRAMS: And if we don't know what it is being
4 offered for, he can't --

5 THE COURT: I don't know how I'm going to --

6 MS. ABRAMS: -- possibly help the Court.

7 THE COURT: I don't know how I'm finally going to
8 rule yet.

9 MR. JONES: Actually, it didn't say anything --

10 MS. ABRAMS: Then I -- okay.

11 MR. JONES: When I read it, it didn't say anything
12 about helping the Court.

13 MS. ABRAMS: We're going to have to defer on that,
14 then.

15 THE COURT: Okay. I understand.

16 MS. ABRAMS: Yeah.

17 THE COURT: I'll -- I'll take your objection.

18 MS. ABRAMS: Yeah. Then we're going to have to --

19 THE COURT: Okay.

20 MS. LOBELLO: So it's not admitted?

21 MS. ABRAMS: No. I'm not agreeing to it.

22 THE COURT: No, no, no. I'm admitting it, only --
23 not for the truth of the matter asserted, and only those
24 lines. When he resubmits a new document next week to you, if

1 you have the same objections, I'm going to have the same
2 ruling. I don't want this to be characterized as a tracing
3 where it shows that all those monies there were exactly 50/50
4 there, so the Tom and his account, and then all the monies in
5 the business account were all his. I'm not doing that --

6 MR. JONES: And we're not even alleging --

7 THE COURT: -- because I don't have any proof of
8 that.

9 MR. JONES: -- that, Judge.

10 THE COURT: I'm not. Okay, so --

11 MR. JONES: I'm just trying to say that these many
12 dollars from these two accounts --

13 THE COURT: I don't --

14 MR. JONES: -- went to this house.

15 THE COURT: And I don't know how that helps me, but
16 we'll see. It's in there if it helps me. Are we okay?
17 Whether we're not, we are.

18 MR. JONES: We are.

19 THE COURT: Let's go forward.

20 MS. ABRAMS: All right. This is going to make it a
21 lot shorter, Judge.

22 THE COURT: Okay.

23 DIRECT EXAMINATION (CONTINUED)

24 BY MS. LOBELLO:

1 Q The improvements that you made to the Queen
2 Charlotte residence, were there any improvements made
3 subsequent to when you first bought it in 2004? I forgot to
4 ask you that question.

5 A The answer's yes and --

6 MS. ABRAMS: I didn't hear the question.

7 THE COURT: Was that the \$30,000 improvements?

8 MR. JONES: No, after -- after that.

9 MS. LOBELLO: I -- yeah, I forgot --

10 THE COURT: Were there any subsequent to the
11 \$30,000?

12 MS. LOBELLO: And I'm sorry, I'm going back to that
13 last property. We're --

14 THE COURT: That's okay.

15 MS. LOBELLO: -- moving backward, not forward.

16 THE COURT: I have room on my paper, go ahead.

17 BY MS. LOBELLO:

18 Q Are there any other improvements made to Queen
19 Charlotte after the 30,000 improvements in 2004?

20 A Yes. Two thousand -- late 2014, 2015, we had a
21 designer come and re -- redesign our house. And I spent
22 \$90,000 to \$100,000 paying that designer to redo our house.

23 Q Then on the Lowe (ph) property, if you turn to
24 Exhibit 92, please. Okay. We're going to forget the first

1 page, which is a summary. So ignoring Bate number --

2 THE COURT: We're on 92?

3 MS. LOBELLO: Yeah, we're on Exhibit 92. But we're

4 not offering the first page, which is TP06178. But starting

5 in exhibit ninety --

6 THE COURT: 92 is in or not in?

7 MS. LOBELLO: Not.

8 MS. ABRAMS: It is not.

9 THE COURT: Thank you.

10 BY MS. LOBELLO:

11 Q But starting with the photographs on the second page

12 of that exhibit, TP06179. Do you recognize these photographs?

13 A Yes.

14 Q Did you take these photographs?

15 A I did not. A real estate agent that we had that

16 actually purchased the house for us originally took these

17 photographs after Jody moved out.

18 Q Did the real estate agent --

19 MS. ABRAMS: I'm going to --

20 MS. LOBELLO: -- give those to you?

21 MS. ABRAMS: I'm going to object because do we have

22 -- do we know --

23 MR. JONES: They haven't been moved into evidence.

24 Can we get --

1 MS. LOBELLO: They're not in evidence.

2 THE COURT: Go ahead.

3 MR. JONES: -- a ruling that you can't object until
4 there's --

5 MS. LOBELLO: First.

6 MR. JONES: -- a movement into evidence?

7 THE COURT: Let's try, yes. Go ahead, Counsel.

8 BY MS. LOBELLO:

9 Q Did you witness the property when Jody moved out on
10 Lowe?

11 A Yes.

12 Q Okay. Are these photographs consistent with what
13 you witnessed when you evaluated the property after she moved
14 out?

15 A Absolutely.

16 Q And so when did Jody move out of the property if you
17 bought it and 2011, do you recall?

18 A I think she moved on in, like, 2014, July of 2014.

19 Q So after Jody moved out, did you and Danka make any
20 repairs to the Lowe residence?

21 A We did a complete renovation from top to bottom.

22 Q Do you recall how much you both spent?

23 A I spent 30 to 45,000 on the repairs of the house.

24 Q And describe what --

1 THE COURT: I'm sorry, how much?

2 THE WITNESS: Thirty-five to forty thousand.

3 BY MS. LOBELLO:

4 Q Can you describe what the repairs consisted of?

5 A All new flooring throughout the house, new cabinets,
6 new kitchen equipment, appliances, new carpet, new paint. We
7 put in a door going up to the backyard, a French door going
8 out to the backyard. The bathroom in the second floor was
9 completely redone, new tile from floor to ceiling. We put in
10 a -- a standalone tub with a standalone shower in it, new
11 closets, pretty much everything. New plumbing, new fixtures,
12 new toilets.

13 Q Did you have any assistance from any of your
14 contacts to assist with the cost of those improvements you
15 just described?

16 A Oh, absolutely. Again --

17 Q Did you do any of those improvements yourself?

18 A I did. I helped with the demolition to get some of
19 this garbage out of it, pulled some of the carpet up. My
20 assistant's father came down and oversaw while he wasn't
21 there. He was a carpenter and he helped put the base in, just
22 overall watched the contractors that were working on it.

23 Q So for the 35 to 40,000 you spent, did you get a
24 good value for those dollars based --

1 A Absolutely.

2 Q So you --

3 A Absolutely.

4 Q It was a benefit to the owners of the property that

5 you --

6 A Yes.

7 Q -- were able to get discounts?

8 A Yes. Well, we also improved the yard. It was dead.

9 (Indiscernible) was removed.

10 Q Okay. Now we're going to talk about Patience One,

11 which is the LLC that owns the building. So could you turn to

12 Exhibit 96?

13 THE COURT: 96 is not in yet? Or it is?

14 MS. LOBELLO: It is not.

15 THE COURT: Okay.

16 MS. LOBELLO: SO --

17 THE COURT: So you didn't move the other one in yet?

18 MR. JONES: No, the photographs --

19 THE COURT: Thank you.

20 BY MS. LOBELLO:

21 Q This document, do you recognize this, Tom?

22 A Yes.

23 Q Okay. And it's Bates number TP06265 addressed to

24 Patience One, Tommy Pickens, Thomas A. Pickens, manager dated

1 July 3rd, 2014.

2 A That's correct.

3 Q What does this correspondence discuss?

4 A The purchase of the 3320 North Buffalo company, our
5 building.

6 Q And the date on that is July 2014. I thought you
7 testified earlier you purchased this in 2012.

8 A This is a refinancing that we did through Wells
9 Fargo.

10 Q Okay. So just go through these documents. Do you
11 remember that these were the documents that you received in
12 the Nevada title closing file?

13 A I'm saying yes.

14 Q And if you can turn all the way to the Bates number
15 at the bottom right is going to end in 6296. It's the end of
16 the deed of trust if that helps you get there.

17 A Six two?

18 Q Six two nine six are the last four digits.

19 A Yes.

20 Q Is that your signature on page Bates number TP06296?

21 A Yes.

22 Q You signed as the manager of Patience One, LLC?

23 A Correct.

24 Q On the deed of trust.

1 MR. JONES: To the extent that I think there was an
2 objection because of the letter and the HUD one, but from
3 TP06267 through T006296 is the already recorded with the Clark
4 County recorder's office deed of trust. We've already
5 admitted every other deed of trust, except for the one on this
6 refinance. We would move that as Plaintiff's next in order.

7 THE COURT: Counsel, any objection?

8 MS. ABRAMS: If it is just the deed --

9 MR. JONES: Deed of trust.

10 MS. ABRAMS: Okay. Without --

11 THE COURT: So from 6267 to 6297?

12 MR. JONES: 6296.

13 THE COURT: 6296?

14 MR. JONES: Actually the gap indemnity might be part
15 of it as well.

16 MS. ABRAMS: Hold on.

17 MS. LOBELLO: Most of this is the --

18 MR. JONES: Hang on. I think -- I think the deed of
19 trust ends actually with the gap indemnity. The next is a
20 letter. So it actually goes through TP06298.

21 THE COURT: Counsel?

22 MS. ABRAMS: I'm just --

23 THE COURT: Any objection?

24 MS. ABRAMS: If that's all it is, is the deed of

1 trust --

2 THE COURT: Next in order.

3 (Plaintiff's Exhibit 153 admitted)

4 MS. ABRAMS: -- I don't have an --

5 THE CLERK: 153.

6 MS. ABRAMS: -- issue. I just want to make sure

7 there's no extra pages in here.

8 THE COURT: Okay.

9 MS. LOBELLO: You're going to have to write this

10 down, my friend. Which is the next exhibit?

11 THE CLERK: 153.

12 MR. JONES: 153.

13 THE CLERK: At the end, I'll make a copy of what's

14 been --

15 BY MS. LOBELLO:

16 Q So when you refinanced the building in 2014, you

17 talked about this a little earlier --

18 THE COURT: Wait a minute. Counsel's still

19 distracted trying to make sure she's --

20 MR. JONES: Yeah, wait 'till she's done deciding

21 whether this is just the deed of trust.

22 MS. ABRAMS: I'm sorry.

23 THE COURT: I'm waiting for her to say if she

24 objects or not.

1 MS. ABRAMS: Yeah, there's -- there's the last three
2 pages are escrow instructions. It actually ends at 6293.

3 MR. JONES: 6293?

4 MS. ABRAMS: Yeah.

5 THE COURT: The exhibit to the title should be --
6 yes. No, this needs to be in here.

7 MR. JONES: You're saying 6293. 6294 are general
8 provisions for the deed of trust, the signature line
9 acknowledging the general provisions is on 6296. And then
10 there's the gap indemnity language that's part of the deed of
11 trust that goes to 06298.

12 THE COURT: I find no problem with introducing that.
13 Only that. What's the number on it?

14 THE CLERK: 153.

15 THE COURT: 153. From zero --

16 MS. ABRAMS: Well, 6294, these are escrow
17 instructions. It's not --

18 MR. JONES: Are you looking at 96?

19 THE COURT: It says general provisions at the top.

20 MR. JONES: Are you in Exhibit 96?

21 THE COURT: She's in 96. You're in 96, correct,
22 Counsel?

23 MS. ABRAMS: Yes. Okay.

24 MR. JONES: This is what I have for --

1 MR. JONES: Okay. Yeah, no. I don't have a problem
2 with that.

3 MR. JONES: Okay.

4 THE COURT: Okay.

5 MR. JONES: Thank you.

6 THE COURT: So just to recap for the record to make
7 sure of accuracy, we're taking it from TP06267 through
8 TP06298?

9 MR. JONES: Correct.

10 THE COURT: Next in order.

11 MS. ABRAMS: 96. Oh, 98.

12 THE COURT: 98.

13 MS. ABRAMS: I'm sorry.

14 THE COURT: Okay. All right. So that's it.

15 BY MS. LOBELLO:

16 Q So now between 2012 and 2014 when you -- when
17 Patience One had to do the refinance, were there any
18 improvements made to that building?

19 A Yes.

20 Q And start from when you bought it. Start from when
21 you bought it in 2012.

22 THE COURT: What's the name of this building? What
23 are we calling it?

24 MS. LOBELLO: This is the Buffalo office.

1 THE COURT: Buffalo office.

2 MS. LOBELLO: And it is owned by --

3 MR. JONES: Or Patience One.

4 MS. LOBELLO: Patience One, LLC. So Patience One,
5 LLC owns the building and operates it.

6 BY MS. LOBELLO:

7 Q So go ahead.

8 A There was several improvements on the building from
9 the time we bought it until 2014. Of course, Danka's office
10 was built out, approximately 9,000 square feet. There was
11 offices that were in her area that we took out and moved up
12 top to the second floor, which was only like a thousand square
13 feet.

14 We moved that up and remodeled that space. We also
15 brought in other -- or other tenants that came in, we improved
16 their spaces. We painted the entire building. We improved,
17 put carpet in a few suites, but not all of them. We actually,
18 I built out my office as far as the improvements in my office.
19 So there was quite a few improvements done. Parking lot was
20 re-stripped.

21 Q Okay. So, sorry. I'm going to move on.

22 A Go ahead. I'm sorry.

23 Q How many square feet was the entire building?

24 A Thirty-one thousand.

1 Q Do you recall how many square feet Danka's office
2 would occupy in the building?

3 A Nine thousand.

4 Q I'm sorry?

5 A Right -- 9,000.

6 Q And how many square feet would Bluepoint
7 Development, your office, occupy?

8 A Four thousand.

9 Q Were there to be other tenants then in the building?

10 A Yes.

11 Q And did you, at that time, have any tenants lined up
12 when you first bought it in 2012?

13 A When we first bought it, there was -- were tenants
14 there that were there for approximately two years. You have a
15 real estate company was there, some bride magazine company was
16 there, the -- the thousand square foot was a investment
17 company. And I think that was pretty much it.

18 Q So there was to be the medical practice, your
19 business, and then there were three other tenants already
20 there?

21 A Correct.

22 Q So to renovate or to do the improvements for Danka's
23 office, did you have to get financing?

24 A Danka got a loan, a \$450,000 loan, which I was

1 guarantor on, to build -- build out her space. And we hired
2 an architect, and her and I did the complete design of her --
3 her space. I hired the contractor that ended up doing her
4 space, and managed the process.

5 Q Did that help mitigate the expense associated with
6 that renovation?

7 A Oh, absolutely. Again, it was people that I knew
8 that actually did the work, and I wasn't paying for that.

9 Q The \$450,000 loan to do the tenant improvements on
10 the medical practice, was that loan exclusively for those
11 improvements to the medical practice?

12 A Yes.

13 Q Those funds didn't improve any other part of the
14 building?

15 A No.

16 Q And the LLC, Patience One, LLC, do you recall who
17 set that up for you?

18 A I think Shannon Evans did.

19 Q Who are the members of Patience One, LLC?

20 A Danka and I.

21 Q What is your member -- what was your membership
22 interest I should say?

23 A It was 50/50.

24 Q Who was the managing member of the Patience One,

1 LLC?

2 A I was. Just, and I also did a tenant improvement in
3 2014. I think you said at 12th --

4 MS. ABRAMS: Was there a question pending?

5 THE COURT: No, there was not.

6 MS. LOBELLO: No there wasn't. So that was --

7 MS. ABRAMS: Move to strike.

8 MS. LOBELLO: That was --

9 THE COURT: Strike it.

10 MS. LOBELLO: That's where I was going next.

11 BY MS. LOBELLO:

12 Q But the question, original question was what
13 improvements were conducted between 2012 and 2014. You've
14 just talked about the improvements that were made in 2012 when
15 you bought the property and around that time. So following
16 that, what other improvements were made?

17 A We had a, I'm not sure, it was another medical
18 practice wanting to move into it and sign a 10-year lease and
19 -- set up to go get a TI loan through a bank. I ended up
20 putting the funds up to pay for that tenant improvement. It
21 was approximately \$280,000. It came from my business. And I
22 --

23 Q What year was that?

24 A 2014, '15. I think it was 2015. No, it was 2014, I

1 believe.

2 Q How many square feet was the --

3 A Four thousand square feet.

4 Q Any other improvements between two thousand -- or
5 capital expenditures improvements in the building --

6 A Yes. I ended up putting -- we did some improvements
7 throughout the building whenever we had a possible tenant
8 going to move in. I ended up putting carpet throughout the
9 whole building, any space that wasn't carpeted already.
10 Basically my -- the people that worked for me, most of the
11 time they would help do whatever needed to be done to -- to
12 get the improvements done. The cost of the materials and
13 everything came out of my accounts. Danka did make an
14 improvement of the courtyard. But other than that, I paid for
15 the majority of the cost.

16 Q When you say I, do you mean Bluepoint Development?

17 A Yes.

18 Q When you say Danka, do you mean the medical
19 practice?

20 A Yes. I'm sorry.

21 Q So I want to go back to, I'm going to ask you this
22 about each of the three properties --

23 A Okay.

24 Q -- the Queen Charlotte and the Lowe, and the office

1 building on Buffalo. When you were -- after you bought the
2 house in 2004 in Queen Charlotte, who paid the mortgage?

3 A We paid it out of a joint account.

4 Q Who wrote the check?

5 A It came -- it came out of online banking. So it
6 came directly from the banking account. And I made the
7 payments, or as far as I --

8 Q Okay. Who's responsible --

9 A -- went in --

10 Q -- between you and Danka?

11 A I was.

12 Q Who made sure that the mortgage got paid on the 5th
13 day of every month?

14 A I was.

15 Q How about the utilities, who paid?

16 A Same thing.

17 Q Were you in charge of managing the finances related
18 to your household?

19 A Yes.

20 Q That was your marital residence, right?

21 A Yes.

22 Q Okay. Now on the Lowe house, that was never a
23 residence that you and Danka lived in, right?

24 A Never.

1 MS. ABRAMS: I just have a standing objection on
2 that.
3 THE COURT: To the characterization?
4 MS. ABRAMS: Yes.
5 MS. LOBELLO: Oh, I'm sorry.
6 MS. ABRAMS: Absolutely.
7 THE COURT: And I understand that that is a --
8 MS. ABRAMS: That's what I said at the very
9 beginning.
10 THE COURT: That's fine.
11 MS. ABRAMS: I don't want to keep interrupting, but
12 it's just a standing objection --
13 MR. JONES: I thought we -- I thought we covered
14 that.
15 MS. ABRAMS: Yeah.
16 MR. JONES: And more importantly --
17 THE COURT: It's fine.
18 MR. JONES: -- he believes it's a marriage. He's
19 the witness. He can testify with that question.
20 THE COURT: I understand.
21 MS. LOBELLO: But I said it, and I'm sorry. I'll
22 try not to --
23 THE COURT: It's fine.
24 MR. JONES: It's -- it's not an evidentiary

1 objection. I mean --

2 THE COURT: She just wants to --

3 MR. JONES: -- saying she doesn't like us using the
4 word marriage is not an evidentiary objection.

5 MS. ABRAMS: Well, it is because it assumes facts
6 that have not been established.

7 MR. JONES: Except for the Defendant already called
8 it a marriage. So we've --

9 MS. ABRAMS: I don't recall --

10 MR. JONES: -- already established that.

11 THE COURT: Counsel, no we haven't. I get to
12 establish that.

13 MR. JONES: No, I understand that. But meaning the
14 defendant has used --

15 THE COURT: I don't want to hear --

16 MR. JONES: -- referred to it as a marriage.

17 THE COURT: -- any more argument on the
18 characterization of property because your client's going to
19 get up there and she's going to say our joint venture,
20 whatever. They're not going to like that. Go ahead.

21 BY MS. LOBELLO:

22 Q So on the Lowe residence, which was never a place
23 that you and Danka lived together, who paid the mortgage on
24 that house every month?

1 A Well, I did through a joint account.

2 Q But who was actually responsible for making sure
3 that got paid?

4 A I did.

5 Q Who was responsible for making sure that the
6 utilities or anything else that the tenant wasn't paying got
7 paid?

8 A I did.

9 Q Who was responsible for collecting the rent?

10 A Danka did.

11 Q Okay. Who was responsible for making sure that the
12 property was maintained?

13 A I did.

14 Q How about on the building? When you bought the
15 building and thereafter, Patience One obviously was operating
16 the building, right?

17 A Correct.

18 Q So who on behalf of Patience One was collecting rent
19 from the tenants? We originally had a management company do
20 it when we first bought the building for the first year. And
21 after the first year, it made no sense at all to pay him when
22 we were in the building. So we took over, Bluepoint
23 Development took over that position.

24 My assistant, Sarah and Nicole, and Necora basically

1 collected all the rents. She would take care of any of the
2 complaints or issues having to do with the building.

3 Q So after a year, you took over property management
4 essentially?

5 A That's correct. That's correct.

6 Q Was Danka ever responsible for collecting rents?

7 A No.

8 Q And did you -- you said -- you've described one
9 tenant, right, that was added, a doctor or medical practice of
10 4,000 square feet. Did you eventually have other tenants in
11 the building up until 2016 while you were still the managing
12 -- manager of Patience One?

13 A We -- we had another, she was a foot doctor that
14 came in. She I think probably 2,500 square feet. She lasted
15 for two or three years. And she failed to make the rent, so
16 we -- she moved, and we replaced that tenant with another
17 accounting firm moved into that space.

18 Q As between you and Danka, who was the member of
19 your, whatever we're going to call it, who was more
20 responsible for paying the bills related to all the property?

21 A I was.

22 Q During the marriage, did you acquire any retirement
23 assets?

24 A Yes.

1 Q Okay. Tell us about -- you testified earlier that
2 you thought when Danka came into the marriage, she had
3 approximately \$50,000 in retirement dollars. So, and you had
4 no retirement dollars coming into the marriage, right?

5 A That's correct.

6 Q Okay. So what did you accumulate as far as
7 retirement dollars following 2002?

8 A Approximately \$200,000 by -- from 2002 two until
9 2016.

10 Q What was -- how did those accumulate?

11 A The funds came from Danka's practice. We figured
12 that was a retirement from -- fund for us that we put
13 together.

14 Q Was that a 401k?

15 A Yes, it was. It was in my name.

16 Q Because you were in employee, you testified earlier,
17 right?

18 A Correct. That's correct.

19 Q How much, in 2016, had you accumulated in your
20 retirement account?

21 A \$200,000.

22 Q And do you still have a retirement account?

23 A No.

24 Q We're going to come back to that. How about Danka?

1 Are you aware in 2016 of how many -- how much she had
2 accumulated in retirement dollars in her name?

3 A Not the exact number, but I know anywhere from six
4 to \$800,000.

5 Q And in the exhibits that have already been admitted,
6 there are various statements in the name of -- in Danko's
7 name, a JP Morgan IRA statement in Exhibit 144, and --

8 THE COURT: Have those been admitted yet?

9 MS. LOBELLO: Yes, that one's admitted.

10 THE COURT: Okay.

11 MS. LOBELLO: And that statement is dated August of
12 -- I'm sorry, September 30, 2019. And then there are some
13 statements in Exhibits 27, 128, and 129.

14 MS. ABRAMS: Is she testifying, or what are we doing
15 here?

16 MS. LOBELLO: I'm just --

17 MS. ABRAMS: Is this a question?

18 MS. LOBELLO: It is going to be a question. Those
19 statements are --

20 MS. ABRAMS: Leading question.

21 THE COURT: I'm not sure.

22 MS. LOBELLO: I'll just withdraw. I'll just use
23 this in closing argument. It's fine. I'm trying to make it
24 easier for the Court.

1 THE COURT: Withdrawing the previous remarks?

2 MS. LOBELLO: I'm withdrawing the question.

3 THE COURT: Thank you.

4 BY MS. LOBELLO:

5 Q So in 2014 when you had to do the refinance, why was
6 it that you had to refine -- Patience One had to refinance the
7 mortgage that you had just gotten two years earlier in 2012
8 when you bought the property?

9 A At the time, Bank of America was looking at the
10 funds coming in from Danka's practice. And the funds seemed
11 to dip, and they were concerned that we weren't going to be
12 able to handle the mortgage. But it -- it wasn't true, and
13 her funds were fine. Her employees were bad, let's put it
14 that way. They weren't -- they weren't properly doing
15 billing, she wasn't collecting properly. So there was
16 corrections that had to be made. Wells Fargo --

17 Q Were the corrections made, eventually?

18 A I can't tell you that. We hired several accountants
19 to try to solve the problem during that time.

20 Q So was that -- how did that affect your demeanor,
21 the necessity of going through the refinance?

22 A Well, it was really stressful for me. I mean, it
23 just, the fact that I was meeting with Bank of America, trying
24 to determine what we could do to basically salvage that loan.

1 And then when it came apparent that it wasn't about finances,
2 her finances were fine, we met with Wells Fargo, and they were
3 willing to give us a loan for the amount we needed.

4 Q Okay. So that was in 2014. Was there anything else
5 happening in 2014 that was affecting your demeanor in a
6 negative way besides this lending process?

7 A The lending process, you know, I started to have
8 conflicts in my -- with my employees. I was traveling all the
9 time. I probably, I know I did, I booked over 400,000 miles
10 on American Airlines flying back and forth to three projects
11 in, you know, St. Thomas, Bahamas, and Marco Island. I had
12 two projects in --

13 Q What was the time period that you logged 400,000
14 miles?

15 A Between '14 and '16.

16 Q What else was happening at that time with you?

17 A My -- both parents were really getting sick. My mom
18 was really bad. My dad was really sick, too.

19 Q Now, you testified earlier that the best years of
20 Bluepoint Development were starting in 2012 with your client,
21 Guggenheim.

22 A Correct.

23 Q So I'm -- I'm going to redirect you back to that
24 time period, 2012. Tell me what was going on with the income,

1 or with the productivity and the number of projects your
2 company had between 2012 and 2015.

3 A In 2012, I booked the Wyndham hotel on the strip
4 with Guggenheim partners. I was in charge of overseeing the
5 -- the budget and the construction, and the schedule. I
6 finished at five months early and saved them \$8 million.

7 Q And what was the reward to you for saving them \$8
8 million?

9 A A million dollars.

10 Q So what year did you receive the million dollar
11 bonus?

12 A 2014.

13 Q And what do you -- what did you do with the million
14 dollars that you weren't expecting?

15 A The million dollars, I ended up it was the money I
16 put in the house, including --

17 Q And I'm sorry, clarify. What --

18 A Queen Charlotte.

19 Q You put it in -- in Charlotte. How much was that?

20 A Right at a hundred grand.

21 Q And that was for the improvements.

22 A For the improvements.

23 Q And what else did you do with the rest of that
24 money?

1 A I bought -- bought Danka a birthday slash Christmas
2 -- Christmas present. I bought her a new Porsche, 2015, paid
3 for it out of that bonus.

4 Q You paid in full for that car?

5 A Yes. I paid in full.

6 Q How much did you pay for that?

7 A Two hundred and -- or 128,200 or 130, I'm sorry.

8 Q A hundred and thirty thousand?

9 A A hundred and thirty thousand.

10 Q For gift for Danka?

11 A For a gift.

12 Q Now, what else did you do with the rest of those
13 funds?

14 A I also used 280,000 out of that for the tenant
15 improvement and the 20, or 3320 North Buffalo building.

16 Q Was that for the doctor that you just testified
17 about earlier?

18 A That's correct.

19 Q Do you recall any other expenditures that were
20 extraordinary based on that bonus that one year? Obviously
21 you ended up probably having to pay taxes on that.

22 A Yes. I paid 30 percent. Whatever Bob said that I
23 had to pay, I paid.

24 Q So now we're in -- we're in 2014. How was your

1 demeanor over the course between 2014 and 2015? How are you
2 feeling?

3 A I was traveling so much. I had more than three
4 jobs. I had two medical billings going on in Las Vegas, which
5 I hired Todd Kilty (ph) to oversee. The project went over
6 schedule, and I agreed not to take any more money from the
7 client. And I think it was six months late, and so I took
8 care of the -- the difference of the salary that I was paying
9 my people out of my own funds. I had a project in The Bahamas
10 for my main client, Henry Silverman (ph). I sent Todd to
11 oversee that project. And within a month, he was, I was told
12 he had to be removed from the project, which wasn't helpful.
13 So --

14 Q Were you being still prescribed medication during
15 that period by Danka or her nurse practitioner?

16 A Yes.

17 Q Do you recall what you were being prescribed in
18 2015?

19 A Xanax, Percosets, Oxy, Ambien.

20 Q So you were taking Xanax. What was that for as you
21 understand it?

22 A Anxiety, I guess. I don't know. I'm not sure. I
23 just took whatever I was told to take.

24 Q What do you think was causing you anxiety?

1 A I -- there was a lot of stress. I mean, between the
2 -- the re -- the loan with Wells Fargo, trying to get that
3 taken care of, the problems I had with the employees and
4 having my main client kick off one of my employees off his
5 job. Luckily, he allowed me to continue, but it kind of gave
6 me a little bit of a scar.

7 Q Now, I want to stop you for a second, your
8 employees, okay. So, and I'm just going off of what actually
9 the last witness testified about. But during that time, if I
10 recall, you had Dara, obviously. And you had Todd and Art
11 (ph), and Jakub, is that right?

12 A That's correct.

13 Q All right. And Jakub is your stepson?

14 A Correct.

15 Q Okay. So were there any problems with Jakub as an
16 employee?

17 MS. ABRAMS: I'm going to object as to relevance.
18 What is the relevance of all this?

19 THE COURT: What is the relevance of all this?

20 MS. LOBELLO: It'll be tied in later. It's relevant
21 because we heard argument that he was somehow delinquent in
22 the way he ran his business or earning money. And --

23 MS. ABRAMS: We didn't make any argument --

24 THE COURT: No, they didn't say delinquent.

1 MS. LOBELLO: Well, they haven't gone yet, Judge.

2 And I'm trying to cover --

3 THE COURT: No, no, no. Her wording was
4 inappropriate. Conduct or something, of the witness.

5 MS. LOBELLO: I know, but I'm not talking about what
6 Dara said. I'm talking about what I know from what I have
7 learned during the deposition of Danka Michaels. I know the
8 arguments that she's going to make and testify about. And I
9 usually do it this way. If you want me to wait until she does
10 her case --

11 THE COURT: No, no, no. That's okay --

12 MS. LOBELLO: -- I can re --

13 THE COURT: That's okay.

14 MS. LOBELLO: Is that all right?

15 THE COURT: You're -- you're saying delinquent in
16 something, and I didn't hear delinquent --

17 MS. ABRAMS: I didn't hear delinquent.

18 THE COURT: -- at all ever yet. So --

19 MS. LOBELLO: Okay. So I'm going to tell you that
20 I'm going to have to recall Tom on rebuttal after they finish
21 their case in chief because I know what Danka's going to say
22 because I took her deposition.

23 THE COURT: Okay.

24 MS. LOBELLO: So --

1 MR. JONES: Just save it for rebuttal then.

2 MS. LOBELLO: Okay.

3 MS. ABRAMS: Yeah.

4 THE COURT: Save it for rebuttal.

5 MS. LOBELLO: Will we be permitted time for that?

6 THE COURT: I'm not sure.

7 MS. LOBELLO: Okay.

8 THE COURT: I do try to finish all my cases with all
9 the evidence --

10 MS. LOBELLO: So --

11 THE COURT: -- available.

12 BY MS. LOBELLO:

13 Q What else besides you testified the loan was
14 stressful, there was problems with your employees that was
15 stressful. What else was -- what else happened in 2015 during
16 that time period?

17 A 2015, my mom passed away. My mom and I were very
18 close.

19 Q How was your father's health?

20 A My father's health was really poor. He passed away
21 in 2016.

22 Q How was your health?

23 A I was extremely exhausted and stressed out all the
24 time because of the making sure that all the projects, I had

1 five projects, I would go to St. Thomas, Marco Island, the
2 Bahamas, back to Vegas to the medical buildings.

3 Q How was the marriage?

4 A The marriage struggled. I mean, we actually had
5 went to see a marriage counselor in I believe it was two
6 thousand -- late 2015.

7 Q Why was your marriage struggling?

8 A Because I definitely wasn't there, and I think that
9 the overall pressure from everything coming down on me between
10 her medical practices and the loan and my business, it was a
11 tremendous amount of pressure on me.

12 Q So let's move to 2016 now, all right?

13 A Okay.

14 Q Did it get better for you in 2016? Did your
15 demeanor improve or get worse?

16 A No, it got worse.

17 Q What happened in 2016?

18 A When my father died, that kind of really messed me
19 up.

20 Q And you had another loss, not a parent.

21 A My -- one of my long-time pets, which was my
22 emotional dog, passed away also.

23 Q So did your relationship with Danka get better or
24 worse?

1 A Worse.

2 Q And anything else besides the fact that you were
3 working so many days away from home impact your marriage?
4 What was that? That's a yes, right?

5 A Yes.

6 Q You're nodding. Okay. What is that, besides the
7 constant travel?

8 A The constant travel. I ended up having a -- an
9 affair in late 2015, 2016.

10 Q Was Danka angry?

11 A Very angry.

12 Q What did Danka do when she found out about your
13 being unfaithful?

14 MS. ABRAMS: I'm going to -- can we lay a foundation
15 for this? I mean --

16 MS. LOBELLO: Why?

17 THE COURT: Foundation?

18 MR. JONES: As to what? He specified at the time,
19 he specified --

20 MS. ABRAMS: Actually, he didn't specify the time.

21 MR. JONES: He said -- he said the end --

22 MS. LOBELLO: He said late 2015.

23 MR. JONES: -- of '15 beginning of '16.

24 THE COURT: End of '15 to beginning of '16. He had

1 an affair --

2 MS. ABRAMS: That was the timeframe for -- that he's
3 saying he had the affair.

4 THE COURT: Yes.

5 MS. ABRAMS: Right. No, I'm talking about with
6 Danka having any -- okay. It's your case, do what --

7 THE COURT: I think he's saying --

8 MS. LOBELLO: What did Danka do --

9 (COUNSEL CONFER BRIEFLY)

10 MS. LOBELLO: Same timeframe?

11 BY MS. LOBELLO:

12 Q When did Danka find out that you were unfaithful to
13 her?

14 A The person that I had an affair with --

15 Q No, I said when. When did Danka find out?

16 A September of '16.

17 Q You mean September 2016?

18 A That's correct.

19 Q And when Danka found out that you were unfaithful,
20 what did she do?

21 A She demanded that I come home.

22 Q Where were you?

23 A I was in Marco Island.

24 Q So you were across the country in Florida.

1 A Yes.

2 Q And what's -- what else does she do besides demand
3 that you come home?

4 A She wanted me to sign over all our properties.

5 Q Sign over, what does that mean? What did she want
6 you --

7 A Sign over all the deeds. Whatever she wanted me to
8 do, I did. I mean, I --

9 Q She wanted you to sign over to her, is that what
10 you're saying?

11 A That's correct. I mean, I --

12 Q How was that supposed to happen? How were you
13 supposed to sign deeds to property to Danka?

14 A I flew into Las Vegas. She made an appointment with
15 Shannon Evans. We both met at Shannon Evans' office. They
16 produced documents. They said sign these documents. I signed
17 them. I mean, I was --

18 Q Did you show up at Shannon Evans' office with your
19 own lawyer?

20 A No.

21 Q Did Shannon Evans, I'm sorry. Did anyone tell you
22 you should have your own lawyer?

23 A Shannon suggested it at one time, and we didn't do
24 it --

1 Q On the 16th?

2 A Yeah.

3 Q Around September of 2016?

4 A Yeah. I mean we --

5 Q Now --

6 A We --

7 Q -- when Danka asked you to sign deeds transferring

8 all the property to her, what were the specific discussions

9 about the conditions either way for you signing those

10 documents?

11 A The only condition that was talked about is within a

12 year, it first came up I said if I sign these, after two years

13 would you sign them back to me. And she said well, we'll sign

14 them back to you after a year, if everything goes correctly.

15 Q What does that mean, if everything goes correctly?

16 A In other words, if we made amends and I did

17 everything she wanted, that she would sign them back to me.

18 Q Was anything else promised to you if you signed

19 those deeds, other than that they will be transferred back in

20 a year if everything went correctly?

21 A Nothing of value.

22 Q Okay. And did Danka sign any documents

23 relinquishing her interest in any property that day?

24 A No.